

CITY OF BEAVERTON



COUNCIL AGENDA

FINAL AGENDA

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

REGULAR MEETING
JULY 9, 2007
6:30 P.M.

6:00 P.M.
City Council Annual Inspection of
Police Department Holding Facility

CALL TO ORDER:

ROLL CALL:

PRESENTATIONS:

07140 Senior Issues – Long Range Planning for Oregon Communities

07141 Transportation Improvement Projects: Looking at a Systems Development Charge

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of the Regular Meetings of June 4 and 11, 2007

07142 A Resolution Expressing the City of Beaverton's Election to Receive Distribution of a Share of Certain Revenues of the State of Oregon for Fiscal Year 2007-2008, Pursuant to ORS 221.770 (Resolution No. 3904)

07143 Acceptance of Grant Award from the Metropolitan Area Communications Commission and Authorize Appropriations Through a Special Purpose Grant Budget Adjustment Resolution (Resolution No. 3905)

07144 Management COLA

Contract Review Board:

07145 Ratification of Beaverton Central Plant Contract Award for Boiler/Chiller Installation

07146 Contract Award – Administration of the Adapt-A-Home Program

07147 Contract Award – Administration of the Mend-A-Home Emergency Program

07148 Retainer Agreements for Professional Services in Support of the FY 2007/08 and 2008/09 Capital Improvements Plans

WORK SESSION:

07149 Planning for Beaverton's Part of the Washington Square Regional Center

ORDINANCES:

First Reading:

07138 TA 2007-0002 (Operations Center 2007) (Ordinance No. 4443)
(Carried over from Council meeting of June 18, 2007)

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)

07151 An Ordinance Amending Beaverton Code Chapter 6 Relating to Parking Zone Additions (Ordinance No. 4445)

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: Senior Issues – Long Range Planning for Oregon Communities

FOR AGENDA OF: 07/09/07 **BILL NO:** 07140

Mayor's Approval: *Linda G. Calland*

DEPARTMENT OF ORIGIN: *Mayor's*

DATE SUBMITTED: 07/03/07

CLEARANCES:

PROCEEDING: PRESENTATION

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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INFORMATION FOR CONSIDERATION:

Delores Raymond, Governor's Commission on Senior Services, will give a presentation to Council on senior issues in relation to long-range planning for Oregon Communities.

RECOMMENDED ACTION:

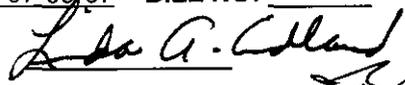
Listen to presentation.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Transportation Improvement Projects:
Looking at a Systems Development
Charge

FOR AGENDA OF: 07-09-07 **BILL NO:** 07141

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Public Works 

DATE SUBMITTED: 06-29-07

CLEARANCES: City Attorney
Finance 

PROCEEDING: Presentation

- EXHIBITS:** 1. Summary of State SDC
Requirements Memorandum
2. Concept for Transportation SDC
Methodology Memorandum

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$19,500	BUDGETED \$-0-*	REQUIRED \$19,500*

Account 101-80-0735-511 Street Fund, Engineering Traffic and Transportation Management Program, Professional Services Account. The \$19,500 Appropriation Required is available from the Street Fund's Contingency Account and if a personal services contract is approved in the Recommended Action below, the appropriation can be established in the next Supplemental Budget.

HISTORICAL PERSPECTIVE:

At the April 23, 2007, meeting Council reviewed the small transportation improvement projects, proposed prioritizing criteria, and a suggested five-year funding plan. The five-year scenario funded approximately \$3.5 million in safety and capacity projects each year. Funding sources under consideration are a street utility fee for maintenance and an additional Systems Development Charge (SDC). Staff are currently working on developing a suggested rate for a street utility fee as directed by Council. Extensive work to gather and field validate land use and building square footage (two variables in the calculation for non-residential uses) is ongoing.

INFORMATION FOR CONSIDERATION

An additional SDC over and above Washington County's current SDC for transportation is the focus of tonight's presentation. At a February 2007 Council presentation on potential funding sources for small transportation improvement projects, general information about SDCs and street utility fees was presented. More specific information about an additional Street SDC is attached as Exhibits 1 and 2. The Exhibits provide a more comprehensive summary of the Oregon's SDC requirements, an SDC concept plan with identified issues the City should consider, and a general adoption process and schedule suited to Beaverton's needs.

Assisting staff with tonight's presentation is Mr. Don Ganer of Don Ganer and Associates. Mr. Ganer is a local expert in the field of SDCs. Most recently he assisted the City of Sherwood in adopting a Street SDC. He is also assisting THPRD in developing its SDC program. Mr. Ganer will discuss the relevant issues in adopting and implementing a Street SDC.

RECOMMENDED ACTION:

Listen to Mr. Ganer's presentation and provide direction to staff on further development of a Street System Development Charge Methodology, and if so directed, authorize staff to enter into a personal services contract with Don Ganer & Associates, Inc. for a Street SDC methodology report with a *recommended capital improvements program* in an amount not to exceed \$19,500 and in a form acceptable to the City Attorney, and direct the Finance Director to include the funding for the contract in the next Supplemental Budget.



MEMORANDUM

City of Beaverton

To: Mayor Drake and City Council
From: Bill Scheiderich
Date: June 29, 2007
Subject: *Transportation Systems Development Charge*

This is a brief summary of what state law requires when a city establishes a Systems Development Charge (SDC). It should be read together with City staff and Mr. Ganer's submittals on what such a charge would include if adopted.

An SDC can consist of two components: An improvement fee for costs associated with capital improvements to be built that will add capacity; and a reimbursement fee for the costs of such improvements already built or underway and that have "extra" capacity available to serve future users. An SDC is collectible "at the time of increased usage" of the capital improvements, typically at the time the building permit issued. Local governments commonly make SDCs effective in the "off" season for construction.

The improvement fee component is calculated based on the projected cost of the improvements to be constructed and on the amount of the extra capacity that is attributable to future growth (as opposed to extra capacity that is constructed to make up for existing deficiencies).

The reimbursement fee component assumes, again, that some existing transportation facilities or those now under construction have extra capacity that can be charged to future users. Many SDCs adopted statewide do not have this component as that extra capacity simply does not exist. If the City adopts a reimbursement fee component, it must be based on public utility ratemaking principles, must "credit" prior contributions by existing users (e.g., property taxes such as MSTIP, LIDs, reimbursement districts, state and federal fund sources such as MTIP and CMAQ, and other SDCs such as the county TIF); and, of course, a reimbursement fee must calculate exactly how much of existing capacity is indeed "surplus" and include only the cost of that surplus.

The SDC is based on a capital improvements plan that lists what the City intends to build with the SDC revenue to be collected (along with other revenue sources on particular projects, the same as with any CIP). The Council may modify that CIP at any time; it must hold a public hearing on modifications ONLY if the Council intends to increase the SDC itself as well as modify the list. Every SDC must allow for SDC credits for any person who constructs an improvement on the SDC CIP list if the improvement to be built:

- is not built on that person's development site or a contiguous site;
- will have more capacity than needed for the particular development project; and
- that exceeds the City's minimum standard for that type of development.

For example, the City requires a "half-street" improvement built to current standards for almost every new development in the City for that portion of the public street system that abuts the property. This type of improvement would not be eligible as such for an SDC credit.

The City must also encumber its SDC revenues for expenditures only on the projects listed in the CIP (as modified from time to time) that was/is the basis for the SDC. Oregon budget law allows any city to "lend" those funds to another fund within a particular budget year so long as there is a feasible plan to pay back the "loan." Similarly, the Council may, for example, waive the collection of an SDC for, say, a housing project built by a charity, but the City must then pay back that amount to the SDC fund from another fund. This is because a waiver or non-collection can be deemed an expenditure. Please note that the City already employs this funding transfer as necessary as to other SDCs already adopted.

Legal challenges to ordinances adopting SDCs must be filed within 60 days of the date of adoption. Legal challenges to SDC expenditures (or waivers) must be filed within 2 years of the date of the expenditure. The City must provide a process for internal review of challenges to expenditures; we will include that in the ordinance that adopts any new SDC.

A few Oregon court decisions on challenges to SDCs are worth a final note. An early decision struck down West Linn's use of SDC revenues to construct office space for the utility in question. Office space certainly is a capital improvement but one does wonder how it would add capacity to, say, a sewer system. Tualatin Hills' SDC for parks was challenged on its assumption, among other things, that office users would benefit from parks (and thus an SDC was charged for new office construction). A recent decision denied a challenge based on the disconnect between what the SDC described as improvements yet to be built and that city's comprehensive land use plan, which described some of the same facilities as already built or already funded. We will make sure to avoid that mistake with this SDC.

Last but not least, you may recall a recent decision "close to home" on a challenge by Rogers' Machinery (Tigard) to the County TIF. County defended the TIF in court as a tax, not as an SDC (as the TIF was not adopted following the process in state law for an SDC). The Court of Appeals ruled that the TIF is indeed an SDC, not a tax, but that it was and is too late for Rogers' or anyone else to challenge how the TIF was adopted. The decision has resulted in other challenges to county's use of the TIF but none of those challenges are relevant here.

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MEMORANDUM

Date: June 26, 2007
To: Margaret Middleton, Senior Transportation Planner
City of Beaverton
From: Don Ganer
Project: City of Beaverton Transportation System Development Charge (TSDC)
Subject: *Concept for Transportation SDC Methodology*

This memorandum provides background information concerning the Washington County Transportation Impact Fee (TIF) tax; outlines a concept for a City of Beaverton Transportation System Development Charge (TSDC) to complement the Washington County TIF; provides alternative approaches, including advantages and disadvantages, for a City TSDC; identifies issues that should be considered by the City in developing a TSDC; and suggests a general process and schedule for development of the TSDC.

I. WASHINGTON COUNTY TRANSPORTATION IMPACT FEE (TIF) TAX

New development within Washington County currently pays for a portion of the costs of County and City transportation improvements via a county-wide Transportation Impact Fee (TIF) tax program approved by voters in 1990.

The TIF program collects taxes from new development based on all or a portion of the development's impact on the transportation system. TIF assessments are based primarily on the number of trips generated by new development, as identified in the Institute of Transportation Engineers (ITE) Trip Generation manual (4th Edition). The ITE Trip Generation manual is recognized and used nation-wide by transportation and engineering agencies and organizations.

Washington County's TIF was not designed to collect 100% of growth-required transportation costs. It includes caps (maximums) on the number of trips that may be used in determining the TIF assessment for some types of development projects, and it does not include a mechanism for updating trip-generation rates as new editions of the ITE Trip Generation manual are published. Proceeds from the TIF may be used only to fund projects on a County-approved list that may not include all major transportation improvements identified in the City's TSP, and cities must spend at least 50% of TIF revenues on arterial roads, even if capacity improvements for collector roads are of a higher priority for the City.

II. ADDING A CITY TSDC TO COMPLEMENT THE WASHINGTON COUNTY TIF

The Washington County TIF provides funds needed for growth-required transportation facilities, but:

- the TIF is designed to fund only a portion (less than 100%) of growth needs;
- TIF use is restricted to a specific list of County-approved projects, and may not include all of the growth-required arterial and collector road needs identified in the City's Transportation System Plan; and
- Caps (maximums) on the number of generated trips used to determine TIF assessments restrict potential revenues from developments with the highest impacts on the transportation system.

Oregon law (ORS 223.297 – 223.314) allows local governments to adopt System Development Charges (SDCs) to fund all or a portion of the costs of transportation, water, wastewater, stormwater, and parks capital improvements needed for growth. The City may adopt a TSDC to complement the Washington County TIF.

Advantages:

- The City TSDC can include growth-required City TSP arterial and collector projects that are not included in County's TIF project list.
- The City TSDC can be designed to collect up to 100% of growth-required costs.
- TSDC funds may be used for the growth portion of any project included in the TSDC project list, and the priority of each project is determined by the City.

Disadvantages:

- Adding a TSDC in addition to the TIF may result in total transportation development fees that are higher than those in comparable communities, and could potentially reduce attractiveness for businesses and residents for whom development fees are a primary concern.

III. DESIGNING A CITY TSDC

Under Oregon law (ORS 223.297 – 223.314) the City may adopt a TSDC designed to fund up to 100% of the costs of the growth-required transportation improvements identified in the City's TSP. The City may choose to either fully or partially fund the growth-required portion of all TSP projects from TSDC and TIF revenues.

A. Collect 100% of Growth-Required Costs

The City may design a TSDC that, when combined with the TIF, will collect 100% of growth-required transportation improvement costs.

Advantages:

- The growth-required transportation needs included in the City's TSP will be fully funded by growth and will not be subsidized by current City residents and businesses.
- The City's funding for transportation system improvements may be greater than that of comparable communities, and may give the City an advantage in attracting businesses and residents who place a premium on transportation.

Disadvantages:

- The City's TSDC rates may be higher than those of comparable communities, and could potentially reduce attractiveness for businesses and residents for whom development fees are a primary concern.

B. Collect less than 100% of Growth Required Costs

The City may design a TSDC that, when combined with the TIF, will collect less than 100% of growth-required transportation improvement costs.

Advantages:

- The City can develop TSDC rates that will not provide an incentive for potential residents or businesses to locate elsewhere if development fees are a prime consideration.

Disadvantages:

- The growth-required transportation needs included in the City's TSP will need to be subsidized by current City residents and businesses.
- To the extent that the City funds growth-required needs with non-TSDC and non-TIF sources (such as fuel taxes, motor vehicle registration fees, etc.), the City's ability to fund non-growth transportation system needs will be reduced.

Two options are recommended for consideration by the City for a TSDC designed to collect less than 100% of Growth Costs.

1. Select a specific list of TSP projects to be funded from TSDC revenues, and develop TSDC rates sufficient to fund 100% of the growth-required costs of these projects.

Advantages:

- The highest-priority TSP projects can be included in the TSDC to insure that 100% of the growth-required portion of these projects is funded from TSDC and TIF revenues.

Disadvantages:

- Lower-priority, growth-required TSP projects that are not included in the TSDC may not be funded, or may have to compete for non-TSDC and non-TIF revenue sources for funding.
2. Identify a specific percentage (i.e., 80%, 50%, etc) of growth-required TSP needs to be funded from the combined TSDC and TIF, and develop TSDC rates based on that percentage.

Advantages:

- Any TSP project included in the TSDC will be eligible for funding for up to 100% of the growth-required portion.

Disadvantages:

- Even though all growth-required TSP projects will be included in the list, total TSDC and TIF revenues will be sufficient to fund only the adopted percentage (i.e., 80%, 50%, etc.) of growth-required project needs. The unfunded portion of projects will need to be paid from other sources (i.e., fuel taxes, motor vehicle registration fees, etc.), thus reducing the availability of these funds for non-growth projects.

IV. ISSUES FOR CONSIDERATION

Following are issues that should be considered when developing a TSDC.

- The total of City TSDC and Washington County TIF rates cannot exceed 100% of the growth-required portion of costs for projects in City's TSP, and the total of City TSDC and Washington County TIF revenues spent on any specific project cannot exceed 100% of growth-required portion of costs for that project.
- Non-growth capital needs (safety items, deficiency repairs for failing intersections, etc.) and non-capital needs (resurfacing, maintenance, etc.) cannot be paid from TSDC funds.
- In addition to the number of trips identified in ITE Trip Generation for each type of new development, the methodology should also consider pass-by trips and differences in trip lengths in determining the impact of new development.

- The TSDC may include roads and also any pedestrian, bicycle, and transit-oriented projects identified in the City's TSP.

V. SUGGESTED TSDC DEVELOPMENT PROCESS AND SCHEDULE

Following is a suggested general process and schedule to complete the Transportation SDC program.

Task 1.0 Transportation SDC Task Force Meeting

A City-appointed Transportation SDC Task Force will be selected by the City to participate in the development of a draft SDC methodology report, including proposed TSDC rates.

The Transportation SDC Task Force will identify and recommend issues for consideration in development of the TSDC.

Time to Complete: 2 weeks

Task 2.0 Capital Improvement SDC Eligibility Analysis

The City's Transportation Plan will be reviewed to identify potential SDC-eligible projects. Using traffic volume information from the City's Plan, the growth-related share of new trips City-wide will be identified. This share will then form the cost basis for SDC funding of transportation projects. Costs identified in the TSP will be updated, as needed, using the ENR Construction Cost Index (Seattle).

The Transportation SDC Task Force will review the list of SDC-eligible projects proposed for inclusion in development of the TSDC.

Time to Complete: 2 weeks

Task 3.0 Draft TSDC Methodology

Using information from Task 2.0:

1. A draft TSDC methodology report and rate schedule that determines the potential TSDC costs per unit of development, and applies the costs per unit to proposed development will be prepared.
2. The draft TSDC methodology report including preliminary TSDC base rates, credits, exemptions and exceptions, and administrative charges will be presented to the TSDC Task Force for review and modifications, as needed. A copy of the draft methodology will be made available for review 60 days prior to the first public hearing (as required by Oregon Law).

Time to Complete: 2-3 weeks

Task 4.0 City Council Work Session/Public Hearing

The draft TSDC methodology, proposed TSDC rates, and proposed SDC-eligible projects list will be presented to the City Council for review in a work session/public hearing.

City Council and public comments will be documented in the meeting minutes by City Recorder and staff will include any changes in the revised Methodology Report and Project List.

Time to Complete - 2 months after Task 3.0 due to public notice requirements

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
JUNE 4, 2007

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, June 4, 2007, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode (arrived at 6:40 p.m.), Bruce Dalrymple, Dennis Doyle and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Interim Community Development Director Steve Sparks, Public Works Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop and City Recorder Sue Nelson.

CONSENT AGENDA:

Coun. Doyle MOVED, SECONDED by Coun. Arnold, that the Consent Agenda be approved as follows:

Minutes of the Regular Meetings of May 7 and May 14, 2007

- 07108 Authorize Amendments to Three Intergovernmental Agreements: the Washington County Cooperative Library Services Agreement, the Public Library Services Agreement and the Washington County Inter-Library Information Network Agreement
- 07109 Authorize Intergovernmental Agreement with Washington County Cooperative Library Services Regarding the Provision of Telephone Reference Service
- 07110 Authorize the Mayor to Sign an Intergovernmental Agreement between Beaverton and Metro for the City to Receive Its Share of the Natural Areas Bond Measure Local Share Component and Authorize the Mayor to Sign an Intergovernmental Agreement between Beaverton and Metro for Metro Land Acquisition Services
- 07111 Authorize the Mayor to Execute a One Year Extension to the Intergovernmental Agreement Amongst Local Government Agencies for the Shared Use of a Public Communications Network

07112 Traffic Commission Issues No.: TC 616: Parking Revisions on the North Side of SW Griffith Drive East of the City Hall Driveway; TC 617: Speed Limit on SW Denney Road East of Highway 217

Contract Review Board:

07113 Bid Award - Street Profiling Project for In-House Overlays, Fiscal Year 2007-2008

Coun. Stanton said she had a few wording additions to the minutes for clarification, that she gave to the City Recorder.

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

The reading of the ordinances was heard at this time; the public hearing on the Commuter Rail Project was heard after the ordinances.

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Arnold, that the rules be suspended, and that the ordinances embodied in Agenda Bills 07115, 07116 and 07117, be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Dalrymple, Doyle, and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

Rappleyea read the following ordinances for the first time by title only:

07115 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Station Community Plan Designation to Two Properties Located in Northern Beaverton; CPA2006-0018 (SW Baltic Avenue/SW Barnes Road) (Ordinance No. 4439)

07116 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply a City Plan Designation to 315 Properties, Alter Figures 6.4, 6.5, 6.7, 6.12, and Table 6.6 of the Comprehensive Plan to Designate Future Street Alignments, and Amend Ordinance No. 2050, the Zoning Map to Apply City Zoning to 302 Properties Located in the Elmonica / Merlo Light Rail Station Community Area; CPA2007-0007/ZMA 2007-0006 (Ordinance No. 4440)

07117 An Ordinance Amending Ordinance No. 2050, the Development Code to Modify Section 60.05.55.4, the Merlo Station Community – Major Pedestrian Route Map to Apply Additional Route Designations and Rename the Code Section; TA2007-0003 (Ordinance No. 4441)

Second Reading:

- 07105 An Ordinance Annexing a Parcel Located at 4980 SW Laurelwood Avenue to the City of Beaverton and Adding the Property to the Raleigh West Neighborhood Association Committee: Expedited Annexation 2007-0001 (Ordinance No. 4437)
- 07106 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 in North Beaverton; CPA 2007-0008/ZMA 2007-0007 (12020 SW Barnes Road) (Ordinance No. 4438)

Coun. Doyle MOVED, SECONDED by Coun. Dalrymple, that the ordinances embodied in Agenda Bills 07105 and 07106, now pass. Roll call vote. Couns. Arnold, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

PUBLIC HEARING:

- 07114 Appeal of Commuter Rail Project: APP 2007-0009/APP 2007-0010 (Freece) APP 2007-0011/APP 2007-0012/APP 2007-0013 (Shadrall)

Coun. Bode arrived during the public hearing.

Interim Community Development Director Steve Sparks read a prepared statement explaining the process to be followed for this hearing, including the required disclosure statements (in the record).

Sparks asked if any Councilor had a potential or actual conflict of interest.

Couns. Dalrymple and Doyle said they knew Harold Freece from Rotary but that would not affect their decision.

Sparks asked if any Councilor had an ex parte contact to declare.

There were none.

Sparks asked if any Councilor wished to declare any site visits.

Mayor Drake noted that he and all the councilors had driven on Lombard Street.

Sparks asked if any member of the audience wished to challenge the right of the Council to consider this matter, or challenge the right of a Councilor to participate in this hearing or wished to request a continuance of the hearing.

There were no challenges or requests for continuance.

Mayor Drake opened the public hearing and asked for a continuance.

Coun. Stanton MOVED, SECONDED by Coun. Bode, that the Appeal of the Commuter Rail Project APP 2007-0009/APP 2007-0010 (Freece) APP 2007-0011/APP 2007-0012/APP 2007-0013 (Shadrall), be continued to June 11, 2007, at 6:30 p.m., in the Beaverton City Hall Council Chamber. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously (5:0)

PRESENTATION:

07107 Beaverton Central Plant - Sustainable Development Plan Presentation and Update

Chief of Staff Linda Adlard introduced Central Plant Manager Lonnie Dicus. She said this presentation would cover the model for the Central Plant Sustainable Development Plan which was currently published on the City's Web site. She said this model would be presented to the Neighborhood Association Committees (NACs) and to interested community service groups. She said the Web site was called Sustainable Beaverton and it was developed to show the sustainable portion of the Central Plant and how it benefits the environment. She said this would focus on development pieces, including The Round, the Westgate Theater property and other sites that will be redeveloped in the future.

Central Plant Manager Lonnie Dicus said the City had practiced sustainability for many years by providing many services and programs that support the social, economic and environmental fabric of the community. He said this program would allow the redevelopment of the downtown area in a sustainable manner. He said the program would encourage community participation and provide sufficient flexibility to allow for change as the needs of the community change. He said the components of the program model were easily accessible to the stakeholders and interested public on the Web site, to encourage involvement and growth of the program in the redevelopment of the downtown area.

Dicus reviewed the components of the Web-based model including the Plan goals, targets, strategies for developing efficient and reliable energy, design of the system, and the efficiency of the Central Plant. He said the goals would be adjusted in the future as the community grows. He reviewed live/work communities including diverse housing types. He concluded by explaining that staff would develop marketing strategies to promote sustainable living and would present this sustainable living model to interested groups to engage the public and gain their support of the Plan.

Coun. Stanton asked how many hits the Web site had received and how many people responded to the request for feedback.

Dicus said they had received comments through the Web site.

Adlard said the Web site had received 1,000 hits and the City received feedback on the Web and through phone calls. She added the consultants had received dozens of comments.

Coun. Stanton said that was about 1%. She confirmed with staff that the Council would receive copies of the comments.

Coun. Dalrymple said the program was aggressive, innovative and timely. He applauded Dicus for his leadership and hard work. He said this was an excellent program that was ready to launch. He thanked Dicus for the presentation.

VISITOR COMMENT PERIOD:

Lawrence Arnbrister, Portland, SEIU Local 198 President, read a prepared statement summarizing the Union's concerns regarding current contract negotiations. He presented petitions from Washington County legislators and the City's work force supporting the Union's position. He encouraged the City to work toward a favorable labor agreement.

Dave James, Beaverton, said he was at a Board of Design Review (BDR) meeting a few weeks ago where a board member introduced testimony that was not presented in the record of the BDR meeting. He said also a few weeks ago he and a few other people walked around the bus barn site and found six printed circuit boards that were semi-buried in the ground. He said he suspected that the previous owners of that site dumped the boards in the ground and then re-graded the site. He said they suspected other items were dumped on that site, including chemicals. He said they contacted DEQ about this but DEQ said they were not interested and suggested that he contact the City. He asked if the City had a process to investigate possible dumping on the site.

Mayor Drake asked James if he contacted the School Board, School Superintendent or the School District's Facilities Division.

James said in 2005 they met with the District and turned over a couple of circuit boards they had found on the site. He said in the following two years, the District had not followed up on this matter. He said since they found the additional six boards last month, No Trespassing notices have been posted on the site.

Mayor Drake said he could have the City's Code Enforcement Division look into the matter and contact the School District. He said he would report back to the Council and copy James on the report.

Bruce Buffington, Beaverton, Northwest Bicycle Safety Council, thanked the Council for the City's participation in the Bicycle Safety Fair on May 26, 2007, at the Beaverton Police Athletic League (PAL) building. He said it was a very successful event and he reviewed the history of the Program. He said the City was a strong supporter of this program and had declared May as National Bike Month in Beaverton.

Mayor Drake said this community had come a long way in a short period of time in supporting pedestrian and bicycle uses. He said since 2003 Beaverton has been named a Bicycle Friendly Community. He gave thanks to the efforts of many people who promote bicycling.

Buffington gave a copy of the proclamation to the Mayor.

Coun. Stanton said she saw a sign at Sunset Presbyterian Church advertising a Bike Fair. She asked how much advertising they did to promote the event.

Buffington replied they participated in the Bike Fair event along with the City's Police Department Bike Task Force. He said it was a very successful event and they gave out over 100 helmets to the community for a five-dollar donation. He said at the Safety Council's fair they also provided helmets along with medical emergency alert identification tags. He said the helmets were paid for by NW Bicycle Safety Council, Portland Wheel and Touring Club, Trauma Nurses of Emanuel Hospital and Beaverton Police Department.

COUNCIL ITEMS:

Coun. Doyle thanked all the volunteers and staff who worked on the Neighborhood Clean-Up on the weekend. He said it was a very successful event.

Coun. Stanton added there was a construction recycling station on 122nd Avenue and San Rafael Road if anyone had additional cleanup and recycling. She also noted that on June 29, from 5:00 p.m. to closing, the Community Partners for Affordable Housing (CPAH) would be hosting a fund raising event at McMenemy's in Tigard; 50% of all the profits raised during that time would go directly to CPAH. She said a similar fund raising event for CPAH would be held on June 11 at Noodles & Company (next to City Hall).

Coun. Bode said on June 21, James Whitfield, U. S. Department of Health and Human Services, Region 10, would speak at the City Forum at the City Library at 7:00 p.m. She said he would speak about how communities, neighborhoods and businesses connect for a healthier community. She encouraged interested people to attend. She said two weeks ago Dr. John Kitzhaber spoke and it was a standing room only crowd.

STAFF ITEMS:

There were none.

EXECUTIVE SESSION:

Coun. Bode **MOVED, SECONDED** by Coun. Stanton, that Council move into executive session in accordance with ORS 192.660.(2)(d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting **AYE**, the **MOTION CARRIED** unanimously. (5:0)

The executive session convened at 7:40 p.m.

The executive session adjourned at 8:05 p.m.

The regular meeting reconvened at 8:05 p.m.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 8:05 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2007.

Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
JUNE 11, 2007

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, June 11, 2007, at 6:39 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce S. Dalrymple, Dennis Doyle and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Interim Community Development Director Steven Sparks, Public Works Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop, and Deputy City Recorder Catherine Jansen.

VISITOR COMMENT PERIOD:

Hal Ballard, Bethany, Washington County Bicycle Transportation Coalition, congratulated the City on its designation as a Bicycle Friendly Community by the League of American Bicyclists. He said he appreciated all that the City had done to promote safe bicycling. He said on May 16, 2007, the Inaugural "Westside Ride of Silence" was held to honor those bicyclists who were killed or injured on the roads. He said the Ride was held in over 271 locations on seven continents, including Antarctica; in Beaverton over 50 cyclists participated including members of the Beaverton Police Department and Washington County Sheriff's Office. He distributed a report on the Ride of Silence to the Council (in the record).

Mayor Drake thanked Ballard for his assistance in achieving the Bicycle Friendly Community designation. He said Ballard was very supportive and helped prepare the grant applications for the expanded bike lanes. He said the City appreciated his help.

COUNCIL ITEMS:

Coun. Bode said the Washington County Commission on Families and Children was conducting its summer Free Lunch Program at several schools, apartments and at the Beaverton Police Athletic League Center, from June 25 to August 16, 2007. She said this program serves many Beaverton youth who do not receive lunch in their living situation. She said information could be obtained from the Washington County Commission on Families and Children at www.washingtoncounty.or.us.

Coun. Dalrymple congratulated Oregon State Beaver Baseball for making it to the Super Regionals Tournament. He said one team member, Darwin Barney, was a Beaverton resident and he had watched Darwin grow up over the years. He said he hoped the team would do well as it worked its way to Omaha.

Coun. Dalrymple said the State Legislature recently approved House Bill 2760 that effected annexation requirements. He asked if the Council was willing to review the City's current annexation policy at a work session to ensure the policy was up to date and followed the new State requirements. There was Council consensus to review the policy.

Mayor Drake agreed the City's policy needed to reflect State requirements. He asked when the bill would go into affect.

City Attorney Alan Rappleyea said HB 2760 contained an emergency clause which had made the bill effective upon passage.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the Consent Agenda be approved as follows:

07118 Development Services Fee Schedule Amendment (Resolution No. 3900)

07119 Beaverton Downtown Parking Solutions (Resolution No. 3901)

Contract Review Board:

07120 Bid Award - Pipe and Piping Products Requirements Contract

Coun. Stanton said that she had served on the Stakeholders Advisory Committee for the downtown parking issues and was pleased to see the City proceeding expeditiously on the Downtown Parking Solutions recommendations (Agenda Bill 07119). She said she would like to serve as the Council's representative on the advisory committee that would work on these issues.

Mayor Drake and the City Council agreed Coun. Stanton would be the Council's representative to that advisory committee.

Coun. Arnold thanked the other members of the Stakeholders Advisory Committee for their work on the Committee.

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

PUBLIC HEARING:

07114 Appeal of Commuter Rail Project: APP 2007-0009/APP 2007-0010 (Freece)
APP 2007-0011/APP 2007-0012/APP 2007-0013 (Shadrall) *(Continued from the
meeting of June 4, 2007)*

Mayor Drake explained this hearing was opened at the June 4, 2007, Council meeting and continued to this date. He said the legal hearing statement was read at the June 4 meeting. He said there was a new handout, regarding a settlement from one of the appellants, Bed, Bath and Beyond.

APPELLANT: BED, BATH & BEYOND/SHADRALL:

Mark Whitlow, Perkins Coie LLP, Portland, representing appellant Bed, Bath and Beyond (BBB) and Joseph Schaefer, Land Use Planner, Schwabe, Williamson & Wyatt LLP, Portland, representing appellant Shadrall Beaverton LP (owner of property leased to BBB), introduced themselves.

Whitlow said these appeals were filed because the site plan that was approved by the Planning Commission needed revisions. He distributed a copy of the new site plan to Council and staff (in the record). He said the new site plan (Tri Met Land Use Drawing dated 6/11/07 - Revised) was approved by Tri Met and City staff. He said revised findings and conditions would be included as part of the revised site plan. He said the revised plan would settle the appeals from BBB and Shadrall.

Schaefer added that there were no substantive changes to the site plan as compared to the plan approved by the Planning Commission. He said all the parking, access and signage issues were approved earlier by a separate process. He said the only change to the site plan was to include information about the tree removal and the parking count to ensure that when the project is completed, it would be clear to determine how the property reached that condition.

Rappleyea said that the revised site plan comports with issues raised by legal counsel and staff in Section 2 of the June 6, 2007, memorandum from Liz Jones regarding ODOT access. He said staff requested that there be no reference to ODOT access because that was outside of the City's jurisdiction. He said the revised site plan met the City's interest in this matter. He read the condition from the June 6 memorandum that staff wished to delete (page 3, last sentence) which referred to ODOT granting access to Canyon Road.

Mayor Drake said for the record that the condition being discussed was in the memorandum dated June 6, 2007, from Liz Jones, Appeal of Commuter Rail Project, and was the last sentence of the last paragraph on page 3. He added that Whitlow and Schaeffer were stating that their appeal issues had been resolved.

Interim Community Development Director Steven Sparks said that with the resolution of the appeal on the BBB site, the Freece Family Appeal (NAPA Auto Parts) was the only remaining issue. He said staff had nothing to add to the written report that was submitted previously to Council.

There were no Council questions at this time.

APPELLANT: FREECE

Warren Freece, Beaverton NAPA Auto Parts, displayed an aerial photograph of his site and distributed written copies of his statement to Council and staff (in the record). He said he had met with Tri-Met several times but was unsuccessful in resolving his issues. He said the applicant had not demonstrated that the biggest risks have been mitigated. He said this application did not meet City Code Sections 40.03.06 (safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site) and 40.03.07 (on-site vehicular and pedestrian circulation system connects to the surrounding circulation system in a safe, efficient and direct manner).

Freece said the Lombard Extension was a major pedestrian route. He said the November 2006 Federal Transportation Administration Study stated that exposure of pedestrians and motorists at highway/rail grade crossings continued to provide significant safety challenges with no immediate or cost-effective solutions. The Study also said there was a need to identify and implement activities and practices that have the potential to mitigate the greatest risks.

Freece summarized the following comments from the Washington County Commuter Rail Traffic Engineering Analysis (Analysis). He said light railcars weigh 75 tons and would pass close to his store 32 times a day, creating problems with sufficient braking distance and noise from the horn blasts. He said that the Analysis recommended 200 feet as the safe stopping distance for a commuter rail train. He said the applicant had not adequately addressed the safety measures that would be put in place to protect pedestrians and bicyclists. He said that the Analysis found that train pre-emptions would significantly impact vehicle progression on Canyon Road, Farmington Road and Lombard Avenue; and vehicle progression along Lombard Avenue would be poor. He said the applicant should implement a train departure timing system so that the trains could only depart during periods of time that would not significantly impact traffic on Canyon or Farmington Roads. He said the applicant had not implemented such a system and had not altered the train schedule based on the Analysis.

Freece said the Analysis stated that the driveways do not meet the City's access standard. He said the applicant had not identified short and long-term strategies for access management to enhance safety and efficient traffic operations. He noted that Conditions of Approval PTF 2006-0003, No. 27, and DR 2006-0157, No. 26, required barriers such as wheel stops at all parking spaces where there was no separation between parking stalls and right-of-way; and that the wheel stops be located within a minimum setback of three feet from the edge of the right-of-way. He said that the noise from the horn blasts would be more than what was anticipated and that there was more happening with this project than he or others ever understood. He concluded by stating that there were issues that were not addressed in the rush to complete this project.

Mayor Drake referred to the wheel stops and said he thought Freece would not want to have vehicles go over the public sidewalk and possibly hit pedestrians. He said he was trying to understand Freece's opposition to the wheel stops.

Freece said having the stops three feet from the edge of the right-of-way would force cars further back than where they currently park. He said they discussed changing the parking around the building with Tri-Met and City staff. He said Tri-Met staff indicated they would provide drawings of the parking lot and he had yet to see those drawings. He said he was willing to look at an optional parking arrangement but he believed he would lose parking space and he was concerned with staying within the Code requirements. He said this would effect access and parking for his business. He asked who would pay for all of these changes. He said the applicant had not addressed how this project affects his property.

Freece added that one commissioner had stated that if this was a private project they would have denied it but since it was approved by the County and State, the City would approve it. He said he would not get away with damaging his neighbor in this manner on any project he wanted to permit. He said he understood this was a big project and that many people wanted commuter rail, but there were some loose ends. He said Charles Kettenring [ODOT Safety Crossing Engineer] had said he would have preferred to not have the commuter rail come across Canyon Road or it could have stopped before Broadway. Freece said he thought that was doable and he had submitted that option previously. He said as he continues to lose parking spaces, his employees walk two to four blocks for parking; eventually that parking will be lost as areas redevelop. He said he was fighting for every parking space he could keep. He said that the trucks and vehicles that patronize auto parts stores were larger than normal, and these vehicles often come in towing trailers or boats. He said maneuverability would be affected if the left-in or left-out access disappears.

Coun. Dalrymple asked the width of the sidewalk that bordered the parking area.

Sparks replied it was a five-foot sidewalk.

Freece said he was not opposed to alternate parking configurations but he had not been able to make any progress with Tri Met.

Coun. Bode asked Freece if he was looking for relief from the wheel stops.

Freece said that was correct; he did not want the wheel stops imposed on his lot.

Coun. Bode asked Freece if he understood that Tri-Met would pay for the wheel stops if they were required for this site.

Freece said he did not fully understand that and he would like to have everything in writing and signed so that it would be clear who would be responsible for what.

Coun. Bode asked if Freece would find the wheel stops more palatable if Tri-Met paid the costs.

Freece said that was possible but his greater concern was how that would effect vehicle movement in the parking lot. He said moving the cars out a few inches would affect the driving aisle. He said his site was squeezed for space and he was trying to save as much room as possible for vehicle circulation.

Coun. Bode asked Freece if he had done a parking study for the parking lot and if it was at 90% full most of the day.

Freece replied he had not done such a study.

Coun. Bode asked Freece if the parking lot issue was still open for discussion.

Freece said he was looking for solutions to end up as whole as possible. He said he was under the impression that this project would damage the access and egress to his parking lot. He said if there was a fire or medical emergency, the raised median would be more of a challenge for emergency vehicles than what currently exists.

Coun. Stanton referred to Freece's aerial photograph and said she had always accessed the NAPA store from Broadway not from Lombard Avenue. She confirmed with Freece that there was access into the lot from Canyon Road. She asked if Freece would lose any of the width between the wheel stop and the front of the building with the new wheel stops and street improvement.

Freece said he would lose space between the back end of cars and the building and they would not meet City Code.

Coun. Doyle asked if the wheel stops were required for only part of the parking lot, would that help the flow and circulation for delivery vehicles.

Freece said that was possible.

Coun. Doyle noted another alternative suggested in the staff report was a wall around the edge of the site in lieu of the wheel stops. He said he assumed that could be an impediment for delivery trucks.

Freece said that was correct and the wall would create the potential for vehicle damage.

Coun. Dalrymple said it seemed that this should have been designed to allow Freece to keep the parking space on the site and for emergency vehicles to drive through the parking lot. He said his understanding was that the aisle width has to be sufficiently wide to accommodate an emergency vehicle. He said that if there was a requirement that a) final design implemented for this project maintain the parking that already exists, b) solve the problem of whether or not to have a wall or wheel stops, and c) allow for emergency vehicles to be able to drive through the parking lot, that would solve the issue and Freece would not lose any parking.

Coun. Arnold said she asked staff about the emergency access and the response she received was that *"Within respect to emergency vehicle access, the same issue was raised with the Goodyear property to the southwest of the Freece property, TVF&R representatives concluded that the 20-foot standard was not an issue for the Goodyear site as there was adequate access from other portions of that site. With respect to the Freece property, TVF&R has the same opinion and is not concerned with the drive aisle width."* She confirmed with City staff that that opinion came from TVF&R.

Coun. Arnold added that when she went by that property, the drive aisle already appeared narrow and there were people parking on the sidewalk and boats in the corner of the site. She said it seemed the parking lot was already at the limit for what they were trying to do on that space. She said they were already having difficulties with crowding, for cars were parked on the sidewalk.

Freece said the City already took property from the site for Lombard Avenue; this situation was not a short-term issue. He said when Safeway was across the street they had an agreement to use some of their parking. He said that was why he was fighting to keep his space. He said the three-foot requirement for the wheel stops does not leave sufficient space to meet the City Codes.

Coun. Arnold said from what she observed a fire truck could not go between the cars and the building; but this was not an issue to TVF&R for they could access the building from the road. She said she did not see the emergency issue as something to worry about.

Freece said the issue was emergency access when the commuter train has blocked traffic in that area and access would be further hampered by tight parking.

Coun. Arnold said that was an issue City-wide.

Freece said he would prefer maintaining the current situation rather than having the commuter train stopping the traffic. He said the applicant needed to find a solution.

Sparks said the written material submitted by Freece would be labeled Exhibit 2.17; and the aerial photograph Freece submitted would be labeled Exhibit 2.18.

APPLICANT:

Mark Greenfield, Portland, Tri-Met representative, introduced himself and Jeb Doran, the Commuter Rail Project Engineer.

Greenfield said this regionally significant project had been in the making since 1995; it was undertaken by a regional partnership that included the cities of Beaverton, Wilsonville, Tualatin, Tigard and Washington County. He said an intergovernmental agreement was adopted that addressed issues such as project design. He said the cities, County and Metro amended their comprehensive plans and transportation plans to include the commuter rail route and the location of the station. He said he was pointing that out because the commuter rail route was approved in the past through the land use process and was not appealed. He said the City of Beaverton also had an intergovernmental agreement with Washington County and Tri-Met on the Lombard Improvements that would run concurrently with this project. He said Tri-Met was representing all of the regional partners behind this project. He said their goal was to commence commuter rail service by December, 2008. He said their hope was that they would receive a favorable decision so that construction could begin and the December goal could be met. He asked Doran to review the project for Council.

Jeb Doran, Commuter Rail Project Engineer, Tri-Met, reviewed the project in Beaverton including the terminus location and features, route, major crossings, sidewalk/roadway improvements, and construction updates. He said testing of the system would begin January 1, 2008.

Greenfield said regarding BBB and Shadrall, that while they have reached agreement, the findings and revised conditions would need to be adopted.

Rappleyea confirmed that the findings would be prepared and sent to Council for comment. Once completed, the findings will go to the Mayor for signature.

Coun. Doyle asked if on this project route, they had run into this need to go down an existing street or created a street to marry up to an existing street, or was this a unique part of this route.

Doran said this was the only area where they were running through existing streets; up to this point, the route ran on existing track.

Coun, Stanton noted that Freece had concerns regarding tonnage and noise. She asked if the commuter rail speed would be 15 miles per hour between Farmington Road and the Beaverton Transit Center.

Doran said it would be ten miles per hour. He said the commuter train was not a locomotive; it was a DMU which was smaller than the standard locomotive.

Coun. Stanton asked if the train would have a standard freight rail horn.

Doran replied the train had the freight rail horn but in Beaverton they were looking at using wayside horns to bypass the train horn. The wayside horns were not as loud as the rail horns and they direct the sound towards the cars at a lower decibel.

Coun. Dalrymple asked Whitlow and Doran for their assessment of the Freece appeal regarding the parking lot design. He asked if they had mitigated the issue or if there was a problem yet to be resolved.

Doran said they met several times with Freece to discuss these issues and new issues were presented this evening that they had not heard previously. He said they had discussed reconfiguring the lot and striping to create more space and better circulation but they never reached agreement to do that work. He said they discussed the wheel stop locations with Freece and he was not interested in the wheel stops; also, they discovered the lot space was tight and there was insufficient room. He said no permanent improvements or impacts were being placed on the Freece property. He said there would be a temporary construction easement, for the sidewalk improvements, that was inside of the right-of-way. He said that easement was needed to ensure that the back edge of the sidewalk would match with the existing sidewalk. He said they would not be operating large equipment on the Freece property. He said to mitigate the safety issue of cars parking over the sidewalk, Tri-Met would install ballards on the platform and multi-use path, within the right-of-way; not on the owner's property.

Greenfield said Tri Met was not taking any of the Freece property so they would not have any impact on the current parking.

Doran confirmed that was correct.

Coun. Dalrymple clarified that once the project was completed, there would be no encroachment on the Freece's property and that all work that was being done in relation to stopping vehicles would be within the right-of-way.

Doran replied that was correct.

Mayor Drake said that many years ago when that section of Lombard Avenue was improved, the City purchased a portion of the lot for the right-of-way from Freece's father. He said at that time, the City made a commitment to do everything humanly possible to not take any more of the Freece's property. He said one of his charges to the engineering consultant who designed this route was to not impact the Beaverton Auto Parts property in any way and that included the parking lot. He said he bird-dogged this project to make sure that they kept that commitment.

Coun. Dalrymple said he appreciated the history on this issue and it was important that people understand what has occurred. He said he was satisfied that the finished product would meet the intent of what he believed Freece was saying.

Greenfield said Freece would lose the existing left turn into the driveway but that was true for many of the properties. He said that was a requirement of ODOT Rail. He said they looked at the Study that Freece cited regarding safety. The Study said there were safety issues associated with rail and that was true, for there were safety issues with every type of transportation. He said the Study said that commuter rail was the second safest form of transportation; only rapid rail has fewer fatalities per million passengers carried. He said for commuter rail, the highway grade accident averaged 0.61 accidents for every ten million passenger miles traveled. He said the greatest cause of accidents was trespassing. He said while it was not 100% safe, commuter rail was quite safe in comparison to other forms of transportation.

Coun. Stanton asked if the wheel stops would still be a condition on the project if the ballards were installed.

Sparks said that Condition No. 27 required that Tri-Met install the wheel stops for pedestrian safety and if they were unable to do the wheel stops, the alternative was to install the ballard and the wall in the right-of-way. He said it was written as an "either or" scenario. He confirmed that the property owner (Freece) could refuse the wheel stops and Tri-Met would use the ballard and wall instead.

Coun. Stanton asked if there was a way to install the ballards without being right on the property line.

Doran said the ballards would not be on the property line as they require footing space.

NEIGHBORHOOD GROUPS/OTHER AGENCIES:

Karen Frost, Executive Director, Westside Transportation Alliance, Beaverton, said the Alliance was an organization of businesses and public agencies that work to relieve congestion in Washington County, promote a vibrant economy and help promote livability by encouraging traveling behaviors that reduce reliance on automobiles alone. She said many employers and employees along the route were anticipating the arrival of commuter rail as a solution to the high cost of driving and commuting. She said the commuter rail offers an important link to connect employees to suburban employment centers and to downtown Portland. She said some businesses were impacted more than others but this route has taken advantage of existing rail lines and has little effect on property owners along the route. She said that regardless of the rail project on Lombard, she would have come before the Council with a complaint about the disregard for the pedestrian right-of-way along the sidewalk adjacent to Beaverton Auto Parts. She said she would have suggested that Beaverton Auto Parts restripe its parking lot so that large trucks are accommodated away from the sidewalk on Lombard Avenue and all vehicles are prevented from obstructing the sidewalk. She said a few weeks ago when walking to the Transit Center she was so astounded by a crew cab pickup truck obstructing the entire sidewalk that she stopped and photographed it; and this evening an automobile was parked halfway into the sidewalk. She said with the addition of commuter rail, Lombard Avenue would have improved pedestrian accessibility and safety, without vehicles obstructing the sidewalk, if the Council approves the project.

OPPOSITION:

Henry Kane, Beaverton, said for years he has been analyzing the commuter train. He said the comments made tonight were just an inkling of the problems that would exist when the rail line opens. He said it was not a good idea to run railways on city streets, especially when the streets were very short. He said this would stop traffic on Canyon and Farmington Roads. He said there was no way that these trains and motor vehicle traffic could co-exist on this street system.

Greenfield waived rebuttal.

Freece asked if the appellant could provide rebuttal.

Rappleyea said the applicant had the burden of proof and the last word, unless he raised new evidence. He said no new evidence was submitted, so the appellant could not rebut.

Sparks said Tri-Met had referred to a graphic that was Exhibit 3.8 in the staff report. He said Coun. Bode asked about the distance that vehicles would move into the drive aisle because of the wheel stops and three feet was mentioned. He said the three feet was not measured from the front of the car for there was an overhang to the wheel stops. He said while the wheel stops would be three feet from the property line, there would be an overhang from the wheel stop and the distance of the overhang depended on the type of vehicle. He said in reference to what the City Code requires for aisle width, it would depend on the angle of the parking. He said assuming a 45-degree angle, aisle width is 12 feet per Code. He said they believed there was adequate aisle width per Code.

Coun. Bode referred to the "either or" option of wheel stops or ballard and wall. She asked if Freece could pick which he preferred.

Sparks said Freece and other property owners having the option of allowing Tri-Met to install the wheel stops. He said if the owners decide not to have wheel stops then the ballard and wall would be installed.

Sparks replied to Coun. Dalrymple's earlier question that the current sidewalk width was five feet. He said the existing planter strip would be removed with these improvements. He said the street trees would be kept in tree wells. He said if the wall and ballard approach was used, there would still be adequate room for safe pedestrian passage. He said at this point the dimensions were very tight for the sidewalk and an unobstructed travel path.

Coun. Doyle asked if the Council decided not to impose Condition No. 27, could the applicant still do the ballard and wall.

Sparks said that was not possible. He said if the condition were dropped entirely, there would be nothing requiring the applicant to do the ballard and wall. He said they could do it if they chose and if it did not cross a threshold for design review.

Coun. Doyle asked if there were any concerns the Council should be aware of regarding this condition.

Sparks said this condition was included because there would be a lot of landscaping to help visually soften the impact to the area. He said staff concern was that if landscaping was used to mitigate an impact, that the landscaping would survive.

Coun. Stanton referred to page 7 of the Freece handout, under appeal Condition No. 26, it stated that these conditions render the parking lot out of compliance with City Code. She asked if that was correct for she did not understand how installing the wheel stops would make them out of compliance. She said she read the Code and did not believe it was out of compliance.

Senior Planner Don Gustafson confirmed the parking lot would not be out of compliance.

Mayor Drake closed the public hearing.

Coun. Stanton MOVED, SECONDED by Coun. Bode, that the City Council uphold the decision of the Planning Commission and reaffirm DR 2006-0157, PTF 2006-0003, and TP 2006-0022, and deny appeals APP 2007-0009/APP 2007-0010 (Freece) and APP 2007-0011/APP 2006-0012/APP 2007-0013 (Shadrall), including all findings, staff report and memorandums received on the record.

Coun. Stanton said she was very confident that all issues have been addressed and while there may be a visual impact and loss of the left turn lane, that appeared to be the only mitigation that Light Rail would have on the Freece's business. She said the site had an alternate driveway access and the parking lot width would not change. She said that was why she made and would support the motion.

Coun. Bode agreed with Coun. Stanton. She said she questioned the process because the appeals indicated that the only remedy was to do the wheel stops which was not accurate. She said the likely alternative that Tri-Met could use would not impinge on the property owner or the parking lot. She said the left hand turn would be lost but there was another entrance, so she would support this motion.

Coun. Doyle said the City owed it to the businesses to take a hard look at the impact they would suffer from projects. He said the loss of egress was important so he was glad they had this discussion. He said he hoped that if any further difficulties arose, the applicant and appellant would get together and take the time to make it right. He reiterated he was glad they had this discussion for it was important to respect what the downtown businesses have done for the City over the years.

Coun. Dalrymple said he concurred with Coun. Doyle. He said it was important to hear from and support the businesses for they were the lifeblood of the community. He said when he looked at this, he saw solutions not more problems. He said whether or not the appellant agreed he would support the motion for he saw solutions reached at this meeting.

Coun. Arnold said because of nature of how this property was being used there were access issues; however, she felt this fell within the guidelines of how access was to be met. She said there was always a tradeoff in considering issues and decisions were made for the greater good of the community. She said she hoped there would be continuing discussions on possible ways to improve the flow of the Freece parking lot. She said she would support the motion.

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:00)

RECESS:

Mayor Drake called for a brief recess at 8:22 p.m.

Mayor Drake reconvened the meeting at 8:33 p.m.

07121 APP 2007-0006 Appeal of Director's Interpretation DI 2007-0002 (Church 30 Foot Setback)

Mayor Drake opened the public hearing.

Mayor Drake said that normally staff reads the legal statement that defines the public hearing process, to ensure that everyone understands their rights. He noted that the appellant (Kane) was very familiar with the land use process, having appeared before the Council many times in the past.

Henry Kane, Beaverton, appellant, waived the reading of the statement of legal rights.

Interim Community Development Director Steven Sparks asked if any Councilor had a potential or actual conflict of interest.

None were declared.

Sparks asked if any Councilor had an ex parte contact to declare.

Coun. Dalrymple said he ran into Kane in the hallway and Kane had a few things to say regarding commuter rail. He said they did not discuss Kane's appeal issue.

Spark asked if any Councilor wished to declare any site visits.

Mayor Drake and all of the Councilors indicated they drive by this site.

Sparks asked if any member of the audience wished to challenge the right of the Council to consider this matter or challenge the right of any Councilor to participate in this hearing, or wish to request a continuance of the hearing to a later date.

No challenges were declared and no requests for continuance were received.

City Attorney Alan Rappleyea said this met the requirements for the hearing.

Sparks noted Council previously received the staff report. He said today Kane submitted a two-page letter dated June 11, 2007, with a series of attachments. He said it appeared that the first page addressed an issue not before the Council at this meeting but the second page did address the Director's interpretation.

Coun. Stanton referred to page 10, third paragraph, of the staff report and asked if there were other non-conforming churches in the city.

Sparks said the existing structure does conform to the zoning on the site. He said the Code requires that churches and schools have a 30-foot setback from residential zone properties. He said there may be other examples of existing structures that meet the zoning setbacks but do not meet the 30-foot setback from residential zones. He said there were churches in the Old Town, between Fifth Street and Allen Boulevard, that were pre-existing to when this standard was adopted.

APPELLANT:

Henry Kane, Beaverton, appellant, said this matter was a solution for a problem that does not exist. He said he and Sparks have a difference of opinion regarding the Community Development Director's authority. He said the Director's authority was general. He read Code Section 40.25.15.1.D and said this was a specific requirement that prevails over the general requirement. He said that Code section states that the owner or the owner's representative must ask for an interpretation. He said the staff report ignored that section.

Kane said the problem before them was what to do with an old building. He said when a building was grandfathered in, as long as that usage continued it would have the benefit of the grandfathered status. When the building changes ownership or use, then it has to be brought into compliance with the Code. He said this application was incomplete. He said the City would not have to look at this property until the application was completed and the Conditional Use Permit was submitted.

Kane said he doubted the City would ask the owner to remove part of the building to meet the setback. He said the building had an offensive-looking enclosed wet garbage structure and he thought staff would say this was obsolete since it was not a restaurant anymore. He said the building was an eyesore; it needed painting and there was graffiti. He read an article from the June 7, 2007, *Oregonian* which stated that Kane had said his appeal had nothing to do with religious issues; he said that was correct. He said his objection was that the Director could make a Development Code interpretation and say that he did not like one provision. He said that was lawlessness. He said having the Director make an interpretation was not correct especially when the Code states that the owner or his representative were the ones who must ask for an interpretation. He said the Code setback language was clear.

APPLICANT:

Ali Houdrose, Portland, applicant, Beaverton Islamic Community Center, said he previously spoke to Kane for this was not the first time Kane had complained about the Center. He said they bought this Center because the Islamic Community was growing and this building would accommodate their use. He said they bought the Center to improve it and they applied for a Conditional Use as required by law. He said this use was not a 100% church use; they were a Community Center with non-profit status under religious organization. He said they hold community events, provide Islamic services and counseling, and they held prayer services there.

Houdrose said most of the time the building would be empty with little activity. He said the maximum number of people they have at their events was around 35. He said they understood the building was under a different zone and because of the new use it was labeled a church and it does not meet the 30-foot setback. He said the alley was not used including the area designated for garbage. He said he hoped the Council would agree and approve the staff's recommendation.

Coun. Dalrymple asked if Houdrose had considered doing any remodeling to the structure to meet the setback requirements.

Houdrose said they were not doing any structural changes; interior remodeling would be done to meet the needs of the Center.

Coun. Dalrymple asked if they had closed on the property.

Houdrose replied they had closed on the property.

Coun. Dalrymple asked if they were aware of the setback requirements when they closed on the property.

Houdrose said they were not aware of the setback issue at that time.

Coun. Dalrymple asked when they became aware of the setback requirements, did they consider modifying the existing structure to meet the setback.

Houdrose said it was very expensive and it would cost a great deal to move the bearing walls. He said it would be cheaper to demolish the building and build anew. He said he did not know if the building could be modified to meet the requirements.

Coun. Stanton asked if there would be loud organ music at the Center.

Houdrose said there would be no music for music was against their religion.

SUPPORT:

Rev. Peg Pfab, Beaverton, said she was the pastor of the church across the street from the Center and her congregation was happy to have the Center in the neighborhood. She said it would be a huge hardship to remodel that building to meet the 30-foot setback. She asked if it was not a problem when it was a restaurant, she did not see why it would be a problem now. She said they were a very good neighbor. She said she was sure exceptions were made to the Zoning Code. She said they have a great organization there now and it was much better than having an empty building attracting unsupervised youth.

Janet Britton, Beaverton, said she was a neighbor on Alpine Drive and she wanted to support the recommendation to approve the exception to the Code. She said currently there were five churches within three blocks of the Islamic Center. She said they were good neighbors. She said she favored having another religious organization as part of the neighborhood.

Robert Morris said he was working with the Islamic Center on this application. He asked if Kane's concern regarding process would be resolved if the applicant filed the paperwork for an interpretation.

Rappleyea said he did not see a problem with the Director's process in this matter. He said the Code was very specific that the Director could interpret the Code. He said he did not see any problem with Director's interpretation and the request for an interpretation did not need to come from the applicant.

Morris said as an engineer he looked at the structure and setup of the building and it was not feasible to alter the building.

Coun. Dalrymple asked if there was anything within the Development Code that provided for an exception, if he did not agree with the current interpretation.

Rappleyea said the staff report discusses the purpose of the setback and on pages 6 and 7 it discusses lawful structures. He said in this case, the building was built and exists lawfully; the problem was that the church use makes the setback from residential zones a problem. He read Code Section 30.30, Non-Conforming Structures, "...a lawful structure exists at the effective....that could be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height or yards...such structure may be continued so long as it remains otherwise lawful...".

Coun. Dalrymple confirmed with Rappleyea that that section dealt with the issue of grandfathering rather than a new use. He read from page 10 of the staff report (first sentence of last paragraph) "*Historically, the City has applied this regulation equally to new construction and conversion of existing structures to a church use.*" He said his concern was that if a new church was being built under the current Code, what would be the difference between building a new church and allowing someone to go into an existing building that does not meet the current standards.

Rappleyea said the building does meet current standards for use. He said the interpretation was needed because the Code was not exactly clear. He said having the Council make the interpretation would bear more weight, at LUBA and in the courts, than the Director's interpretation. He said in order to give meaning to the Code's non-conforming structure section, the Code had to be interpreted in the way that the Director interpreted it.

There were no further questions.

Mayor Drake closed the public hearing.

Coun. Bode MOVED, SECONDED by Coun. Doyle, that Council deny the appeal APP 2007-0006 and uphold Director's Interpretation 2007-0002 (Church 30 Foot Setback).

Coun. Bode said this falls under the rule of reasonableness and a church use in that neighborhood was reasonable. She said this was supported by a local church and there was a cluster of churches in that neighborhood that seemed to be compatible. She said this was a reasonable use as delineated in the Director's Interpretation.

Coun. Dalrymple said he experienced consternation over this issue because he had a hard time agreeing with the statements regarding the interpretations. He said he did not have a hard time with the welcoming of the new neighbors to the area, especially with the support voiced at this meeting for this compatible use. He said if he was to make a decision based strictly on the Code, he would not agree with this action. He said because of the testimony he heard and because the Council has flexibility in determining how to deal with the issue he would support the motion.

Coun. Stanton said she would support the motion because of the Director's interpretation in the conclusions section of the staff report (page 15, Section V). She said she appreciated the five conditions in that section and she hoped they would be included in the report for the land use application. She said this was a good use of that space and she appreciated the testimony in support of the Center.

Coun. Doyle said he would support the motion. He said he was satisfied with the Director's authority in exercising his judgment and that was reaffirmed by the City Attorney. He said this made sense in this case and he looked forward to seeing what would happen with the property. He said hopefully at some point they could address the appearance issues.

Coun. Arnold said she would support the motion. She said there were times when one has to consider issues that are "in shades of gray"; not clearly black and white. She reviewed the history on the site and said this case was one of those gray areas. She said because of that, discretion and interpretation was required. She said she believed they met the intent of the reason why all these rules were created, and that was to be sure that the buildings and uses are compatible and good for the neighborhood. She said this definitely met that intent.

Mayor Drake said he agreed with the Council and with the Director's interpretation. He said it was important to recognize that this community has changed a great deal and the need to honor and be vigilant about the community's racial, cultural and religious diversity was important, because that could slip backwards if the City was not careful to promote and protect tolerance and understanding. He said the Code had been met and the community welcomed the Center. He said if he could vote he would vote to support the majority.

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Dalrymple, that the rules be suspended, and that the ordinance embodied in Agenda Bill 07122 be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

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

07122 An Ordinance Amending Ordinance No. 2050, the Zoning Map to Apply the City's Office Commercial Zone to Two Properties Located in Northern Beaverton ZMA 2007-0012 (Tax Lots 1S102DC04304 and 1S102DC05300) (Ordinance No. 4442)

Second Reading:

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

07115 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Station Community Plan Designation to Two Properties Located in Northern Beaverton; CPA2006-0018 (SW Baltic Avenue/SW Barnes Road) (Ordinance No. 4439)

07116 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply a City Plan Designation to 315 Properties, Alter Figures 6.4, 6.5, 6.7, 6.12, and Table 6.6 of the Comprehensive Plan to Designate Future Street Alignments, and Amend Ordinance No. 2050, the Zoning Map to Apply City Zoning to 302 Properties Located in the Elmonica/Merlo Light Rail Station Community Area; CPA2007-0007/ZMA 2007-0006 (Ordinance No. 4440)

07117 An Ordinance Amending Ordinance No. 2050, the Development Code to Modify Section 60.05.55.4, the Merlo Station Community – Major Pedestrian Route Map to Apply Additional Route Designations and Rename the Code Section; TA2007-0003 (Ordinance No. 4441)

Coun. Stanton MOVED, SECONDED by Coun. Doyle, that the ordinances embodied in Agenda Bills 07115, 07116 and 07117, now pass. Roll call vote. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

EXECUTIVE SESSION:

Coun. Bode MOVED, SECONDED by Coun. Stanton, that Council move into executive session in accordance with ORS 192.660(2)(d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

The Council recessed from 9:16 p.m. to 9:25 p.m. to setup for the executive session.

The executive session convened at 9:25 p.m.

The executive session adjourned at 9:41 p.m.

The regular meeting reconvened at 9:41 p.m.

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting was adjourned at 9:41 p.m.

Catherine Jansen, Deputy City Recorder

APPROVAL:

Approved this day ,2007,

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: A Resolution Expressing the City of Beaverton's Election to Receive Distribution of a Share of Certain Revenues of the State of Oregon for Fiscal Year 2007-2008, Pursuant to ORS 221.770

FOR AGENDA OF: 7/09/07 **BILL NO:** 07142

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 06/15/07

CLEARANCES: Finance 
City Attorney 

PROCEEDING: CONSENT AGENDA

EXHIBITS: Resolution

BUDGET IMPACT

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

State revenue sharing law requires cities to pass a resolution each year stating that they want to receive state revenue sharing money. The law also requires that cities certify that two public hearings were held. The Budget Committee and the City Council have each held separate public hearings to discuss possible and proposed uses of the funds.

RECOMMENDED ACTION:

City Council adopt the resolution expressing the City of Beaverton's election to receive distribution of a share of certain revenues of the State of Oregon for Fiscal Year 2007-2008, pursuant to ORS 221.770

RESOLUTION NO. 3904

A RESOLUTION EXPRESSING THE CITY OF BEAVERTON'S ELECTION TO RECEIVE DISTRIBUTION OF A SHARE OF CERTAIN REVENUES OF THE STATE OF OREGON FOR FISCAL YEAR 2007-2008, PURSUANT TO ORS 221.770

WHEREAS, the Oregon State Legislature has adopted a state revenue sharing program; and

WHEREAS, the City is required to express its election to receive distribution by enactment of a resolution to be filed with the Executive Department of the State of Oregon not later than July 31, 2007; and

WHEREAS, previous to the July 31, 2007 deadline, public hearings must be held before the Budget Committee, and before the City Council, giving citizens an opportunity to comment on the use of State Revenue Sharing monies; now, therefore,

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

Section 1. The City of Beaverton, Oregon, hereby elects to receive distribution of the appropriate share of certain revenues of the State of Oregon, which are to be apportioned among and distributed to the cities of the State of Oregon for general purposes for the Fiscal Year 2007-2008.

Section 2. On May 24, 2007, and June 18, 2007, public hearings were held before the Budget Committee of the City of Beaverton and before the City Council, giving an opportunity for citizen comment on the use of State Revenue Sharing monies.

Section 3. A certified copy of this resolution shall be filed by the City Recorder with the Executive Department of the State of Oregon not later than July 31, 2007. Certification by the City Recorder of the dates that public hearings were held on State Revenue Sharing before the Budget Committee of the City of Beaverton and before the City Council shall be sent to the State of Oregon's Intergovernmental Relations Division no later than July 31, 2007.

Adopted by the Council this _____ day of _____, 2007.

Approved by the Mayor this _____ day of _____, 2007.

AYES _____

NAYES _____

ATTEST:

APPROVED:

Sue Nelson, City Recorder

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Acceptance of Grant Award from the Metropolitan Area Communications Commission and Authorize Appropriations Through a Special Purpose Grant Budget Adjustment Resolution

FOR AGENDA OF: 07-09-07 **BILL NO:** 07143

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Finance 

DATE SUBMITTED: 06-25-07

CLEARANCES: Information Systems City Attorney 

PROCEEDING: Consent Agenda

EXHIBITS: Special Purpose Grant Budget Adjustment Resolution
Grant Award Notification From MACC

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$52,553	BUDGETED \$0	REQUIRED \$52,553

The Appropriation Required is funded by the grant award from the Metropolitan Area Communications Commission and will be established through the attached Special Purpose Grant Budget Adjustment Resolution.

HISTORICAL PERSPECTIVE:

The City of Beaverton has been awarded a Metropolitan Area Communications Commission (MACC) grant. MACC grants were established to assist local agencies to create interlinked, high-speed, wide area networks in the MACC area. The City submitted the following grant requests for which funding was approved:

- 1) Upgrade the City's core Institutional Network (INet) speed from 100 megabit per second to 1000 megabits per sec - \$11,706
- 2) Install an upgraded Uninterruptible Power Supply for the Public Works; Operations computer network area - \$2,850.
- 3) Purchase and install wireless access points (WAP's) for Public Safety - \$24,850.
- 4) Purchase and install a Law Enforcement Data Systems (LEDS) Enquiry Data Warehouse Server- \$13,147.

Attached is a Notification Letter from MACC indicating that the above projects were approved. The notification letter includes the City's grant funding requests and those of other jurisdictions.

INFORMATION FOR CONSIDERATION:

- 1) INET Speed Upgrade – This will enable the City to move data between its core sites at higher speeds, which will greatly improve the performance of off-site backups and inter-building communications (Library, City Hall, and Operations).
- 2) Public Works; Operations UPS – This will improve the overall electrical protection of servers and computer network equipment at the Public Works Operations site.
- 3) Wireless Network Access for Public Safety - This will provide additional wireless coverage at the City's core Emergency Operation Center (EOC) that will allow wireless network communications during EOC activations.

- 4) LEDS Enquiry Data Warehouse – This will allow the City to record specific inter-agency LEDS queries and provide historical tracking information for County wide searches that can be accessed by and shared with other police and sheriff agencies.

RECOMMENDED ACTION:

Council, accept the \$52,553 Special Purpose Grant Award from MACC for enhancing the City's data infrastructure and approve the attached Special Purpose Grant Budget Adjustment Resolution, which appropriates the grant funding.

RESOLUTION NO. 3905

A RESOLUTION APPROVING THE ACCEPTANCE OF A SPECIFIC PURPOSE GRANT AND THE ASSOCIATED APPROPRIATIONS IN THE INFORMATION SYSTEMS FUND OF THE CITY DURING THE FY 2007-08 BUDGET YEAR AND APPROVING THE APPROPRIATIONS FOR THE FUND

WHEREAS, the City Council reviews and approves the annual budget; and,

WHEREAS, during the year the Council may authorize the acceptance of special purpose grant funds and the associated appropriations through a Special Purpose Grant Budget Adjustment Resolution; and,

WHEREAS, a Special Purpose Grant from the Metropolitan Area Communications Commission was awarded in the amount of \$52,553, and the Council desires to appropriate the grant award in the Information Systems Fund; now therefore,

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

Section 1. The Finance Director is hereby authorized and instructed to adjust the Information Systems Fund Budget to reflect receipt of the special purpose grant revenue and the associated appropriations:

Information Systems Fund

Revenues:

Intergovernmental Revenue	603-03-0000-329	\$52,553
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Expenditures:

Hardware Purchases	603-30-0713-317	\$52,553
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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

MACC

METROPOLITAN AREA
COMMUNICATIONS COMMISSION

MEMORANDUM

1815 NW 169TH PLACE, SUITE 6020
BEAVERTON, OR 97006
(503) 645-7365
WWW.MACCOR.ORG

DATE: **May 25, 2007**
TO: **PEG/PCN Grant Applicants**
FROM: **Greg Lang, MACC Communications Analyst**
RE: **Grant Committee Funding Recommendations**

Enclosed you will find a summary listing of all grant applications submitted detailing the PEG/PCN Grant Committee recommendations to the MACC Board of Commissioners, as well as instructions on how to make a "Request for Reconsideration" (for applicants who were recommended for partial or no funding of their request.) These recommendations will be made to the MACC Board on June 14, 2007. This meeting is to be held at the MACC Offices, beginning at 2:30 pm.

Should you have any questions after reviewing the information, please don't hesitate to contact me at 503-645-7365 x207

Thank you

**PEG/PCN Grant Committee
Spring 2007**

Summary of Grant Recommendations

Grant Funds Available	\$825,000
Total Funds Requested	\$1,459,111
Qualified Applications	\$1,234,490
Recommended Grant Amount	\$825,000
Carried Over To Next Grant Cycle	\$ 0.00

City of Forest Grove S07 – 1 PCN: Generator for City Hall		
Requested	\$ 70,000	Based on the information presented in the application and the Grant Guidelines, the Grant Committee feels the application is Not Eligible for funding. While UPS devices have been granted for specific PCN equipment, the grant guidelines do not provide for back-up power or systems for entire buildings, including equipment that may or may not be connected to the PCN.
Awarded	\$ 0	

City of Forest Grove S07 - 2 PCN: Barracuda Web Filter		
Requested	\$ 4,228	Based on the information presented by applicant the Grant Committee recommends full funding.
Awarded	\$ 4,228	

City of Forest Grove S07 - 3 PCN: Barracuda Spam Firewall		
Requested	\$ 3,578	Based on the information presented by applicant the Grant Committee recommends full funding.
Awarded	\$ 3,578	

City of King City S07 – 1 PCN: PCN Operating Expenses		
Requested	\$ 14,000	Based on the information presented by applicant the Grant Committee recommends full funding.
Awarded	\$ 14,000	

City of Hillsboro S07 - 1 PCN: PCN Installation – Main Branch Library

Requested	\$ 29,443	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 29,443	

BUG S07 - 1 PCN: Network Redundancy Enhancements

Requested	\$ 43,000	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 43,000	

TVF&R S07 - 1 PCN: Shared Internet Connections for BUG-TVF&R Redundancy

Requested	\$ 88,055	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 88,055	

Forest Grove School District S07 - 1 PCN: VoIP for Echo Shaw Elementary School

Requested	\$ 43,536	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 43,536	

Forest Grove School District S07 - 2 PCN: VoIP for Cornelius Elementary School

Requested	\$ 41,842	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 41,842	

Forest Grove School District S07 - 3 PCN: Echo Shaw Elementary School Gigabit Ethernet Router

Requested	\$ 14,012	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 14,012	

Forest Grove School District S07- 4 PCN: Cornelius Elementary School Gigabit Ethernet Router

Requested	\$ 14,012	Based on the application and responses to follow up Committee questions, the Grant Committee recommends <i>full funding</i> .
Awarded	\$ 14,012	

Forest Grove School District S07- 5 PCN: Forest Grove High School Switch Replacement

Requested	\$ 87,524	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 6 PCN: Neil Armstrong Middle School Switch Replacement

Requested	\$ 25,856	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 7 PCN: VoIP for Joseph Gale Elementary School

Requested	\$ 43,536	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 8 PCN: VoIP for Harvey Clarke Elementary School

Requested	\$ 39,476	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 9 PCN: Joseph Gale Elementary School Gigabit Ethernet Router

Requested	\$ 14,012	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 10 PCN: Harvey Clarke Elementary School Gigabit Ethernet Router

Requested	\$ 14,012	Based on the priority given to the request, limited funds available, and the Committee's desire to distribute funds to as many applicants as possible, the Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles .
Awarded	\$ 0	

Forest Grove School District S07- 11 PCN: EdTech Cadre

Requested	\$ 180,040	Submitted as an Innovative Grant
Awarded	\$ 0	Because of the limited connection to the PCN and similarity to already existing local programs, the Grant Committee recommends No Funding for the grant. The applicant is encouraged to reapply for funding in future grant cycles

WCCLS S07 - 1 PCN: PCN Installation – Courier Facility

Requested	\$ 16,461	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 16,461	

WCCLS S07 - 2 PCN: PCN Installation – Bethany Branch Library

Requested	\$ 15,366	Based on the application and responses to follow up Committee questions, the Grant Committee recommends partial funding for the grant. Current grant guidelines do not provide for wireless hardware and connections for public access to the PCN. Limited wireless applications have been granted in previous grant cycles <u>only</u> in circumstances dealing with public safety and first responder communications.
Awarded	\$ 12,460	

WCCCA (9-1-1) S07 - 1 PCN: Network Intrusion Detection and Prevention

Requested	\$ 74,903	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 74,903	

WCCCA (9-1-1) S07 – 2 PCN: Portable Network Monitoring Device

Requested	\$ 27,000	Based on the application and responses to follow up Committee questions, the Grant Committee recommends full funding.
Awarded	\$ 27,000	

Portland Community College S07 - 1 PEG: Enhancing Educational Effectiveness of the EAC (TV Production Equipment)

Requested	\$ 47,005	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding.
Awarded	\$ 47,005	

Tualatin Valley Television – S07 - 1 PEG: Civic Studio's Upgrades

Requested	\$ 101,250	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding.
Awarded	\$ 101,250	

Tualatin Valley Television S07 - 2 PEG: Public Production Upgrades

Requested	\$ 39,995	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 39,995	

Tualatin Valley Television S07 - 3 PEG: Digital Television Transition

Requested	\$ 11,250	Based on the priority of the application and limited funds available, the Grant Committee recommends Partial Funding for the grant so the applicant can start the project. The Committee encourages the applicant to apply for the additional funding in future grant cycles in order to complete the Digital Television Transition project.
Awarded	\$ 6,216	

Washington County S07 – 1 PCN: BUG Internet Connection Redundancy at Washington County Walnut Site

Requested	\$ 132,171	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends Partial Funding for the grant. Current grant guidelines do not allow for items such as ISP fees from an outside vendor that is not connected directly to the PCN. Hardware and installation costs to create this redundant connection are covered and eligible for funding.
Awarded	\$ 82,171	

City of Beaverton S07 – 1 PCN: INET Speed Upgrade

Requested	\$ 11,706	Based on the information presented by applicant the Grant Committee recommends full funding.
Awarded	\$ 11,706	

City of Beaverton S07 – 2 PCN: Public Works UPS		
Requested	\$ 2,850	Based on the information presented by applicant the Grant Committee recommends full funding.
Awarded	\$ 2,850	

City of Beaverton S07 – 3 PCN: Wireless Network Access for Public Safety		
Requested	\$ 24,850	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 24,850	

City of Beaverton S07 – 4 PCN: Public Wireless Access in City of Beaverton Library		
Requested	\$ 16,665	No application for grant submitted. Grant Committee recommends No Funding for grant. Limited wireless applications have been granted in previous grant cycles <u>only</u> in circumstances dealing with public safety and first responder communications.
Awarded	\$ 0	

City of Beaverton S07 – 5 PCN: LEDS Enquiry Data Warehouse		
Requested	\$ 13,147	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 13,147	

City of Beaverton S07 – 6 PCN: BUG Video Conferencing Pilot		
Requested	\$ 85,050	Based on the application, the grant guidelines and responses to follow-up Grant Committee questions, the Committee recommends No Funding for the application. The Committee sees the value in a regional conferencing service, however, current grant guidelines only provide for items such as "caching systems" or "servers" that are directly connected to the PCN when the equipment resides solely on the user side of the demarcation. <u>The applicant is encouraged to look at the guideline description of Innovative Grants and resubmit their proposal in future grant cycles.</u>
Awarded	\$ 0	

Virginia Garcia Memorial Health Clinics S07 – 1 PCN: VoIP Installation – Hillsboro Dental Clinic

Requested	\$ 21,086	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 21,086	

Virginia Garcia Memorial Health Clinics S07 – 2 PCN: VoIP Installation – Hillsboro Primary Care Clinic

Requested	\$ 34,550	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 34,550	

Virginia Garcia Memorial Health Clinics S07 – 3 PCN: Data Server Upgrade

Requested	\$ 13,644	Based on the application and responses to follow-up Grant Committee questions, the Committee recommends full funding
Awarded	\$ 13,644	

PEG/PCN Grant Awards Request for Reconsideration

The MACC PEG/PCN Grant Committee (Committee) will be making its recommendation for Spring 2007 Grant Awards to the Metropolitan Area Communications Commission (Commission) on June 14, 2007. See the enclosed Award Recommendation Summary for their recommendations.

There is a process for unsuccessful applicants to request the Commission's reconsideration of the Grant Committee's recommendations. This reconsideration process is available to any applicant who received no funding or only partial funding for this most recent grant cycle -- Spring 2007 .

Reconsideration Process – Applicants asking the Commission to reconsider a Grant Committee recommendation need to do the following:

- 1) Provide MACC with a written request for reconsideration of the Committee's recommendation. This should clearly state the reasons you believe the Committee's recommendation should be reconsidered by the Commission (particularly responding to the Committee's reasons as stated in the attached "Awards Recommendation Summary") Since the Commission will receive your original application materials, please provide new/additional information in your request

Format: This must be provided in writing, no longer than one page (8.5x11), single-spaced. Include your contact information and the Grant Application Reference Number from the attached "Awards Recommendation Summary" (e.g , "City/County S07-1: PCN Operating Cost") at the top of the page.

Due Date: All requests must be sent to MACC, Attention: Greg Lang, 1815 NW 169th Place, Suite 6020, Beaverton, OR, 97006, or glang@maccor.org **for receipt no later than 4:00 p.m. PST, on Friday June 1, 2007.**

- 2) Committee Review and Comment – The Grant Committee will receive copies of any requests for reconsideration, and may prepare comments and responses to the Commission. Any Committee comments will also be limited on one page and a copy of these comments would be provided to the applicant.
- 3) Commission Consideration – The Commission will receive any reconsideration requests and Grant Committee comments in advance of their meeting. MACC staff will also be provided a copy of the original grant request, and any supplemental information supplied by the applicant. At the Commission meeting, there will be an opportunity for brief comments from both the agency requesting reconsideration and a representative of the Grant Committee. Comments from each will be limited to 10 minutes. (The Commission may allow additional time if necessary.) Following these comments, the Commission will decide whether to fund any of the grant request.

The Commission's decision is final. Unsuccessful applicants are free to reapply for the unfunded grant requests during subsequent grant rounds.

Please contact Greg Lang, MACC Communications Analyst, at 503-645-7365 x207, should you have any questions about this process.

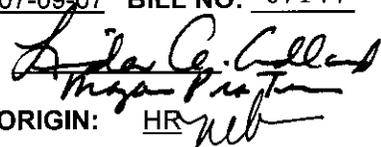
AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Management COLA

FOR AGENDA OF: 07-09-07 **BILL NO:** 07144

Mayor's Approval:



DEPARTMENT OF ORIGIN: HR

DATE SUBMITTED: 06-13-07

CLEARANCES: Finance



PROCEEDING: Consent Agenda

EXHIBITS: Agenda Bill 07127

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$23,750 Fiscal Increase	BUDGETED \$23,750*	REQUIRED -0-

* Various Personal Services Accounts throughout the Proposed FY 2007-08 Budget. The expenditure required and amount budgeted of \$23,750 is the additional amount of the fiscal adjustment over what was authorized in Agenda Bill 07127. The Amount Budgeted is included in the Proposed FY 2007-08 Budget.

HISTORICAL PERSPECTIVE:

Management Fiscal Increase

Historically, Council has approved a fiscal increase for management employees that equaled the adjustment given to employees in the bargaining unit which represents the general employee unit (i.e., in 2007, Service Employees International Union). The City is currently in bargaining with the Union and has offered a 3.0% fiscal increase. Since this offer has already been made, staff believes it is appropriate to proceed with the increases for management and non-represented classifications.

INFORMATION FOR CONSIDERATION:

Management Fiscal Increase

On June 18, Council granted the management and non-represented employees an increase of 2.8% that was comparable to the increase offered to the bargaining unit (copy of Agenda Bill 07127 attached). Since that time, the City has offered the bargaining unit a 3.0% increase to be effective July 1, 2007.

The estimated cost to provide a 3.0% fiscal increase to management employees for FY 2007-08 is an additional \$23,750 including salaries and fringes. This amount was included in the FY 2007-08 budget.

RECOMMENDED ACTION:

Council approves the following: Effective July 1, 2007, a 3.0% fiscal adjustment for management employees.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Compensation Changes

FOR AGENDA OF: 06-18-07 **BILL NO:** 07127

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: HR *[Signature]*

DATE SUBMITTED: 06-13-07

CLEARANCES: Finance *[Signature]*
Public Works *[Signature]*

PROCEEDING: Consent Agenda

EXHIBITS: Exhibit 1 – Market Data for Supervising Electrician

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$332,508 Fiscal Increase	BUDGETED \$332,508*	REQUIRED \$-0-
\$ 15,515 Class Changes	\$-0-	\$15,515**

* Various Personal Services Accounts throughout the Proposed FY 2007-08 Budget. The \$332,508 Amount Budgeted is included in the Proposed FY 2007-08 Budget that is also scheduled for adoption at tonight's Council meeting.

** This amount is recommended to be included in the first supplemental budget for FY 2007-08 and the funding is available from the contingency accounts of the Street Fund (Supervising Electrician and Traffic Signal Maintenance Lead) and the General Fund (Engineering Services Manager and Business Programmer Analyst)

HISTORICAL PERSPECTIVE:

Management Fiscal Increase

Historically, Council has approved a fiscal increase for management employees that equaled the adjustment given to employees in the bargaining unit which represents the general employee unit (i.e., in 2007, Service Employees International Union). The City is currently in bargaining with the Union and has offered a 2.8% fiscal increase. Since this offer has already been made, staff believes it is appropriate to proceed with the increases for management and non-represented classifications.

Classification Changes

Public Works:

In November 2006, the Public Works Director created the Engineering Support Services Manager classification to manage AutoCAD and surveying services for the Engineering Division in the General Fund. This classification was placed in salary grade 11. Since that November 2006 agenda bill, this position has been expanded to supervise the Engineering Construction Inspectors. Public Works requested Human Resources analyze this expanded position.

The City must have a qualified signing Supervising Electrician for the traffic signal, street lighting and building maintenance divisions. This position is responsible for performing new electrical installations and electrical maintenance activities requiring an electrical permit to be issued for such work. The position has sole responsibility to design, direct, layout and supervise the installation, maintenance, repair and replacement of any type of electrical equipment or system of any type; and it also has sole responsibility for obtaining and maintaining electrical permits for the City.

Mayor's Office:

On November 18, 2002, the City Council approved a Programmer Analyst position to report directly to the Mayor's Office. The intent of this position is to produce information more effectively and efficiently within the organization and to our customers. The complexity of these projects has expanded since this position was originally approved, and the Mayor's Office asked Human Resources to perform a classification audit.

INFORMATION FOR CONSIDERATION:

Management Fiscal Increase

The SEIU contract stipulates that employees in that bargaining unit will receive an adjustment equal to the January 2007 US CPI-W. Usually, Council grants the management and non-represented employees an increase that is comparable to the increases negotiated with the bargaining units. The City has offered the bargaining unit a 2.8% increase to be effective July 1, 2007.

The estimated cost to provide a 2.8% fiscal increase to management employees for FY 2007-08 is approximately \$332,508 including salaries and fringes. This amount was included in the FY 2007-08 budget.

Classification Changes

Public Works

Human Resources evaluated the new duties of the Engineering Support Services Manager and determined that they did impact the position knowledge and skill requirements enough to require a salary grade reallocation. Although there are no market comparisons, the internal point factor analysis places this classification in salary grade 13. Furthermore, Human Resources recommends that this classification be renamed to Engineering Services Manager. The increase in cost to raise it to a salary grade 13, including salaries and fringe benefits is \$859, effective 4/16/07 through 6/30/07, which will be absorbed in the current budget, and \$1,505 for FY 2007-08 for 1 FTE position, which is recommended to be included in the first supplemental budget for FY 2007-08.

Public Works requested the re-evaluation of the Supervising Electrician. Human Resources gathered sufficient market data to support the Supervising Electrician position being reallocated to a salary grade 11. Consequently, the Traffic Signal Maintenance Lead position would also move from a salary grade 10 to a salary grade 11. The increase in cost to raise the two positions to a salary grade 11, including salaries and fringe benefits is \$9,809 and is recommended to be included in the first supplemental budget for FY 2007-08.

Mayor's Office

A job audit was conducted by Human Resources for the Programmer Analyst classification in the Mayor's Office. The job audit included interviewing both programmer analysts and business programmer analysts within the City for a demonstration and explanation of the scope and complexity of their projects. Because the Mayor's Office position now includes responsibility for developing and maintaining such large-scale initiatives as the Room and Equipment Reservations System, Document Management System and Customer Relationship Management System, which in some cases require the level of complexity of a Business Programmer Analyst, it is recommended that this position be reclassified to Business Programmer Analyst, salary grade 12. The increase in cost to raise it from salary grade 10 to salary grade 12, including salaries and fringe benefits, is \$4,201 for 1 FTE position and is recommended to be included in the first supplemental budget for FY 2007-08.

RECOMMENDED ACTION:

Council approves the following:

1. Effective July 1, 2007, a 2.8% fiscal adjustment for management employees;
2. Effective April 16, 2007, rename the Engineering Support Services Manager to Engineering Services Manager and reallocate the position from salary grade 11 to salary grade 13.
3. Effective July 1, 2007, reallocate the Supervising Electrician to salary grade 11.

4. Effective July 1, 2007, reallocate the Traffic Signal Maintenance Lead to salary grade 11.
5. Effective July 1, 2007, reallocate the Programmer Analyst classification, salary grade 10 that reports directly to the Mayor's Office to a Business Programmer Analyst, salary grade 12.
6. Council authorize the Finance Director to include the appropriation for the costs of the actions in item numbers 2, 3, 4, and 5 in the first supplemental budget for FY 2007-08.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Ratification of Beaverton Central Plant Contract
Award for Boiler/Chiller Installation

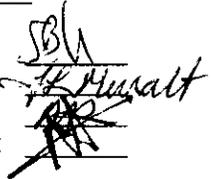
FOR AGENDA OF: 7/09/07 **BILL NO:** 07145

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 6/28/2007

CLEARANCES: Finance
Purchasing
City Attorney
Central Plant



PROCEEDING: Consent
(Contract Review Board)

EXHIBITS: AB 06178
Bid Summary
Memorandum Recommending Award

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$244,000	BUDGETED \$644,250	REQUIRED \$-0-

* Account Number 001-13-0006-682 General Fund – Non-Departmental – Beaverton Central Plant – Construction Account. The FY 2007-2008 budget included \$644,250 for plant construction.

HISTORICAL PERSPECTIVE:

At the Council meeting held September 18, 2006, Council authorized the City to advertise and for the Mayor to award a contract for the installation of a chiller, boiler and related equipment for the Beaverton Central Plant (copy of Agenda Bill 06178 attached). The chiller, boiler and related equipment have been acquired over the last several months and now await installation.

INFORMATION FOR CONSIDERATION:

The invitation to bid was advertised in the Portland Daily Journal of Commerce on May 9, 2007, with a bid submission due date of May 30, 2007 at 2:00 PM. As part of the bid process, bidders were required to attend a mandatory pre-bid conference held on May 16, 2007. Eight general contractors/bidders attended the pre-bid conference.

Two (2) bids were received and opened on May 30, 2007 at 2:00 PM in the Finance Department conference room. The low bid was received from Hydro-Temp Mechanical Incorporated of Wilsonville, Oregon in the amount of \$244,000. The overall bid amount is \$69,000 or 39% percent over the Engineer's Estimate. The primary reason for the difference is attributed to a continuing tight construction market which has kept costs higher than expected.

Linc Facility Services and City staff reviewed the qualifications of Hydro-Temp and find that Hydro-Temp meets the bid requirements to install the boiler and chiller at the Beaverton Central Plant. Attached is a memorandum to the Mayor detailing the evaluation and recommendation to proceed with the Hydro-Temp Mechanical Incorporated bid.

RECOMMENDED ACTION:

Council, acting as the Contract Review Board, ratify the contract award to Hydro-Temp Mechanical, Incorporated, of Wilsonville, Oregon in the amount of \$244,000 in a form approved by the City Attorney, as the lowest responsive bid received for the installation of the boiler and chiller at the Beaverton Central Plant project.

Agenda Bill No: 07145

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Authorize the Mayor to Award a Bid for the Installation of a Chiller, Boiler and Related Equipment for the Beaverton Central Plant Subject to Council Ratification

FOR AGENDA OF: 09/18/06 **BILL NO:** 06178

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Mayor's Office *[Signature]*

DATE SUBMITTED: 09/13/2006

CLEARANCES: Finance *[Signature]*
Purchasing *[Signature]*
City Attorney *[Signature]*
Central Plant *[Signature]*

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS:

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$220,000	BUDGETED \$248,428	REQUIRED \$-0-

* Account Number 001-13-0006-682 General Fund -- Non-Departmental -- Beaverton Central Plant -- Construction Account. The Amount Budgeted represents the remaining appropriation in the Construction Accounts as of August 31, 2006. A \$410,749 adjustment to the Plant's Beginning Working Capital and the Construction Account will be included in Supplemental Budget S-07-01. In addition to this adjustment, the Plant expects to receive an additional \$250,000 in tax credit revenue and this will also be included in Supplemental Budget S-07-01 and a like adjustment to the Plant's Construction Account. With these two supplemental adjustments, and with construction costs to connect to Building "E" (\$250,000) and Building "F" (\$150,000) that were approved at the September 11, 2006 Council meeting, the Construction Account will have an available balance of \$509,177.

HISTORICAL PERSPECTIVE:

The City owns the Beaverton Central Plant and as per signed agreements with DPP Commercial Investments LLC (the developer), the City is committed to serve new buildings at The Round as they come on line. The Round is approximately half built out with another 300,000 square feet scheduled to be built over the next two years.

On December 12, 2005, the City acquired the Westgate property which includes approximately 4.57 acres located adjacent to The Round project. METRO has joined with the City in the ownership of the property and a process is now underway to explore development opportunities. Property owners to the south of The Round are similarly joining together to pursue urban scale development.

INFORMATION FOR CONSIDERATION:

As The Round builds out and more particularly, Buildings "E" and "F" connect to the system, the central plant will be at capacity for heating and cooling services. In order to serve expected additional load (Buildings "G" and "H"), establish important system redundancy, and position for anticipated new development (Westgate) it is necessary to install plant equipment. This equipment will include a 1000 ton chiller and 2 million BTU boiler. This agenda presupposes approval has been obtained to procure and here specifically addresses installation. The construction work will include electrical service, piping, meters, and connecting to the third cooling tower. Once complete, plant capacity will be increased to 1600 tons cooling and 11 million BTU heating and is capable of serving the entire Round project.

The expansion and upgrade is being planned to ensure the high efficiency of the plant is continued at the lowest possible cost. Accordingly, construction is to be bid separately from equipment procurement. This is being done to manage procurement costs associated with critical equipment components. Plant equipment installation is expected to be straightforward work with many capable contractors locally.

Bid installation specifications are expected to be complete and advertised in the Portland Daily Journal of Commerce the week of September 25, 2006, with a bid opening on October 18, 2006, at 2:00 pm in the Finance Department Conference Room. Staff requests that the City Council, acting as the Contract Review Board, authorize the Mayor to award the bid to the lowest responsive bidder immediately following the bid opening and evaluation on October 18, 2006.

RECOMMENDED ACTION:

Council, acting as the Contract Review Board, authorize the Mayor to award the bid to install plant equipment including chiller and boiler for the Beaverton Central Plant to continue to provide services to The Round project to the lowest responsive bidder immediately upon bid opening and evaluation on October 18, 2006 subject to ratification by the Council at its next available meeting.

BID SUMMARY

CITY OF BEAVERTON

TO: Mayor & City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

Bids were opened on MAY 30, 2007 at 2:00PM in the **FINANCE DEPARTMENT**

For: "INSTALLATION OF CHILLER & BOILER EQUIPMENT IN THE MECHANICAL ROOM LOCATED AT THE BEAVERTON CENTRAL PLANT, PROJECT #2071-07" FY 2006-07

Witnessed by: **LONNIE DICUS**

VENDOR NAME AND CITY, STATE	MAN PREBID	ACK ADDEN	BID BOND	BID AMOUNT
TEMP CONTROL PORTLAND OR	X	X	X	\$279,405.00
HYDRO-TEMP MX WILSONVILLE OR	X	X	X	\$244,000.00

The Purchasing process has been confirmed.

Signed: *Amy L Muralt*
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 5/30/07

lc

BEAVERTON CENTRAL PLANT

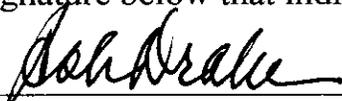
To: Rob Drake, Mayor
Linda Adlard, Chief of Staff
From: Lonnie Dicus, Beaverton Central Plant Manager
Date: June 11, 2007
Subject: Recommendation to Award Boiler Bid



This is a recommendation to accept a bid and proceed to install a two mmbtu boiler and 1000 ton chiller (and certain related equipment) for the Beaverton Central Plant. On 9/18/06 the council approved agenda bill no. 06178 which authorized the Mayor to award a bid for chiller and boiler equipment installation for the Beaverton Central Plant subject to council ratification.

Attached is the bid from Hydro-Temp, Inc. and recommendation from Linc, our plant facility manager. I have reviewed the attached recommendation and discussed them with Linc. You should know the Hydro-Temp bid at \$244,000 exceeds our engineer estimate of \$175,000 which I attribute largely to a continuing tight construction market which holds prices higher than expected.

Please let me know if you have any questions, otherwise I look forward to your signature below that indicates your concurrence and approval to proceed.


Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Contract Award - Administration of the
Adapt-a-Home Program

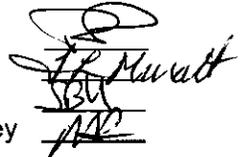
FOR AGENDA OF: 07/09/07 **BILL NO:** 07146

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 06/27/06

CLEARANCES: CDBG
Purchasing
Finance
City Attorney



PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: Scoring Evaluation Matrix

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$75,000	BUDGETED \$75,000*	REQUIRED \$0

*\$75,000 in Account Number 106-10-6014-513 Community Development Block Grant Fund – 14th Program Year - Accessibility Minor Rehabilitation Account. The Amount Budgeted represents the appropriation in the FY 2007-08 Budget that was adopted at the Council Meeting held June 18, 2007.

HISTORICAL PERSPECTIVE:

In the 2004-2005 Action Plan approved by the Council on April 19, 2004 and submitted to the U.S. Department of Housing and Urban Development shortly thereafter, the City earmarked \$100,000 to a pilot program to help low-to-moderate income seniors and disabled residents of Beaverton with accessibility improvements. Through a formal RFP process Unlimited Choices, Inc. was selected and has administered the program the last three years. The contract with Unlimited Choices expired June 30, 2007.

The Accessibility Rehabilitation Program provides small grants to both homeowners and renters for ramps, bathroom fixtures and other modifications to increase the permanent supply of accessible housing in the City and help residents with impaired mobility continue to live independently in their homes. As with the City's Housing Rehabilitation Program, the City provides this service through a contract with an experienced outside organization that administers the program.

INFORMATION FOR CONSIDERATION:

An RFP (Request for Proposal) was advertised in the Daily Journal of Commerce May 29, 2007, with a response due date of June 21, 2007, at 4:00 PM. Three prospective respondents were contacted during the bid process as they had bid on the previous offering of a similar City Request for Proposal. Of the firms that previously responded, only one is still in business in our area using the name that we have on file.

This year, three firms registered for the RFP online and downloaded the forms from the City web site. The three firms were Unlimited Choices Inc., Portland, Oregon; Bradford Consulting Engineers, Lake Oswego, Oregon; and Wenlund MX/Suncraft Cabinets, Clackamas, Oregon. Unlimited Choices Inc. submitted the only proposal.

The qualifications, approach, fee structure and previous work of Unlimited Choices Inc. (UCI) with this program for the City were reviewed and deemed acceptable. In checking references we determined

Agenda Bill No: 07146

that UCI manages similar programs for the City of Gresham, City of Portland, Multnomah County and Clark County.

Staff contacted the other two firms to determine why they did not submit a response to the RFP. The firms responded that their expertise was not in managing a governmental housing rehab and the related federal program compliance.

The contract with UCI includes \$17,250 for program overhead and administration (23% of the total contract) and \$58,750 for grants to homeowners.

UCI's responsibilities as administrator of the Adapt-a-Home Program include:

- intake and eligibility determination for applicants
- inspections and environmental assessments
- assisting participants with identifying qualified contractors and obtaining bids
- processing grants and payments to contractors
- extensive recordkeeping & reporting

City CDBG program staff market the program to potential participants, report to HUD on program accomplishments and beneficiaries, and monitor UCI's performance and records periodically. UCI has consistently met or exceeded City expectations in carrying out the program over the last three years.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, approve the contract for one year with Unlimited Choices, Inc., for the administration of the Adapt-a-Home Program, in the amount of \$75,000 together with any unexpended funds from FY 2006-07, in a form approved by the City Attorney and renewable yearly for two additional one-year periods at the City's option through FY2009-10.

Scoring Evaluation Matrix

Accessibility Rehabilitation Program – Unlimited Choices Inc.

Criteria	Reviewer	
	WH	RP
i. Completed Proposal Submitted On Time	PASS	PASS
ii. An Original Plus Three Copies of the Complete Proposal	PASS	PASS
iii. Cover Letter	PASS	PASS
iv. Qualifications [35 points]	33	35
v. Approach to Project [25 points]	25	22
vi. Fee [25 points]	24	25
vii. References [15 points]	15	15
	97	97

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Contract Award - Administration of the
Mend-a-Home Emergency Program

FOR AGENDA OF: 07/09/07 **BILL NO:** 07147

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 06/27/06

CLEARANCES: CDBG
Purchasing
Finance
City Attorney



PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: Scoring Evaluation Matrix

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$75,000	BUDGETED \$75,000*	REQUIRED \$0

*\$75,000 in Account Number 106-10-6014-513 Community Development Block Grant Fund – 14th Program Year – Accessibility Minor Rehabilitation Account. The Amount Budgeted represents the appropriation in the FY 2007-08 Budget that was adopted at the Council Meeting held June 18, 2007.

HISTORICAL PERSPECTIVE:

This Mend-a-Home Emergency Program provides small grants to homeowners living in manufactured housing who are in need of rehabilitation of one or more major systems in their housing unit. Examples of the work to be performed include replacing the roof, replacing windows, replacing a water heater and upgrading the electrical system. As with the City's Housing Rehabilitation Program, the City provides this service through a contract with an experienced outside organization that administers the program; in this case, Unlimited Choices, Inc. (UCI). This is a new contract with UCI for this work. This work was previously performed under a contract with the Portland Development Commission. The emergency rehabilitation of manufactured housing was removed from their scope of work in 2006 by mutual agreement as their cost to perform this work was excessive for the scale of the projects in this program.

INFORMATION FOR CONSIDERATION:

An RFP (Request for Proposal) was advertised in the Daily Journal of Commerce May 29, 2007, with a response due date of June 21, 2007, at 4:00 PM. Three prospective respondents were contacted during the bid process as they had bid on the previous offering of a similar City Request for Proposal. Of the firms that previously responded, only one is still in business in our area using the name that we have on file.

This year, three firms registered for the RFP online and downloaded the forms from the City web site. The three firms were Unlimited Choices Inc., Portland, Oregon; Bradford Consulting Engineers, Lake Oswego, Oregon; and Wenlund MX/Suncraft Cabinets, Clackamas, Oregon. Unlimited Choices Inc. submitted the only proposal.

The qualifications, approach, fee structure and previous work of Unlimited Choices Inc. (UCI) with this program for the City were reviewed and deemed acceptable. In checking references we determined that UCI manages similar programs for the City of Gresham, City of Portland, Multnomah County and Clark County.

Staff contacted the other two firms to determine why they did not submit a response to the RFP. The firms responded that their expertise was not in managing a governmental housing rehab and the related federal program compliance.

The contract with UCI includes \$17,250 for program overhead and administration (23% of the total contract) and \$58,750 for grants to homeowners.

UCI's responsibilities as administrator of the Mend-a-Home Emergency Program include:

- intake and eligibility determination for applicants
- inspections and environmental assessments
- assisting participants with identifying qualified contractors and obtaining bids
- processing grants and payments to contractors
- extensive recordkeeping & reporting

City CDBG program staff market the program to potential participants, report to HUD on program accomplishments and beneficiaries, and monitor UCI's performance and records periodically. UCI has consistently met or exceeded City expectations in carrying out the program.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, approve the contract for one year with Unlimited Choices, Inc. for the administration of the Mend-a-Home Emergency Program, in the amount of \$75,000 together with any unexpended funds from FY 2006-07, in a form approved by the City Attorney and renewable yearly for two additional one-year periods at the City's option through FY2009-10.

Scoring Evaluation Matrix

Emergency Rehabilitation Program – Unlimited Choices Inc.

Criteria	Reviewer	
	WH	RP
i. Completed Proposal Submitted On Time	PASS	PASS
ii. An Original Plus Three Copies of the Complete Proposal	PASS	PASS
iii. Cover Letter	PASS	PASS
iv. Qualifications [35 points]	33	30
v. Approach to Project [25 points]	24	22
vi. Fee [25 points]	24	25
vii. References [15 points]	15	15
	96	92

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Retainer Agreements for Professional Services in Support of the FY 2007/08 and 2008/09 Capital Improvements Plans

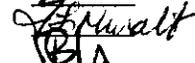
FOR AGENDA OF: 7-09-07 **BILL NO:** 07148

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Public Works 

DATE SUBMITTED: 6-22-07

CLEARANCES:

Engineering 
Purchasing 
Finance 
City Attorney 

PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: 1 List of Categories and Subcategories
2 List of Recommended Consultants Grouped in Specific Categories or Subcategories

BUDGET IMPACT

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

The Public Works Department's current list of consultant retainer agreements for professional engineering services expires June 30, 2007. The list prequalifies consultants to perform engineering-related professional services from which contracts are awarded for specific items of work. Staff advertised a new Request for Qualifications (RFQ) in April 2007 to support the Capital Improvements Plans for Fiscal Years 2007-08 and 2008-09, with an option to extend for two additional one-year periods (FY 2009-10 and FY 2010-11). As a reminder, to ensure compliance with City of Beaverton purchasing rules, Resolution Number 3756, adopted May 17, 2004, established an exemption from formal competitive bidding requirements with regard to personal service contracts involving the hiring of professionals on retainer to the City.

INFORMATION FOR CONSIDERATION:

The RFQ was advertised on April 25, 2007, in the *Portland Daily Journal of Commerce*. Proposals were received by 2:00 p.m. on May 18, 2007. A total of 89 proposals were received in the eight categories and 13 subcategories listed in Exhibit 1.

The proposals were reviewed and rated by a consultant selection committee comprised of 16 City staff, divided into 17 review teams (typically three on a team). The proposals were distributed so that each committee member reviewed only those proposals in their particular field of knowledge and expertise. Consultants in each category were rated based on firm qualifications, key personnel qualifications, client service, cost schedules, and other supporting information. When sub-consultants were included in a proposal as a team, the entire team was rated as a whole.

To complete the review, a list was compiled for each of the eight categories that are not divided into subcategories. For those that have subcategories, a list was compiled for each of the 13 subcategories. As specified in the RFQ, the consultants that ranked 70 or higher (based on the

Agenda Bill No: 07148

average score of each proposal) in each category or subcategory were selected for each list. Exhibit 2 contains the recommended list in each category and subcategory.

Staff recommends that Council award retainer agreement contracts to all of the engineering consultants listed in Exhibit 2. After Council approves the consultant list, staff will work to execute contracts immediately. Subsequently, as CIP projects require consultants, staff will prepare scopes of work and negotiate work plans, schedules, and fees for projects in the Capital Improvements Plan.

In selecting consultants from the list, staff will maintain a project list in each category or subcategory in an effort to distribute City work among all consultants retained. If the anticipated total fee is \$250,000 or less, consultants will be selected based on the consultant's fee, availability, competency and project familiarity. If the anticipated total fee is over \$250,000 and under \$350,000, a minimum of two consultants on the list shall be requested to submit a written proposal with the selection based on the consultant submitting the best responsive proposal. However, the department head may, with written justification, select a particular consultant on retainer to work on a specific project. If the anticipated total fee is \$350,000 or more, a consultant's services must be procured through a separate request for proposal process. For any project where the total consultant fee totals \$50,000 or greater, staff will return to Council with a recommendation to award a professional services contract.

RECOMMENDED ACTION:

Council award retainer agreement contracts for the initial two-year term, in a form approved by the City Attorney, to the consultants listed on Exhibit 2, and approval for City staff to extend the retainer agreements for the two additional years based on Council's approval of the future Budgets through FY 2010-11.

EXHIBIT #1

List of Categories and Subcategories for Engineering Professional Services

No.	Category or Subcategory	# of Proposals
1	Transportation Improvements	12
2	Environmental Site Assessments and Investigations	7
3	Natural Resources Assessments	8
4	Geotechnical Services	4
5	Water and Waterworks Improvements	11
6	Stormwater and Wastewater Improvements	15
7	Subsurface Utility Investigation Services	0
8	Construction Management and/or Inspection Services	2
9	Survey Services	7
10	GIS Services	5
11	Aerial Photography and Mapping Services	2
12	Pavement Management Services	2
13	Mechanical Services @ BCP/Round	2
14	Civil Services @ BCP/Round	2
15	Structural Services @ BCP/Round	3
16	Real Property, ROW and Easement Acquisition, Negotiation and Relocation Services	2
17	Real Property, ROW and Easement Appraisal Services	5
TOTAL:		89

EXHIBIT #2

Proposed Professional Services Retainer List

Geotechnical Engineering Services			Engineering Services for Transportation Improvements			Real Property, ROW and Easement Acquisition and Negotiation Services			Real Property, ROW and Easement Appraisal Services		
Consultant	Number	Avg. Score	Consultant	Number	Avg. Score	Consultant	Number	Avg. Score	Consultant	Number	Avg. Score
Pacific Geotechnical	1	88.0	David Evans & Associates, Inc.	1	92.0	Universal Field Services	1	89.0	Day Appraisal Co	1	79.0
GeoDesign	2	87.0	Harper Houf Peterson Righellis	2	90.0	Epic Land Solutions	2	82.0	Integra Realty Resources	2	77.0
Carlson Testing	3	82.0	WRG Design, Inc.	3	85.0	Right of Way Associates	3	82	J J Devoe & Associates	3	77.0
Northwest Geotech	4	80.0	Wallis Engineering	4	81.0						
			Murray Smith & Associates	5	76.0						
			MGH	6	76.0						
			HDR	7	74.0						
			CES MW	8	74.0						
			Pace	9	71.0						

Environmental Engineering Services					Utility Infrastructure Improvements					
A. Environmental Site Assessments and Investigations			B. Natural Resource Assessments		A. Water and Waterworks Improvements			B. Stormwater and Wastewater Improvements		
Consultant	Number	Avg. Score	Consultant	Number	Consultant	Number	Avg. Score	Consultant	Number	Avg. Score
GeoDesign	1	89.0	Vigil Agrimis	1	Murray Smith & Associates	1	85.0	Tetra Tech/KCM	1	85.0
Hahn and Associates	2	84.0	SWCA Environmental	2	HDR	2	81.0	WRG Design	2	81.0
Worley Parson Komex	3	83.0	HDR	3	Kennedy/Jenks Consultants	3	80.0	Kennedy/Jenks Consultants	3	80.0
GRI Geotech	4	83.0	Kurahasi & Associates	4	David Evans & Associates	4	80.0	Murray Smith & Associates	4	80.0
Bureau Veritas	5	81.0	Henderson Land Services	5	West Yost & Associates	5	78.0	David Evans & Associates	5	79.0
AMEC	6	81.0			Alpha Engineering	6	75.0	MGH	6	73.0
Schott & Associates	7	75.0			MGH	7	75.0	HDR	7	71.0
					Mead & Hunt	8	74.0	Wallis Engineering	8	70.0
					KPFF Consulting Eng	9	74.0			

2

EXHIBIT #2

Proposed Professional Services Retainer List

Technical Support Services								
Construction Management and/or Inspection Services			Survey Services			Pavement Management Services		
Consultant	Number	Avg. Score	Consultant	Number	Avg. Score	Consultant	Number	Avg. Score
Alpha	1	90.0	Alpha	1	89.0	IMS	1	88.0
CMTS	2	82.0	Otak	2	89.0	Applied Pavement Technology	2	87.0
			WRG	3	88.0			
			CES/NW	4	88.0			
			Westlake Consultants	5	87.0			
			Pace	6	77.0			

Technical Support Services (Continued)					
Geographical Information System (GIS) Services			Aerial Photography and Mapping Services		
Consultant	Number	Avg. Score	Consultant	Number	Avg. Score
GeoNorth	1	95.0	David Smith & Associates	1	100.0
Marshall & Associates	2	95.0	Aero-Metric	2	95.0
AMEC	3	85.0			
ValueCad	3	85.0			
Tetra Tech	4	80.0			

Services at Beaverton Central Plant at the Round								
Mechanical Services			Civil Services			Structural Services		
Consultant	Number	Avg. Score	Consultant	Number	Avg. Score	Consultant	Number	Avg. Score
Hartman	1	89	WRG	1	95.0	SJO	1	80.0
SJO	2	81	SJO	2	81.0	Miller Consulting	2	75.0

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Planning for Beaverton's Part of the
Washington Square Regional Center

FOR AGENDA OF: 07-09-07 **BILL NO:** 07149

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 06-26-07

CLEARANCES: Planning *HB*

PROCEEDING: Work Session

- EXHIBITS:**
1. Memorandum to Planning Commission
 2. Executive Summary of 2004 Washington Square Regional Center Implementation Study
 3. Memo from City of Tigard
 4. PowerPoint Presentation

BUDGET IMPACT

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

The attached memorandum provides the historical background of the project.

INFORMATION FOR CONSIDERATION:

On June 20, 2007, staff met with the Planning Commission to discuss the issues raised in the memorandum and presented in the PowerPoint presentation. Generally, all of the Planning Commissioners agreed that planning for this area is difficult in light of the transportation improvements needed and the insufficient funding to realize those improvements. The majority supported keeping the area under a Regional Center designation, with sentiment that such a designation may help attract funding for planning infrastructure improvements. The Commissioners were supportive of pursuing the 1999 Regional Center task force idea of a people mover to connect the Nimbus/Cascade area with the Washington Square Regional Center area to the east of Highway 217.

Commissioners Platten and Bobadilla expressed concerns about the future marketability of office space in light of increasing gas prices and increasing use of technology that allows workers to work at home instead of an office. Commissioner Platten desired potential housing at price points low enough for workers who may work in the area. Most commissioners favored changes in zoning to allow for increased intensity in the Gemini/Nimbus loop, Cascade Plaza, and north of Hall sub areas but did not favor setting minimum requirements. They preferred to allow the market to dictate the intensity of development so flexibility in the zones applied in the area will be important, but they also expressed concern about allowing for higher density development before needed infrastructure improvements, especially for transportation, are made. Commissioner Maks, concerned about the limited supply of Employment Areas, didn't support residential in the area. There was general agreement that if we do want to allow for a mix of uses, including residential, there should be some limitation on the percentages of use types developed in the area so no one use dominates, precluding opportunities for shared parking and putting too much pressure on the transportation system.

RECOMMENDED ACTION:

Provide direction to staff regarding planning for this area.



MEMORANDUM

City of Beaverton
Community Development Department

To: Planning Commission

From: Hal Bergsma, Planning Services Manager *HB*

Date: June 13, 2007

Subject: *June 20 Work Session on Planning for Beaverton's Part of the Washington Square Regional Center*

PURPOSE

The purpose of the subject work session is to discuss how to plan and apply zoning regulations to properties in Beaverton that have previously been defined as being within the Washington Square Regional Center.

BACKGROUND

The Washington Square Shopping Center and surrounding properties were generally described on the Metro 2040 Growth Concept Map as a regional center when it was adopted in 1995. According to Section 3.07.130 of the Metro Urban Growth Management Functional Plan (UGMFP) regional centers "...will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks." Section 3.07.170 recommends that cities and counties achieve an average density of 60 persons per acre (residents and employees) in regional centers.

Pursuant to the UGMFP, with which all cities and counties in the region must comply, in 1998 the City of Tigard initiated an intergovernmental planning process to define the boundaries of and prepare a plan for the regional center. In 1999 a Washington Square Regional Center Plan was recommended by a task force representing area property owners, interest groups and local governments. In 2001 the task force recommended a "Phase II Implementation Program" for the regional center. Councilor Forrest Soth represented the City of Beaverton on the task force.

In January of 2002 the City Council adopted Ordinance No. 4187 which amended many parts of the City's Comprehensive Plan, including the Land Use Map. Among the amendments to the Land Use Map was the application of a Regional Center designation to properties west of Highway 217 and east of Greenway Park from Scholls Ferry Road north to a point approximately midway between Hall Blvd. and Denney Road. However, properties in Beaverton east of Highway 217 within the regional center boundaries recommended by the task force were not given a Regional Center designation due to concerns about whether redevelopment of properties in those areas to higher densities was appropriate.

The City has not yet changed its zoning for the properties west of Highway 217 that were designated Regional Center. The zoning for these properties continues to be Campus Industrial and General Commercial. Before initiating a zoning map amendment process, in 2003 the City decided to contract with the consulting firm David Evans and Associates (DEA) to re-examine whether zoning needed to implement a Regional Center designation was appropriate for the area. This was done because previous assumptions about infrastructure improvements needed to support regional center densities appeared less likely. In particular, a planned location of a Commuter Rail station to serve the area had changed since 1999 to a location south of Scholls Ferry Road, and the funding of Commuter Rail in general was uncertain. There were also concerns about the likelihood that properties in the area would redevelop to higher densities in the foreseeable future. Finally, the subject area is one of the few large employment areas in the city, and there was a concern about the conversion of some of that land to housing.

The executive summary of the final DEA report, completed in 2004, is attached. (Please contact me if you would like to review the full report or other planning documents for the area including the 1999 Washington Square Regional Center Plan.) It confirms the City staff's doubts about the appropriateness of retaining a Regional Center designation on the properties west of Highway 217. City staff has not followed up on the findings of the DEA study until now, however, because of limited staff resources and most importantly, uncertainty about the location of the Commuter Rail station for the area. Now that the station's location has been set for a site just south of Hall Blvd., and given that the City is initiating a review of all its zoning districts including those that might be applied in the Washington Square area, staff and the Mayor think it is time to consider how to plan for and regulate land use in Beaverton's part of the Washington Square area.

HOPED FOR WORK SESSION OUTCOME

My hope is that as a result of this work session staff will have sense of whether the majority of the Planning Commission feels we should

1. Pursue, through the Chapter 20 update process, 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, after consultation with Metro, Tigard and Washington County, changing the Regional Center designation to the Employment and Corridor designations, with possible changes to zoning districts that implement those designations.

This issue will be discussed with the City Council in work session on July 9 and the Planning Commission's thoughts and preference will be conveyed to them at that time.

**FINAL REPORT
FOR
CITY OF BEAVERTON
WASHINGTON SQUARE REGIONAL CENTER
IMPLEMENTATION STUDY**

Prepared for:
City of Beaverton

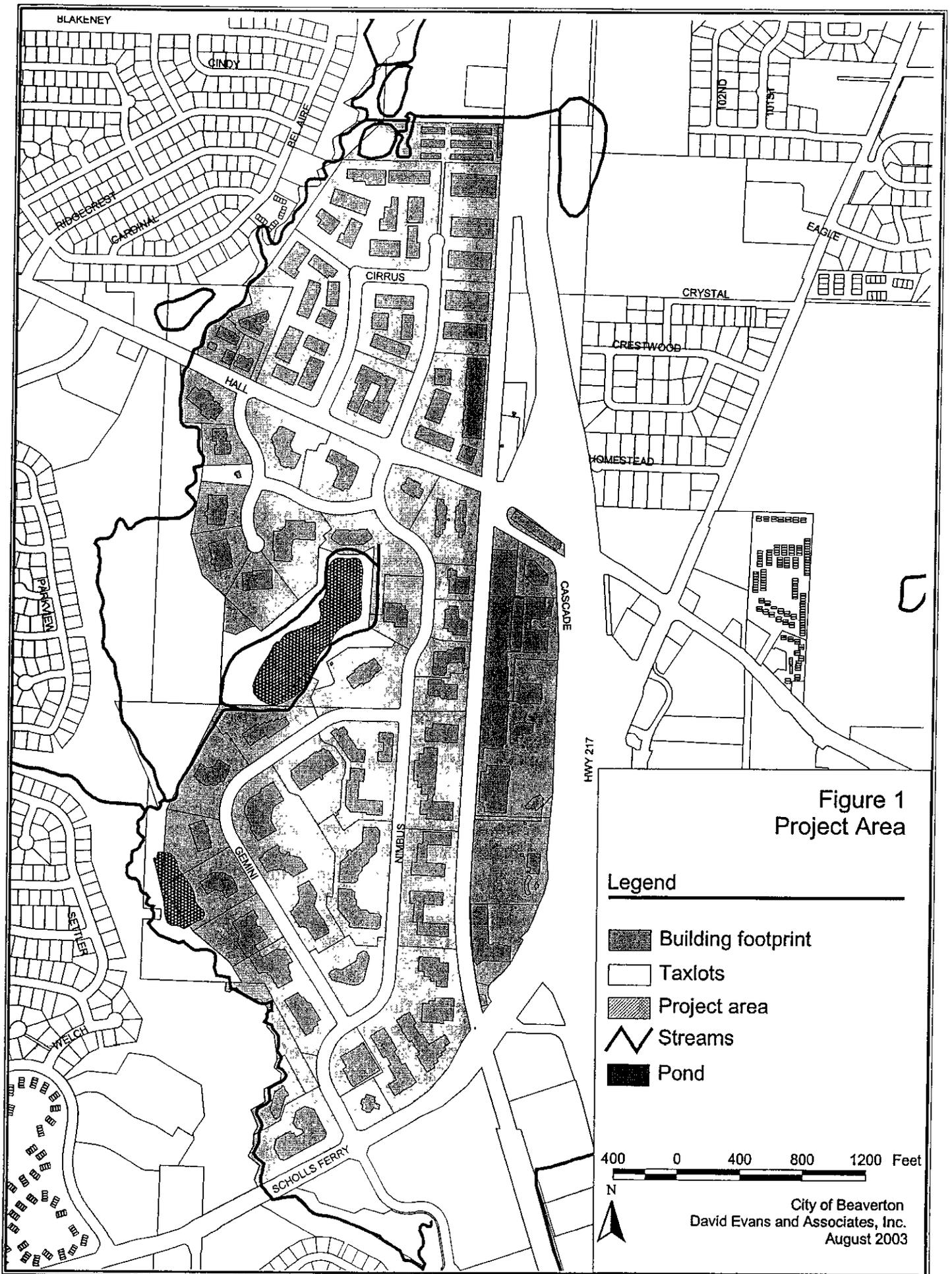
Prepared by:

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Portland, OR 97224

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951 Officers Row
P.O. Box 225
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August 2004



EXECUTIVE SUMMARY

PROJECT OVERVIEW

The City of Beaverton is evaluating the feasibility of implementing the portion of the Washington Square Regional Center (WSRC) within the city limits. The evaluation determines whether or not there are adequate development and redevelopment opportunities within the regional center area to warrant necessary infrastructure improvements and provide better public transit that is sufficient to support the higher densities desired in a regional center.

How the area develops and redevelops may depend on the future transportation system capacity and adequate pedestrian, bicycle, public transit, and vehicle access. Highway 217 runs north/south through the WSRC, bisecting the Beaverton portion of the regional center. SW Hall Boulevard and SW Scholls Ferry Road are the only Highway 217 overcrossings in the Beaverton portion of the WSRC and both are heavily used. A proposed additional Highway 217 overcrossing is under consideration, although the existing land use and street pattern in the area, the location of railroad tracks that run parallel to Highway 217, and the anticipated amount of traffic, pedestrians, and bicycles it is anticipated to serve may not justify the cost and land use impacts to the area. Another important improvement proposed near the study area is the location of the proposed commuter rail station. The station location, whether it is located within or outside of the study area, will have an impact on the ability of the study area to redevelop.

This report has three distinct pieces: existing conditions, impact analysis, and evaluation. Existing conditions within the study area sets the background for evaluating the planning framework, transportation, market feasibility and other factors that would affect implementing the regional center designation in the study area.

Building upon the existing conditions, the second step, an impact analysis, was completed to determine how the area might development/redevelop in the future. The impact analysis shows whether there is the potential for the area to redevelop at higher densities, and identifies the challenges for achieving short and long term redevelopment opportunities. The impact analysis provides:

- An evaluation of the proposed 2020 transportation system improvements and potential impacts from the alternative development scenarios for the Beaverton portion of the WSRC;
- An evaluation of potential locations for a proposed overpass, including construction alternatives and cost analysis;
- An evaluation of transit operations and commuter rail station location;
- An evaluation of the View Master site contamination and its impacts on future development;
- A discussion of property owners/managers plans for the study area based on telephone interviews; and

- A market analysis to evaluate potential development scenarios within the study area including a pro forma analysis.

Finally, the last section of the report is an evaluation of the study area, based on information from the existing conditions and impacts analysis that determines whether the study area can achieve regional center densities and if so, what the time frame would be. The evaluation also discusses potential removal of the study area as a regional center.

PROJECT AREA

The study area is generally bounded on the west by the Fanno Creek Greenway, on the south by SW Scholls Ferry Road, on the west by Highway 217 and the Portland and Western (P & W) Railroad. The northern project area boundary is approximately one-quarter mile north of SW Hall Boulevard. The project area is approximately 216 acres, not including existing right-of-way and public park (Fanno Creek Greenway) property.

FACTORS INFLUENCING FUTURE REDEVELOPMENT

Opportunities and constraints were identified within the study area that will have an impact on how well it can support redevelopment. Existing constraints, such as current high vacancy rates, a slow economy and the readiness of the market to accommodate additional development, are market driven. Other factors, such as zoning constraints, are not market driven but can change as needed to reflect the City's desire for increased density and more diverse uses. Key opportunities and constraints in the study area are:

- The slumping economy has had a significant impact on the office and flex space markets within the study area. Rents are generally down roughly 10 percent from two years ago, and brokers report tenant concessions along the lines of five months free rent and significant tenant improvements. High vacancy rates are not limited to the study area.
- Beyond the current market, office space in the project area is generally desirable. Tenants value the freeway access and ample free parking.
- Three landowners in the study area own 65 percent (141 acres) of the study area. None of the property owners contacted have any short or long-term plans for redevelopment of their sites or were aware of any redevelopment plans. Most of the buildings are in good shape and less than 20 years old with several years of use left.
- There are few vacant parcels in the study area, totaling only about 4.1 acres. Most vacant parcels are less than 0.75 acre and are remnants from previous development. Approximately 33.3 acres (13 parcels) are underdeveloped in the project area, accounting for about 15 percent of the total land area in the study area. The most notable underutilized parcel is the Mattel View Master site located south of SW Hall Boulevard between the railroad right-of-way and SW Cascade Avenue.
- Water and sewer infrastructure was constructed in the last 15 to 20 years when the study area was developed and is generally located within most rights-of-way. Water and sewer service are adequate to serve the needs of existing development, Storm water treatment in

the study area is not adequate by current standards, draining directly into Fanno Creek untreated.

- Redevelopment would likely require changes to the study area's zoning and parking standards, assuming the goal of redevelopment is to achieve regional center densities.
- Future transportation improvements such as the proposed Highway 217 overpass and commuter rail line will have an impact on how fast the area redevelops. Redevelopment is not dependent on these improvements, but would make the area more attractive to developers.

CAN THE STUDY AREA ACHIEVE REGIONAL CENTER DENSITY?

The area's greatest impetus to accommodate higher density uses is its prime location – its proximity to Washington Square Mall, which draws customers from throughout the region, and associated Class A office development (Lincoln Center). The mall is supported by the highest incomes in the metro region, a demographic pattern that is attractive to office and residential developers. The market analysis illustrated that while the area is unique in many ways and could support residential development with accompanying retail uses, other sectors face several challenges that would make achieving regional center densities difficult given the existing market and relatively new buildings in the majority of the study area. The evaluation of the development scenarios found that:

- Redevelopment could occur now north of SW Hall Boulevard as a mix of residential and retail uses, but office redevelopment along Highway 217 would not occur at the same time due to the glut of office space and soft office lease market.
- Existing office parks south of SW Hall Boulevard would not likely redevelop in the near future because of direct competition with other office parks, existing buildings in the study area with significant life remaining, and a soft office lease market.
- Achieving target density with exclusively retail along SW Cascade Avenue is unlikely to occur. Office development would have to be a component of retail redevelopment along SW Cascade Avenue to achieve target densities. Redeveloping this area to regional center densities would not occur in the near future (the market analysis estimated at least 20 years).
- Pro forma analysis for a retail/office redevelopment scenario along SW Cascade Avenue found that construction costs would exceed the final project value, potentially making redevelopment along SW Cascade Avenue financially unfeasible for the foreseeable future unless portions of the project were publicly funded (e.g. parking) or land could be acquired below the assessed value.
- Groundwater contamination on the View Master site would not have an impact on future retail or office development on the site. Contamination can be mitigated.

The market analysis assumed that infrastructure and roadway improvements would be publicly funded. Reliance on the developer to supply the funding for these redevelopment scenarios could reduce developers' interest in the study area; developers would choose instead to look for other opportunities to build where either the infrastructure and roadway improvements are already

completed or where there is some sort of public financing in place to pay for those improvements. Many of the intersection and roadway improvements are already identified in the *TSP Update* and/or Regional Transportation Plan (RTP) improvements, although most improvements are not programmed until after 2016. For office redevelopment that would not likely occur for at least 10 years, the timing for existing programmed transportation improvements may not be an issue.

For office uses, the primary impetus for development will be a general return of demand for office space, forcing developers and tenants to look beyond Kruse Way for west side Class A office space. The planned transportation improvements – the commuter rail line and proposed Highway 217 overpass – may speed and influence the character of redevelopment. A commuter rail station would be important for redeveloping portions of the study area with more urban characteristics (e.g. 6-10 story office buildings, mixed uses in close proximity, structured parking). While the Portland metro region provides few examples of office development initiated by light rail beyond the central city, west side congestion will only increase over the coming decades, making transit a more important component of redevelopment in the area.

Based on the market analysis, it appears that the majority of the study area is not ready to redevelop. The exception would be north of SW Hall Boulevard where it would be possible to achieve regional center densities now with a mix of row houses, condominiums, and lofts with ground floor retail.

Phased Redevelopment

Redevelopment in the study area would most likely be phased, such as retail and residential development establishing itself first north of SW Hall Boulevard followed by office development when there is demand for new space. Phasing redevelopment would:

- Spread the cost of adding infrastructure to the study area over time, reducing up front costs. The existing infrastructure may be able to accommodate new development in portions of the study area, enabling catalyst projects to start faster.
- Reduce the cost of parking. Initially, parking could be on surface lots. As density and parking demand increase, structured lots replacing existing surface lots could be constructed.
- Allow existing development to transition into higher densities. Most office buildings in the study area are 15 to 20 years old and remain viable. As buildings age and office development increases, two and three-story buildings would be replaced with taller ones, provided zoning allows increased densities and taller buildings.

Short-Term Redevelopment Potential

Urban Village Concept

The market analysis showed that residential uses as part of an urban village concept would be feasible north of SW Hall Boulevard where existing land and improvement values are lower than in other parts of the study area. In addition, property owners/managers were interested in

redevelopment in this area if the resulting development would be marketable. This proposed redevelopment would be the most significant shift from the study area's existing uses, primarily a village with varying residential densities and formats and ground floor retail within the center of the development. Office buildings would be constructed as a buffer along Highway 217 but would not likely be constructed until that type of space is in demand.

The market analysis assumed that condos, row houses, and lofts above retail would be the dominant types of residential development, similar to Orenco Station, the region's dominant mixed-use suburban development. Developing the area north of SW Hall Boulevard as residential would be a good fit for the area given its proximity to retail, transit, and Fanno Creek and associated trails. Housing options could appeal to aging baby boomers that desire an affordable condo option or who wish to remain within a suburban community. Young singles and couples working in the vicinity who desire a more urban environment with easy connections to westside regional and town centers and the region's central business district may also find the area appealing.

Retail associated with the ground floor of loft units is a crucial component to differentiating this development from competing new Beaverton homes. Buildings could be configured to include an exclusive retail component if specific retail types were desired (e.g. a grocery). The location also offers the lowest acquisition costs in the study area. While the area contains no vacant land, its low development density and single ownership structure make it a prime redevelopment target. As a short-term redevelopment goal, creating an urban village concept within the study area could be the keystone project that attracts other types of development.

Long Term Redevelopment Potential

Long-term redevelopment scenarios evaluated in the market analysis generally relate to office redevelopment at higher densities than currently exist today. Two scenarios, one where the entire study area south of SW Hall Boulevard redevelops with retail and three to four-story office buildings, and another where the study area's core (Nimbus/Gemini) develops as six to ten-story buildings with structured parking and ground floor retail. The market analysis found that redeveloping the entire southern portion of the study area with smaller office buildings would achieve Metro's target densities, but it would do little to change the area into a more dynamic environment. Redevelopment of the entire sector is also unlikely unless there is a significant urban renewal effort within the study area. A more plausible second scenario focuses on a more intense redevelopment pattern on five parcels between Gemini and Nimbus. Land is under single ownership, the parcels are contiguous, and there no identified natural resource issues as found on other parcels adjacent to Fanno Creek.

Gemini/Nimbus Concept

The results of an office pro forma analysis showed that the Nimbus/Gemini redevelopment scenario is feasible assuming the economy improves and the study area increases in popularity as other office parks build out, particularly Kruse Way. Office redevelopment is considered a long-term prospect unless tenants are secured prior to construction, which is unlikely given the current market.

What is unique to this site and this concept is its potential ability to attract tenants at top rent levels, given the surrounding demographics, the prestige of Washington Square Mall and its close-in location relative to competing office corridors (e.g. the Sunset Corridor). These factors provide the project area with an advantage over many competing office submarkets, including downtown Beaverton. The study area will be positioned to realize these conditions in the long-term as the office market recovers and Kruse Way reaches build out (top competition for the study area). Planned transportation improvements would serve as additional development amenities and would also distinguish the project area from competing office submarkets – the project area could offer a high-end, urban environment unique to the metro region’s suburbs.

The Study Area or the Downtown Beaverton Regional Center

The study area’s proximity to the Beaverton Regional Center creates a dilemma for the City because both would likely require at least some upgrades to infrastructure to accommodate the planned density increases and both would compete for office development. Instead of competing for the same style of development, downtown and the study area could redevelop with complementary uses, focusing development in one of the two areas, such as downtown focusing on high density urban development while the study area fills a suburban niche with an urban village development pattern. Targeting the City’s limited resources for infrastructure would make the most sense where short-term redevelopment opportunities present themselves and where the cost to improve those systems is the lowest. Within the study area, that would be exclusively north of SW Hall Boulevard.

Downtown Beaverton is further along in the process than the study area in implementing regional center zoning designations to permit higher densities. The study area retains existing zones that do not permit much of the development (particularly residential) envisioned in the market analysis. Downtown also has a keystone project in The Round, whereas the study area does not have an identifiable innovative or unique project. However, the market analysis did show that, with proper zoning, the study area could support regional center densities in the short term north of SW Hall Boulevard. The study area’s proximity to Fanno Creek and the regional trail system would be a significant amenity for attracting someone to a residential development in the study area.

Office development in downtown Beaverton faces many of the same challenges as the study area because the soft office market and glut of office space provides little impetus for developers to add additional space. Low-rise office buildings and relatively high land and improvement values now dominate the majority of the study area, making redevelopment a long-term prospect.

The likelihood of redevelopment within the study area would certainly be somewhat improved by transportation improvements yet to be programmed for construction, such as the new overpass, whereas downtown Beaverton has a more established transit system, including light rail. The market analysis showed the proposed overpass would likely be a catalyst for redevelopment, but construction would not occur for several years. The Highway 217 corridor planning process now underway may also have an impact on whether it is built at all as the cost of the structure may outweigh the benefit to potential users.

It appears, based on the analysis completed, that downtown is in a better position to generate regional center densities than the study area because zoning is already in place and redevelopment is less reliant on transportation improvements that may not occur, such as a new overpass or a commuter rail station located within the study area. However, the study area does have the opportunity to redevelop in a unique manner, with redevelopment structured around high-density residential uses suited to a suburban location. At minimum, new zoning should accommodate the urban village concept.

RECOMMENDATIONS

Develop a Set of Financing Options

Some type of public assistance would likely be required to stimulate development within the study area, either by public assistance for transportation and/or infrastructure improvements, property tax abatement, and/or reduction in system development charges for the proposed development. Parking, particularly structured lots, can be a considerable investment. A series of financing options should consider ways to partner with developers to supply parking, especially if the parking would serve multiple uses, such as for residential and retail development, or even as a parking structure used at least in part as a park-and-ride for a commuter rail station.

While not as prevalent in Beaverton as other regional jurisdictions because of the requirement for approval by public vote, creating an urban renewal district should not be discounted as a potential financing tool as a means to provide a significant source of funding for redevelopment efforts. Recent changes in legislation also expand the use of eminent domain powers, potentially an effective tool for assuring redevelopment in portions of the study area that meet the City's goals for redevelopment at increased densities.

Some of these financing tools could also be used to offset perceived risk associated with redevelopment of the View Master site, although given recent market interest and marginal remediation costs, it is likely that additional incentives are not necessary for the View Master site to redevelop.

Evaluate Zoning/Development Requirements for Study Area

Existing zoning districts within the study area should be reevaluated to determine whether or not the zones permit the style of development the City wants. Currently, the biggest discrepancy between allowed uses and the proposed development scenarios is north of SW Hall Boulevard. The development scenario for this area would require housing, retail, and office uses within the area, but the current zone (CI) does not permit residential development, allows only limited retail (because of the DCA requirements), and would not permit office uses at the density as proposed along Highway 217. This area could potentially be broken into two zoning districts:

- A mixed-use zone that would permit ground floor retail with residential above as well as rowhouse and condominium development. The zone could stipulate (by units per acre) how much of each type of residential development could occur, resulting in a mix of residential styles and uses (as the DCA overlay limits retail development in the CI zone).

- A commercial zone along Highway 217 permitting office uses with ground floor retail. Building height requirements should reflect a desire for taller buildings in the area. The development scenario assumed building heights would be similar to those allowed in downtown Beaverton, where maximum office building heights are 200 feet instead of 45 feet in the CI district. Whether this height is warranted depends on if the study area retains its regional center designation. If it does not, then lower building heights are recommended to focus taller buildings downtown.

The City should review its shared parking requirements. Redevelopment potential within the study area could increase if the cost of parking were shared with several uses, particularly if it were located in structured parking lots in central locations. Shared parking would reduce the amount of overall parking area necessary as the study area redevelops, increasing the amount of developable land by reducing the land needed for parking lots, and reducing the cost to a single development if structured parking were to be established for several uses. The City should pursue with TriMet the possibility of locating a park-and-ride in a structured parking lot in the retail strip along SW Cascade Avenue rather than a surface lot on vacant property outside of the study area. If a park-and-ride were located in the study area along with a commuter rail station, the study area would be better served by transit, increasing redevelopment potential.

Landscaping requirements within the study area should be reviewed to ensure that future development would not be forced to meet standards designed for an office park rather than an urban center. Landscaping requirements should complement, not hinder, achieving increased densities.

Rezoning the study area should be completed with the idea that redevelopment is an iterative process. While assuming maximum densities (described above) that achieve regional center guidelines of 60 persons per acre, assigning minimum densities only slightly higher than existing uses will help the area develop in a more organic fashion. EcoNorthwest found in its research that one of the reasons urban centers do not achieve target densities is that developing to maximum densities is often not viable and no redevelopment occurs. Minimum densities should always be slightly higher than existing uses; as redevelopment occurs, land values increase nearby, making higher density more likely as the market can respond to higher land values. Achieving higher densities should be a long-term goal.

Support an Urban Village Concept

The development scenarios analyzed in the market analysis showed that the area could support regional center densities, although not in the near term because of economic factors and a glut of office space in the region. The exception is the urban village concept. The development scenario could be financially feasible today provided infrastructure improvements are publicly financed. Several issues would need to be addressed for development as proposed to be successful:

- The urban village scenario is based on nine parcels (approximately 50 acres) developing in a consistent manner. The developer would either need to be the existing landowner, or would need to sell all parcels to a developer who would be interested in an urban village concept. To ensure development would occur as envisioned, the City should consider purchasing the parcels to retain homogeneity for future development.

- The city should implement zoning as described. Current zoning does not permit and urban village type of development.
- Development should be phased, allowing residential and retail construction to begin first when the market is active, and office development in the future when the market for office space improves. If a large single tenant were identified for new office space, this phase of the development could occur sooner. Parking requirements should be versatile enough to allow shared parking either on surface lots or in structured parking and reduce the amount of space necessary for automobiles.
- Enhance the connection to the area's natural resources and recreational trails along Fanno Creek. A residential development focused on the area's amenities could increase the value of residential units.
- Consider a financing package that will attract a developer who has the experience to develop a mixed use, urban village concept.

Evaluate Future Transportation Improvements

Transit and Commuter Rail

The City should discuss with TriMet the possibility of relocating the proposed station or adding another station within the study area, potentially in combination with a new parking structure shared between a park-and-ride and retail parking. Also, locating a station in the vicinity of the proposed overpass would provide better connections for pedestrians, bikes and transit between the Washington Square Transit Center and mall and the study area without having to compete with vehicles along SW Scholls Ferry Road and SW Hall Boulevard.

As important as it is for additional transit service in the region and study area, improvements to help/encourage pedestrians to access transit stops and for transit to bypass or get through congested areas is equally important. The City of Beaverton should continue to work with ODOT, Washington County and TriMet to facilitate pedestrian connections to and amenities at bus stops and transit stations, and to implement projects that would improve transit service speed and reliability along congested corridors. Also, as the transportation proposals come forward to widen SW Hall Boulevard and SW Scholls Ferry Road, the location of transit stops, potential bus by-pass methods, and pedestrian crossings should be a major design consideration.

The City should continue to discuss the location of the commuter rail station to potentially be located within the study area instead of the current location south of SW Scholls Ferry Road. A vacant parcel located near the existing station to be used as a park-and-ride is one of the reasons why the station is located where it is today. If the City and TriMet were to construct a structured parking lot used for a park-and-ride and for retail parking along SW Cascade Avenue, the study area would receive the increased benefit of a station area, increased traffic, and increased parking for future redevelopment in the area, and TriMet would meet its need for a park-and-ride in the area.

Proposed Highway 217 Overpass

The impact analysis showed that constructing a new overpass would be technologically feasible, but could have considerable impacts to existing buildings and would be expensive to build. The City should consider coordinating with the ongoing Highway 217 Corridor Study to determine whether or not the new structure would benefit the area enough to support the construction cost. The City could also consider creating a technical advisory committee (TAC) to further evaluate the overpass and determine if there are other less expensive methods to increase connections for pedestrians, transit, and bicyclists from the study area to Washington Square or if a new overpass is warranted. The TAC should be composed of the regional public partners in this area and representatives from the development community, especially representatives from the Washington Square Mall and SW Cascade/Nimbus development areas.

Reevaluate the WSRC Boundary

The City should consider whether having two regional centers within its city limits would help both grow or would disperse redevelopment to the point that both areas would still see scattered redevelopment, but not to a point where significant changes in density and urban form are realized in either location. If, for example, the study area were removed as a regional center, densities could still be increased but not to those found downtown. A tiered system of zoning, where the highest densities are located downtown followed by suburban areas like the study area would give developers a clear understanding of where the City is looking to increase density. For example, if a developer wants to construct high density office utilizing the City's highest density zoning districts, downtown would be the only option; if a developer wants to build medium and high density housing with some retail and commercial space, as proposed in the market analysis, then the study area might be a better choice. The study area would not have to be a regional center to achieve increased density.

The study area has the potential to redevelop, but may not be ready to accommodate regional center densities due to existing uses and moderate to high land and improvement values still found in existing office development. Landowners also seem reluctant to redevelop their properties and are instead waiting for the market to rebound. Overall, with the exception of the northern part of the study area, the study does not appear to warrant a regional center designation, particularly when the Downtown Beaverton Regional Center is within a few miles, has zoning already in place and transit, including light rail, more readily available. Removal of the regional center designation for the study area would reduce competition between the two areas.

Whether or not the City decides to request from Metro to remove the study area as a regional center, the City should still consider establishing new zoning designations in the study area that would increase overall densities and allow medium and high density residential and mixed-use housing. The market analysis showed that the area could potentially develop in the near-term; the City should be proactive by establishing zones that would improve the likelihood of realizing some redevelopment in the study area. With a more residential focus, the study area could define itself and would not necessarily compete with downtown redevelopment.



MEMORANDUM

TO: Hal Bergsma

FROM: Ron Bunch, Planning Manager

RE: Washington Square Beaverton Planning Commission Work Session

DATE: 06-20-07

Introduction

Thank you for providing us the materials for the Planning Commission's Work Session on the Washington Square issue. The following summarizes our views on this matter.

Discussion

Tigard's interest is to have all of the Washington Square area within Tigard, Beaverton, and unincorporated Washington County remain as a 2040 Regional Center. Land use for the whole area should be consistent with the Regional Center Designation. Therefore, we respectfully request that the Planning Commission consider the following as part of its discussion.

As you know, Metro 2040 Design Types, such as the Regional Center designation, are intended to reflect the ultimate built-out character of strategically located areas that are essential to achieving a compact and efficient urban form.

From Tigard's perspective, even though Regional Center intensities may not be achievable in the short term for some parts of the Washington Square area, it is important to uphold the Regional Center concept and take incremental steps towards its implementation.

The goals embodied in the Regional Center concept should not be rejected because the market does not currently support the desired intensity of land uses. The meager market feasibility of more intense urban land use in Regional and Town Centers is an issue shared by the whole region, with the exception of some parts of Portland. Despite this, the region's jurisdictions generally support the objectives embodied in the Regional Center and Town Center Design Types.

For example, Tigard's downtown is designated as a Town Center. Currently, the market conditions of the downtown are not conducive to the types of land uses and intensities associated with Town Center development. Still, the city has taken the long-term view that it is possible to work with property owners and other stakeholders to create the conditions necessary to develop a prosperous Town Center.

Tigard shares the Washington Square Regional Center with unincorporated Washington County and Beaverton. This area represents an opportunity for Tigard to achieve more intense levels of residential and employment uses to balance its otherwise suburban land-use pattern. Therefore, from Tigard's perspective, the whole Regional Center area in all three jurisdictions should have a range of complementary land uses to ultimately produce the clustering of dense employment and residential land uses commensurate with the design type's characteristics.

We are sensitive that Beaverton has two Regional Center Designations and wishes to not dilute the potential success of its Downtown. We would like to offer a perspective that Washington Square has transportation, locational, and market characteristics different than Beaverton's Downtown and thus will likely attract different types of land uses.

In addition, Washington Square's status as a Regional Center should not be determined on the possibility of Beaverton deciding to make infrastructure investments in favor of its Downtown. The two areas do not necessarily have to compete for future development. Because both are close together, it is possible for respective land uses to develop that are compatible and supportive of one another. This is the view that Tigard takes regarding the relationship of Washington Square and its Town Center.

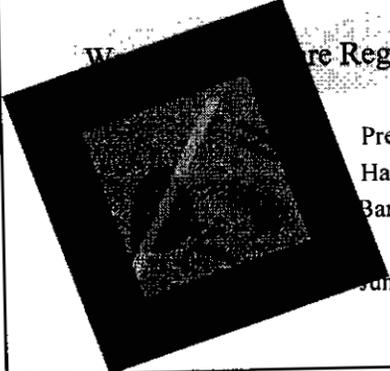
Conclusion

Thank you for considering our points. We encourage the Commission to recommend to Beaverton's City Council that Washington Square retain its Regional Center designation and future land uses be considered to implement the Metro 2040 Concept Plan.

Regards,

Ron Bunch
Long Range Planning Manager

Copy: Craig Prosser, City Manager
Tom Coffee, Community Development Director
File: Memo to Beaverton Planning Commission Washington Square



Washington Square Regional Center

Presented by
Hal Bergsma
Barbara Fryer

June 20, 2007

The Ten Principles for Centers

- 1 All Centers are Not Created Equal
- 2 Understanding Market Impact
- 3 Private Investment Follows Public Commitment
- 4 Reward Leadership
- 5 Build Communities Not Projects
- 6 Remove Barriers
- 7 Metro as Coach
- 8 Balance the Automobile
- 9 Celebrate Success
- 10 Take the Long View

TEN PRINCIPLES FOR ACTIVE AND REGIONAL CENTERS

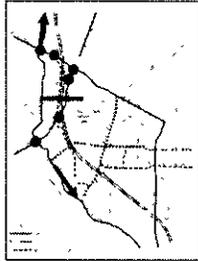
1999 Regional Center Boundary

Washington Square Regional Center
As Approved by the City of Gresham



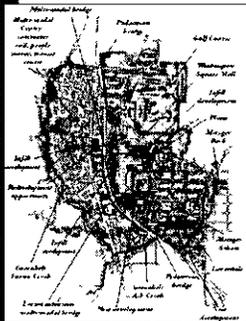
- Cooperative effort with Tigard, Washington County, Beaverton

1999 Recommended TSP



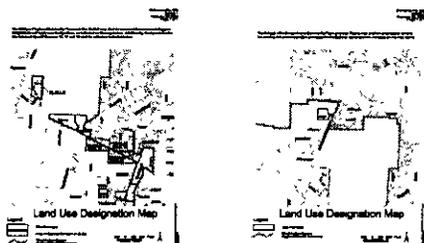
- Nimbus extended to Denney
- Nimbus extended to Greenburg
- Overpass south of Hal (Nimbus to Eliander)
- Intersection improvements along Hall and Scholls

Vision



- 1997 Beaverton Compliance Report
 - 3,253 jobs in Cascade Nimbus Area if rezoned Office Commercial
 - Assumed no residential
- 1999 Tigard Plan Vision for Beaverton's Area
 - Low option 2208 Office, 449 Retail, 196 Housing
 - High option 3687 Office, 517 Retail, 286 Housing

Washington County Zoning



2002 Land Use Element



- Retain Residential
- Office with min. FAR
- Cascade Plaza compact, urban commercial
- Scholls/Hall intersection disconnected from Regional Center & RC Density maintain Commercial

2004 Implementation Study

Why?

- Station location
- Lack of redevelopment potential
- Loss of Employment Area
- Connectivity issues RR and 217
- Infrastructure costs
- Tyco contamination

2004 Implementation Study

Who?

- David Evans and Associates
 - Bridge Engineers
 - Transportation Planners and Engineers
 - Planners
- E.D. Hovee & Company: Market Research
- AMEC: Hazardous Waste

2004 Implementation Study

How?

- Transportation System Plan Analysis
- Highway 217 Overcrossing Analysis
- Transit Service Analysis
- Tyco Site Analysis
- Market Analysis
- Property Owner Interviews

2004 Implementation Study

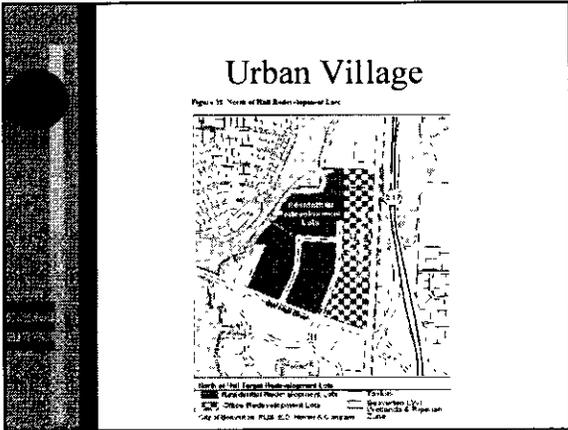


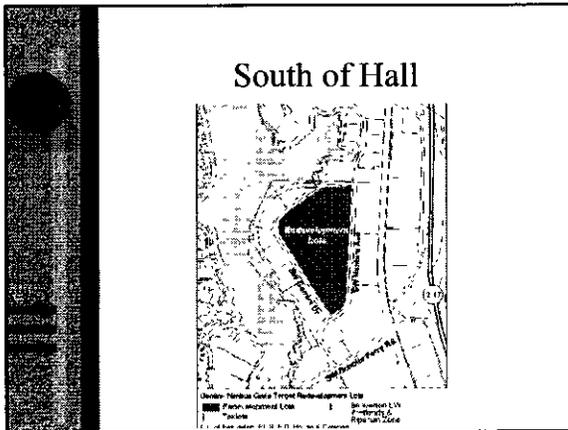
- Urban Village north of Hall
- Office with Min FAR south of Hall
- Retail or retail/office along Cascade Avenue

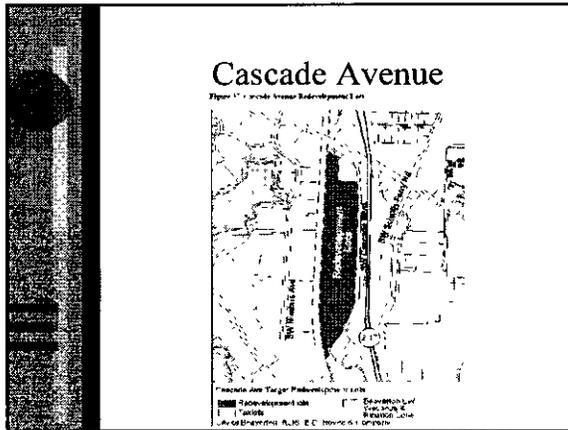
Washington Square
Regional Center

Assumptions in Scenarios

- No minimum lot area, lot dimensions, or setbacks
- 200 ft. height limit
- 0.35 to 0.60 FAR
- Residential Density 40 to 60 units per acre
- Lower parking ratios than currently allowed
- Structured parking
- Station south of Scholls







Market Analysis



- Urban Village feasible in short-term
- Office next to 217 in 10-20 years
- Nimbus Gemini loop would be stimulated by overpass & Kruse Way build out
- Financing to stimulate development/parking
- Modifying Zoning

Transportation

Disconnected network – RR, 217
Intersection improvements needed above TSP at Hall/Nimbus, Scholls/Cascade, Scholls/Nimbus, Hall/Cascade/217south, Scholls/217 north
217 overpass
TDM
Highest level Transit
Nimbus extends to Denny and Greenburg
Relocation of Commuter Rail Station

Recommended Overpass Alt.

Design: 2 12-foot lanes, 6-ft bike lanes each side, 6-ft sidewalks each side, max grade 7%, 23 ft height clearance over 217 and RR
Includes Nimbus to Cascade connection
Frontage road raised 9 feet
1560 linear feet, \$15.5 million or
1740 linear feet, \$21.1 million

Change the WSRC Boundary?

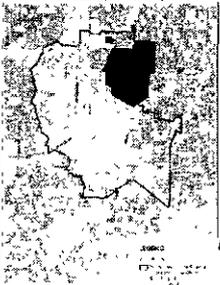
2 Regional Centers in the City
Lack of needed transportation improvements
Area not ready to meet Regional Center densities due to land and improvement values
Urban village concept should continue even if Regional Center for remaining area is eliminated.
Overpass too expensive for benefit

Corridor @ Hall/Scholls & East

Regional Center densities difficult to achieve without a significant office component
This area is disconnected from the WSRC proper by Hall and Scholls, achieving targets may be difficult
Newly Annexed Area

1999 Regional Center Boundary

Washington Square Regional Center
As Annexed by the City of Tigard



- City of Beaverton annexed much of the unincorporated Washington County in study area

New Zoning?

- | | |
|---|---|
| Urban Village: | Commercial along 217: |
| - Ground floor retail residential above | - Allow retail with office above |
| - Rowhouse and condos | - Adjust building heights to match existing office building |
| - Units per acre of each style required | |
| MU Employment: | MU Commercial: |
| - No min building ht | - Min ht. 2 stories |
| - 60' max building ht | - Max ht 200' |
| - 0.6 min FAR | - 1.25 min FAR |
| - Min 25 DU/Acre | - Min 50 DU/Acre |
| - Max 50 DU/Acre | - No max DU/Acre |

Work Session Outcome

New zoning districts through Chapter 20 update?

Remove the Regional Center designation and replace with Employment and Corridor?

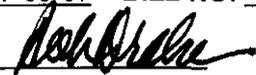
AGENDA BILL

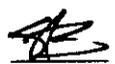
Carried Over From Meeting
of 06/18/07.

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: TA 2007-0002
(Operations Center 2007)

FOR AGENDA OF: 07-09-07 **BILL NO:** 07138

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 06-28-07

CLEARANCES: City Attorney 
Dev. Serv. 

PROCEEDING: First Reading

- EXHIBITS:**
1. Ordinance
 2. Land Use Order No. 1975
 3. Draft PC Minutes 05-16-07
 4. Draft PC Minutes 05-30-07
 5. Staff Report dated 05-09-07
and revised 5-23-07

BUDGET IMPACT

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

The Planning Commission held a public hearing on May 16th and May 30th to consider TA 2007-0002 (Operations Center 2007) that proposes to amend Section 20.15.10.2.A, Industrial Park (IP) zoning district, 20.15.15.2.A, Light Industrial (LI) zoning district, and Chapter 90, Definitions, of the Beaverton Development Code currently effective through Ordinance 4432 (April 2007). The purpose of the amendment introduced by Park Plaza LLC, a Beaverton property owner, is to introduce Operations Center as a permitted use in both the IP and LI zoning districts. The Operations Center use will clarify the grouping of existing permitted uses in the IP and LI zone.

Following the close of the public hearing on May 30, 2007, the Planning Commission voted 6-0 to recommend approval of the proposed Operations Center amendment as memorialized in Land Use Order No. 1975.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1975, the draft Planning Commission meeting minutes, and staff report. For the purpose of eliminating the potential need for future interpretations staff has slightly amended the proposed text to make it clear that the amendment only applies to any Operations Center established after the adoption of TA 2007-0002 and does not affect existing facilities that have been lawfully established. If existing facilities were to expand or otherwise be modified in the future, the proposed text would be applicable.

RECOMMENDED ACTION:

Staff recommend the City Council adopt the recommendation of approval forwarded by the Planning Commission for TA 2007-0002 (Operations Center 2007). Staff further recommend the Council conduct a First Reading of the attached ordinance.

ORDINANCE NO. 4443

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE,
CHAPTERS 20, and 90;
TA 2007-0002 (Operations Center 2007).

WHEREAS, the purpose of the Operations Center 2007 Text Amendment is to amend Chapter 20 and 90 of the Beaverton Development Code currently effective through Ordinance 4432 (April 2007) to introduce a new permitted use, Operations Center, in the Industrial Park and Light Industrial zoning districts and provide definitions related to Operations Center. Affected chapters of the Development Code include, Chapter 20 (Land Uses) and Chapter 90 (Definitions),

WHEREAS, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on May 9, 2007 published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on May 16, 2007; and,

WHEREAS, the Planning Commission held a public hearings on May 16, and May 30, 2007 and approved the proposed Operations Center 2007 Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated May 9, 2007, revised and republished on May 23, 2007, and as amended at the hearing; and

WHEREAS, on May 30, 2007 the Planning Commission conducted a second hearing for TA 2007-0002 (Operations Center 2007) at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1975; and,

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2007-0002 (Operations Center 2007) following the issuance of the Planning Commission Land Use Order No. 1975; and,

WHEREAS, the City Council adopts as to criteria, facts, and findings, described in Land Use Order No. 1975 dated June 7, 2007 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4432, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this ___ day of _____, 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

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.10.2.A, Industrial Park District, will be amended to read as follows:

20.15 Industrial Land Use Districts

20.15.10. Industrial Park Districts: IP

1. **Purpose.** The Industrial Park District or “IP” District is intended to provide sites for manufacturing, distribution and industrial uses.
2. **District Standards and Uses.** IP Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage except the uses detailed in C.1. and C.2., which are prohibited in the districts.
2. Wholesale and distributive activities.
3. Operations Center for p Public services or agencies and utility uses, ~~including vehicle storage and, incidental service and repair. [ORD 4093; March 2000]~~ If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair, washing, and servicing of vehicles is limited to fleet vehicles parked on site for these uses established after the effective date of this ordinance [Insert Date].
 - b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.

EXHIBIT A

c. The following automotive service activities are not required to be conducted within an enclosed building:

- (1) Vehicle fueling from a fixed source;
- (2) Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
- (3) Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

4. Research laboratory.

B. Conditional Uses (No Changes)

20.15.10.2

C. Prohibited Uses

4. Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers for public agencies and utilities, as provided in 20.15.10. 2. A. 3. ~~public transit vehicles~~. [ORD 4093; March 2000] [New ordinance citation]
5. Trailer sales or repair.
6. Eating or drinking establishments providing drive-in (windows) or take-out serving market areas outside the Industrial Park District. [ORD 3975, February 1997]
7. Automotive Services, Major or Minor [ORD 3975, February 1997], except when associated with operations centers for public agencies and utilities,

as provided in Section 20.15.10. 2. A. 3. [New ordinance citation]

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.15.2.A, Light Industrial District, will be amended to read as follows:

20.15 Industrial Land Use District

20.15.15. Light Industrial Districts: LI

1. **Purpose.** The Light Industrial District or "LI" District is intended to provide for general industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment and other uses not compatible in Industrial Park or Campus Industrial areas.
2. **District Standards and Uses.** LI Districts and uses shall comply with the following:
 - A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage uses except any use having the primary function of storing, utilizing or manufacturing explosive materials.
2. Wholesale and distributive activities.
3. ~~Public service or utility uses other than those providing on premise services to individuals and the general public.~~ Operations centers. If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair, washing and servicing of vehicles is limited to fleet vehicles parked on

EXHIBIT A

site for these uses established after the effective date of this ordinance [Insert Date].

- b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.
- c. The following automotive-service activities are not required to be conducted within an enclosed building.

[1] Vehicle fueling from a stationary source;

[2] Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.

[3] Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

- 4. Research laboratory.
- 5. Public parks, parkways, recreational facilities, trails and related facilities.
- 6. Administrative, educational and other related activities and facilities subordinate to a permitted use on the same premises as the principal use.
- 7. Cold storage plants.
- 8. Heavy equipment sales, including incidental service and repair.
- 9. Fuel oil distributors.
- 10. Printing, publishing and book binding.
- 11. Retail or combination retail/wholesale lumber and/or building materials yard.

EXHIBIT A

12. Storage or sale yard for contractors equipment, house moving, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition. [ORD 4071; October 1999]
13. Storage yard for building materials.
14. Trailer, recreational vehicle or boat storage.
15. Accessory structures and uses to a particular permitted use.
16. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots but not within 200 feet of a residential zone.
17. Auto, truck and trailer rental.
18. Mini storage.
19. Nursery, daycare facilities. (See also Special Use Regulations Section, Uses Requiring Special Regulations - Nursery Schools, Day or Child Care Facilities.)
20. Automotive services, Minor or Major, entirely within an enclosed building, except that fleet vehicle maintenance and repair associated with Operations Centers for ~~public agencies~~, as provided in Section 20.15.15. 2. A. 3.c maybe conducted outdoors. [New ordinance citation] [ORD 3975, February 1997]

Section 3: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 90 – Definitions, will be amended to read as follows:

Automotive Services, Minor. [ORD 3975, February 1997] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: ~~Gasoline service stations~~ retail and wholesale fuel sales; tire sales or installation; glass installation; oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, or other similar service or repair.

Fleet Parking. Accessory parking to a primary use for the storage of operable motorized vehicles, including cars, light and heavy trucks and buses, when these vehicles are not needed to support the primary use's off-site activities, e.g., repair/maintenance, delivery, transportation. [New ordinance citation]

Operations Center. A centralized facility from which the on- and off-site construction, operation, maintenance and repair of the entity's sites, buildings and facilities is directed, or the site from which vans, buses and other vehicles are dispatched. Activities related to the operations center may be conducted on- or off-site. The activities associated with such a facility may include one or more of the following activities: accessory offices; indoor/outside storage of equipment, parts and bulk materials; fleet parking; employee and visitor parking; and major and minor automotive services;. [New ordinance citation]

Public Agency. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as those for transit sanitary/stormwater treatment, water, fire, sheriff, school, drainage and lighting. [New ordinance citation]

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

IN THE MATTER OF A REQUEST TO ADD) ORDER NO. 1975
"OPERATIONS CENTER" AS A PERMITTED USE) TA2007-0002 RECOMMENDING APPROVAL OF
TO CHAPTER 20 OF THE DEVELOPMENT CODE.) OPERATIONS CENTER 2007 TEXT AMENDMENT
PARK PLAZA OFFICES, APPLICANT.)
)
)

The matter of TA2007-0002 (Operations Center 2007) was initiated by the applicant, Park Plaza Offices, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4432, Section 50.50 (Type 4 Application), the Planning Commission conducted public hearings on May 16, and May 30, 2007, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2007-0002 (Operations Center 2007 Text Amendment) proposes to amend Development Code Section Chapter 20 (Land Uses), Section 20.15.10.2.A, Industrial Park District, Section 20.15.15.2.A, Light Industrial District and Chapter 90 (Definitions). The applicant proposes to add "Operations Center" to the Industrial Park and Light Industrial (LI) zoning districts in order to provide clarity for uses that already exist or are routinely interpreted as being permitted uses.

Testimony was received from David Kamin and Henry Kane at the May 16, 2007 public hearing. Mr. Kamin testified that he had two primary concerns related to the proposed text amendment, vehicle washing and fueling. Mr. Kamin testified that he was satisfied with changes proposed by staff to add the word "washing" to Section 20.15.10.2.A.3.a and 20.15.15.2.3.a. Regarding vehicle fueling Mr. Kamin suggested that the text explicitly require that any vehicle fueling occur from a fixed location that met all appropriate environmental safeguards.

Testimony was received from Mr. Henry Kane that generally restated the contents of a letter submitted to the record (Staff Report May 23, 2007, Exhibit 1.3) that a public need was necessary and that threshold had not been met. Additionally, Mr. Kane testified that the Operations Center eroded the purpose of the industrial districts.

The Planning Commission held a second public hearing on May 30th, 2007, where Commissioners made findings that stated that there is a public need to provide for Operations Center in particular for public agencies to ensure the orderly provision of public services. The Planning Commission further found that type of activities commonly included with Operations Center are industrial in nature and thus are appropriate to include in the Industrial Park and Light Industrial zoning districts in contradiction to Mr. Kane's written and verbal testimony. The Planning Commission also modified the text to require vehicle fueling from a fixed source.

The Planning Commission adopts by reference the May 23, 2007, Staff Report, as amended, as to criteria contained in Section 40.85.15.1.C.1-7 and Exhibit 1.6 dated May 30, 2007, as further amended at the May 30, 2007 Planning Commission hearing, applicable to this request contained herein; now, therefore:

IT IS HEREBY ORDERED that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS APPROVAL** of Chapter 20 (Land Uses), Section 20.15.10.2.A, Industrial Park District, Section 20.15.15.2.A, Light Industrial District and Chapter 90 (Definitions). The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied for the modification to Chapter 20, (Land Uses), Section 20.15.10.2.A, Industrial Park District, Section 20.15.15.2.A, Light Industrial District and Chapter 90 (Definitions) of the Development Code.

Motion **CARRIED** by the following vote:

AYES: Winter, San Soucie, Bobadilla, Johansen, Platten, and
Maks.
NAYS: None.
ABSTAIN: None.
ABSENT: Stephens.

Dated this 7th day of June, 2007.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1975 an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Community Development Department's office by no later than 5:00 p.m. on Monday, June 18, 2007.

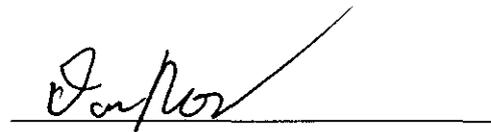
PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:



COLIN COOPER
Senior Planner, AICP

APPROVED:



DAN MAKS
Chairman



STEVEN A. SPARKS, AICP
Development Services Manager

PLANNING COMMISSION MINUTES

May 16, 2007

CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks; Planning Commissioner's Scott Winter, Ric Stephens, Marc San Soucie, and Melissa Bobadilla. Planning Commissioner's Eric Johansen and Jack Platten were excused.

Associate Planner Laura Kelly, Senior Planner Colin Cooper, AICP, Senior Transportation Planner Don Gustafson, and Recording Secretary Sheila Martin represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Senior Planner Colin Cooper indicated that there were no communications at this time.

NEW BUSINESS:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or

1 disqualifications in any of the hearings on the agenda. There was no
2 response.

3
4 **PUBLIC HEARINGS:**

5
6 **I. HUMAN BEAN COFFEE DRIVE - THRU**

7 **A. CU 2007-0001 – CONDITIONAL USE**

8 **B. DR 2007-0003 – DESIGN REVIEW THREE**

9 **C. LD 2007-0002 – LAND DIVISION**

10 The applicant is seeking approval for construction of a drive-thru
11 coffee establishment consisting of three applications: Design Review
12 Three, Land Division and Conditional Use. The scope of the
13 Design Review is the specific design and layout of the building,
14 parking, landscaping, and drive aisles. The scope of the Land
15 Division is the division of the subject site into two lots for the
16 purpose of developing the coffee establishment on one of the lots
17 while leaving the second parcel vacant for future development. The
18 scope of the Conditional Use application is the request for approval
19 of an Eating and Drinking Establishment, which is a Conditional
20 Use in the Office Commercial (OC) zone. The subject site is
21 approximately 0.94 acres in size and is located on Beaverton
22 Hillsdale Highway near SW Laurelwood Avenue.

23
24 Chairman Maks briefly described the applicable approval criteria and
25 meeting process. He asked if there were any ex parte contact, conflict
26 of interest or disqualifications in any of the hearings on the agenda.
27 There was no response.

28
29 Commissioner Winter disclosed that while this would not affect his
30 ability to participate in an impartial decision on this application, he
31 had provided IT services to the consulting engineer for this proposal.

32
33 Commissioners San Soucie, Stephens, Winter, and Bobadilla and
34 Chairman Maks indicated that they had visited and/or were familiar
35 with the site and had no contact with any individual(s) with regard to
36 this proposal.

37
38 Associate Planner Laura Kelly presented the Staff Report and briefly
39 described the three applications associated with this proposal. She
40 mentioned that several letters of testimony have been provided and
41 submitted and attached to a Memorandum dated May 16, 2007.
42 Concluding, she recommended approval of all three applications,
43 subject to certain Conditions of Approval as outlined within the Staff

1 Report, introduced Senior Transportation Planner Don Gustafson,
2 adding that both are available to respond to questions.

3
4 Referring to an earlier conversation, Commissioner San Soucie
5 questioned whether Ms. Kelly had been able to determine which tax lot
6 is associated with Condition of Approval No. 4.

7
8 Ms. Kelly responded that this Condition of Approval involves Tax Lot
9 6800, adding that staff had verified that this is the tax lot located to
10 the east of the subject site.

11
12 Observing that both the applicant and the Oregon Department of
13 Transportation (ODOT) had referred to a report on example trip
14 generation for these types of facilities, Commissioner San Soucie
15 questioned whether staff agrees that this is the best source available
16 for this information.

17
18 Noting that staff had just recently become aware of this particular
19 study, Senior Transportation Planner Don Gustafson expressed his
20 opinion that this is most likely the most current information available.

21
22 Commissioner San Soucie discussed proposals with regard to
23 sidewalks along streets and primary building entrances, noting that he
24 is curious with to regard to why the city is not requiring a construction
25 of the arterial street standard, particularly since the property to the
26 west has a landscape strip between the sidewalk and the roadway.

27
28 Mr. Gustafson explained that when this project was first proposed
29 several years ago, the property to the west had a sidewalk that was set
30 back, adding that this was the only sidewalk on that side of the
31 highway. He noted that since that time, the State had replaced all of
32 the sidewalks and curbs on that side of the highway, adding that prior
33 to that time, the bank down at the corner on Laurelwood was required
34 to move the sidewalk back. Observing that the City does not have an
35 issue with replacing the sidewalk and locating it up against the new
36 right-of-way,

37
38 Chairman Maks expressed appreciation to staff for working with the
39 applicant to address these issues.

40
41 **APPLICANT**

42
43 **LANS STOUT**, Planning Consultant with *T. M. Rippey Consulting*
44 *Engineers*, representing the applicant, *The Human Bean*, introduced

1 himself; Dan Hawkins, one of the principal owners; and Todd Mobley,
2 Traffic Engineer for *Lancaster Engineering*. He pointed out that the
3 applicant is comfortable with all of the Conditions of Approval and
4 explained that Mr. Mobley could address any traffic issues. He
5 discussed the sidewalk issue and pedestrian connections, and
6 explained some discrepancies in the proposed colors, emphasizing that
7 while the colors are correct, the names of the colors are not.

8
9 Chairman Maks requested clarification regarding the site circulation.

10
11 Observing that 75 feet of storage is available on the east side of the
12 building, **TODD MOBLEY**, Traffic Engineer for *Lancaster*
13 *Engineering*, provided an explanation of the site circulation.

14
15 Commissioner San Soucie requested information with regard to the
16 access easement and specifically whether this is important with regard
17 to the function of this design.

18
19 Mr. Mobley responded that this access easement is not required and
20 pointed out that the site plan would be slightly easier to work with if
21 the easement was eliminated.

22
23 Commissioner San Soucie questioned whether the plans provide for
24 trash enclosures.

25
26 **DAN HAWKINS** described the plans for trash enclosures and
27 recycling, and pointed out that he does not anticipate that the
28 easement would be utilized by his customers.

29
30 **PUBLIC TESTIMONY:**

31
32 **MURRAY LEISMEISTER** explained that he neither supports nor
33 opposes this proposal, observing that he is mostly concerned with being
34 provided with information with regard to the schedule in order to make
35 it possible for him to maximize his own privacy. Specifically, he
36 expressed his desire to see the retention of the laurel hedge, which
37 separates his property from the *Human Bean* site.

38
39 **RANDY SHUMOCK** pointed out that he owns the property abutting
40 the Office Commercial (OC) in the back, adding that his property is
41 Washington County, rather than Beaverton. Observing that the City
42 has more liberal zoning designations than the County, he expressed
43 his opinion that this establishes a poor precedence. He explained that
44 he had checked the zoning of the adjacent properties prior to

1 purchasing his property, emphasizing that he does not believe that
2 making these changes is fair. He pointed out that there is no need for
3 another coffee shop in this area, adding that he is also concerned with
4 potential traffic issues.

5
6 Chairman Maks advised Mr. Shumock that the applicant is not
7 requesting a Variance, which involves a very specific proceeding. He
8 pointed out that staff had submitted an additional Condition of
9 Approval for the Conditional Use, providing that this restaurant use be
10 limited to 415 square feet, which would basically only allow for an
11 espresso stand. He emphasized that because it involves the
12 Conditional Use, this Condition of Approval also runs with the land.

13
14 RANDY STUMMAN entered into the record a letter from *Providence*
15 *St. Vincent's Hospital*, which they had been unable to submit in time
16 for the Staff Report. Observing that he owns the Stumman Building,
17 which is located to the west of the subject site, he pointed out that
18 when he constructed this building and obtained the easement, he had
19 been assured that this would involve office and commercial use, not a
20 restaurant or retail outlet. He discussed his concerns with regard to
21 the traffic problems associated with this area, expressing his opinion
22 that this proposal should be re-evaluated. He explained that the
23 parking in his lot is already very limited and sometimes overflows into
24 an adjacent lot, adding that the four parking spaces for the espresso
25 will not be adequate for employees and customers, which means that
26 they will be overflowing into his parking. Concluding, he emphasized
27 that this area should be limited to office and commercial use.

28
29 Commissioner Stephens pointed out that the four parking spaces
30 would accommodate the employees and that customers would leave
31 after they purchased their coffee, rather than parking on the site.

32
33 At the request of Chairman Maks, Mr. Stumman described the various
34 activities that occur in his building and the parking requirements
35 associated with each of these uses.

36
37 Observing that his company, *Digital Works Productions*, is a tenant in
38 the Stumman Building, MIKE MASON described the services
39 associated with his business and the parking requirements associated
40 with this use. He pointed out that parking is already problematic for
41 this building, he emphasized that there is not adequate space to
42 accommodate any additional traffic. Noting that he generally picks up
43 his morning coffee at *Starbucks*, he mentioned that this involves a line
44 of six or seven people on a good day, adding that this traffic does not

1 move quickly and that any overflow into the parking at the Stumman
2 Building would bring the traffic flow to a standstill and could easily
3 extend out onto SW Beaverton/Hillsdale Highway.
4

5 Emphasizing that the applicant does have the right to develop the
6 property, Commissioner Bobadilla questioned whether Mr. Mason is
7 able to propose a solution for the parking problem.
8

9 Noting that he would welcome the coffee shop because he drinks coffee,
10 Mr. Mason responded that he fails to understand how this is feasible
11 from a traffic standpoint and expressed his opinion that this parking
12 lot should not be opened to through traffic.
13

14 **MYRNA CASONO, MD** stated that she has issues with this proposal
15 due to access to the parking lot utilized by her patients, and expressed
16 concern with the safety of many of her patients are very old and use
17 walkers and wheelchairs. Concluding, she pointed out that many of
18 her patients had signed a petition opposing this access, and requested
19 that this petition be entered into the record.
20

21 7:31 p.m. – 7:38 p.m. – recess.
22

23 **APPLICANT'S REBUTTAL:**
24

25 Mr. Stout referred to the issues raised with regard to the laurel hedge,
26 observing that he is certain that this can be resolved through Mr.
27 Hawkins. Observing that the remaining public testimony focused on
28 the access easement and traffic conflicts, he mentioned several
29 suggestions that might resolve these issues, as follows:
30

- 31 1. Signage or striping that might encourage the traffic to exit to
32 the left from the south; and
33
- 34 2. Removal of easement requirement from Mr. Stumman's existing
35 design review, which would remove the requirement for *Human*
36 *Bean* to provide the access easement, eliminating that
37 connection between the two properties.
38

39 Observing that the site would involve two employees at a time, Mr.
40 Hawkins explained that the third parking space would only be utilized
41 during a shift change. He emphasized that this is a drive-through and
42 would not require any off-site parking, adding that there may be some
43 pedestrians and/or bicyclists.
44

1 Chairman Maks questioned whether the applicant is willing to install
2 a 5 mile per hour speed bump along where the easement is, subject to
3 approval of the Traffic Engineer.

4
5 Mr. Hawkins responded that he is willing to install this speed bump.

6
7 Observing that the laurel hedge appears to be entirely on the property
8 belonging to the applicant, Commissioner Winter expressed his opinion
9 that removal of this hedge would prevent the adjacent property owners
10 from having any privacy and/or buffering.

11
12 Mr. Hawkins noted that if this hedge is on his property, it would likely
13 be removed, adding that every effort would be made to provide
14 adequate landscaping.

15
16 Commissioner Winter pointed out that a similar situation had occurred
17 in his neighborhood, emphasizing that the neighborhood was not
18 happy when the laurel hedge was removed.

19
20 Ms. Kelly mentioned that the following submittals have been
21 designated as exhibits, as follows:

- 22
23 • **Exhibit 4.5** -- *Providence/St. Vincent's Hospital* letter;
24
25 • **Exhibit 4.6** -- photographs submitted by Ms. Cosono; and
26
27 • **Exhibit 4.7** – petition submitted by Ms. Cosono.

28
29 Ms. Kelly referred to the laurel hedge, observing that she had
30 discussed this issue with Mr. Leismeister, adding that because it had
31 been determined that this hedge basically straddles both properties, he
32 had requested that in order to minimize any damage to his property,
33 he should be consulted with regard to any cutting or removal.

34
35 Emphasizing that the applicable criteria requires that any
36 development must be reasonably compatible with the adjacent
37 neighborhood, Chairman Maks questioned whether there would be an
38 issue with leaving the hedge as it is.

39
40 Ms. Kelly advised Chairman Maks that leaving the hedge in its
41 current state would not create any issue, adding that it appears that
42 some pruning might be necessary.

43

1 On question, Mr. Gustafson informed Chairman Maks that queuing
2 should not create an issue during the morning hours, noting that any
3 eastbound vehicles that are unable to access this site would most likely
4 go to *Starbucks* on the other side of the street.

5
6 The public portion of the Public Hearing was closed.

7 Expressing his support of all three applications associated with this
8 proposal, Commissioner Stephens recommended, as follows:

- 9
10 1. A Condition of Approval providing for access control and traffic
11 calming, such as signing, striping, and/or a speed bump will be
12 coordinated with staff; and
13
14 2. The landscaping on the western side of the site should include
15 that the existing materials should be preserved as much as
16 possible.

17
18 Observing that he is also generally in favor of this proposal,
19 Commissioner San Soucie expressed his opinion that this is reasonable
20 for this location on this high-volume street, adding that it meets
21 applicable approval criteria with the exception of the curb-tight
22 sidewalk. He suggested that this should be redesigned to meet an
23 Oregon Department of Transportation (ODOT) standard for a sidewalk
24 with a landscape strip so that this sidewalk does not force pedestrians
25 to walk directly along the Beaverton/Hillsdale Highway.

26
27 Expressing his agreement with his fellow Commissioners,
28 Commissioner Winter noted that these applications meet applicable
29 approval criteria.

30
31 Commissioner Bobadilla noted that she also supports this proposal,
32 adding that she would prefer to include a Condition of Approval that
33 addresses the landscaping on the west side of the site in order to
34 preserve what is already there and provide some extra privacy.

35
36 Chairman Maks stated that he would also like to require adequate
37 signage and a five mile per hour speed bump, at the easement, if
38 possible. He mentioned that while there are issues with traffic,
39 parking, and ingress/egress, much of this is caused by the existing
40 uses, and pointed out that while it is an outright use in this zoning
41 district, medical/office generates three times the traffic and requires
42 three times as much parking as any other office use. Reiterating that
43 a development needs to be reasonably compatible with the surrounding

1 neighborhood, he noted that the proposal does not meet this criterion,
 2 adding that he does not support the applications.

3
 4 7:56 p.m. – 7:59 p.m. – recess.

5
 6 Commissioner Winter **MOVED** and Commissioner San Soucie
 7 **SECONDED** a motion to **APPROVE** CU 2007-0001 – Human Bean
 8 Coffee Drive-Thru Conditional Use, based upon the facts and findings
 9 presented in the Staff Report dated May 9, 2007 and supplemental
 10 Memorandum and public testimony received this evening, including
 11 additional Conditions of Approval, as follows:

- 12
 13 1. The conditional use granted shall run with the land and continue
 14 to be valid upon a change of ownership to the site structure or
 15 use unless otherwise specified in conditions attached to the
 16 permit.
 17
 18 2. The conditional use approval shall allow the subject site to be
 19 used as an eating or drinking establishment, not to exceed a
 20 maximum of 415 square feet of gross floor area.
 21
 22 3. In accordance with Section 10.65.5.A.6 of the Beaverton
 23 Development Code, the applicant will record this land use order
 24 with the Washington County Department of Assessment and
 25 Taxation. At the applicant’s request, the City may conduct the
 26 recordation and the applicant shall pay the applicable recording
 27 fee.

28
 29 Motion **CARRIED** by the following vote:

- 30
 31 **AYES:** Winter, San Soucie, Bobadilla, and Stephens.
 32 **NAYS:** Maks.
 33 **ABSTAIN:** None.
 34 **ABSENT:** Johansen, and Platten.

35
 36 Motion **CARRIED:** 4:1.

37
 38 Commissioner Winter **MOVED** and Commissioner San Soucie
 39 **SECONDED** a motion to **APPROVE** DR 2007-0003 – Human Bean
 40 Coffee Drive-Thru Design Review, based upon the facts and findings
 41 presented in the Staff Report dated May 9, 2007 and supplemental
 42 Memorandum and public testimony received this evening, including the
 43 following Conditions of Approval:
 44

1 Prior to issuance of a Site Development Permit, the applicant
 2 shall:

- 3
- 4 1. Submit plans showing the construction of a sidewalk and planter
 5 strip designed to ODOT standards for the frontage of the site, to
 6 include street trees, if permissible;
- 7
- 8 2. Provide a revised landscape plan showing the preservation of the
 9 laurel hedge at the western property line;
- 10
- 11 3. Provide signage, striping, and a traffic control plan designed to
 12 discourage traffic from exiting the site through the Stumman
 13 office building site.

14
 15 Motion **CARRIED** by the following vote:

- 16
- 17 **AYES:** Winter, San Soucie, Bobadilla, Stephens, and Maks.
- 18 **NAYS:** None.
- 19 **ABSTAIN:** None.
- 20 **ABSENT:** Johansen, and Platten.
- 21

22 Motion **CARRIED:** 5:0.

23
 24 Commissioner Winter **MOVED** and Commissioner San Soucie
 25 **SECONDED** a motion to **APPROVE** LD 2007-0002 – Human Bean
 26 Coffee Drive-Thru Land Division, based upon the facts and findings
 27 presented in the Staff Report dated May 9, 2007 and supplemental
 28 Memorandum and public testimony received this evening.

29
 30 Motion **CARRIED** by the following vote:

- 31
- 32 **AYES:** Winter, San Soucie, Bobadilla, Stephens, and Maks.
- 33 **NAYS:** None.
- 34 **ABSTAIN:** None.
- 35 **ABSENT:** Johansen, and Platten.
- 36

37 Motion **CARRIED:** 5:0.

38
 39 **II. TA 2007-0002 – OPERATIONS CENTER 2007**

40 The text amendment proposes to add the use “Operations Center” for
 41 public entities (e.g. Tualatin Valley Water District, City of Beaverton,
 42 and Beaverton School District) as a permitted use in Sections 20.15.10
 43 (Industrial Park District), 20.15.15 (Light Industrial District), and
 44 Chapter 90 (Definitions). This would include offices to support on-site

1 activity of parking and customary maintenance of fleet vehicles and
2 miscellaneous equipment. This text amendment is being initiated by
3 Park Plaza LLC a property owner within the LI and IP zoning
4 districts.

5
6 Chairman Maks described the applicable approval criteria and hearing
7 procedure for this application.

8
9 Commissioner San Soucie disclosed that the applicant's representative,
10 Bev Bookin, had been a contributor to his wife's campaign for public
11 office in the past year. He also disclosed that he is a member of the 5
12 Oaks/Triple Creek NAC, observing that the Beaverton School District's
13 proposal for a bus barn at NW 167th Place is an issue that is frequently
14 discussed at the NAC meetings.

15
16 Commissioner San Soucie indicated that he had visited the Beaverton
17 School District's bus facility on Allen Boulevard, as well as their
18 facility on NW 167th Place, adding that he had no contact with any
19 individual(s) with regard to this application.

20
21 Senior Planner Colin Cooper presented the Staff Report and explained
22 that this proposed Text Amendment had been initiated by a private
23 party rather than the City, noting that staff has primarily focused
24 their review on the existing allowed, permitted, conditional, and
25 prohibited uses and whether the proposed text amendment would be
26 suggesting a new permitted use, the intensity of that use, and how it
27 relates to the existing uses within each of these specific zones. He
28 explained that staff had concluded that this proposal does not offer a
29 more intense use, with one exception within the IP zone, adding that
30 this amendment would allow for auto service, both minor and major,
31 where it currently does not. He pointed out that it should be noted
32 that this proposed text amendment does limit those uses in two
33 important ways, as follows:

- 34
35 1. Limits within the IP zone to only public entity operation
36 centers; and
37 2. Requires those activities that are currently prohibited to
38 be occurring only within an enclosed building.

39
40 Mr. Cooper noted that the second paragraph between Nos. 12 and 13
41 on page 8 of the Staff Report should be deleted.

42
43 Observing that there has been some concern with the expansiveness of
44 the definition of the term "Operations Center", Mr. Cooper referred to

1 page 9 of the Staff Report, noting that staff had suggested striking
2 certain words from that definition, as follows:

3
4 **Operations Center.** A centralized facility ~~for a public agency,~~
5 ~~public or private utility, company or institution~~ from which the
6 on- and off-site construction, operation, maintenance...

7
8 Mr. Cooper explained that this would allow the Planning Commission
9 to sort out the uses in those zones.

10
11 Referring to No. 20 on page 8 of the Staff Report, Mr. Cooper pointed
12 out that Commissioner San Soucie had suggested that greater
13 specificity should be provided, noting that Section 20.15.15.2.A.3.c
14 should be cited.

15
16 Referring to Section 20.15.10.2.A.3.a on page 4 of the Staff Report, Mr.
17 Cooper suggested a revision, as follows:

- 18
19 a. **Fueling, repair, washing, and servicing of vehicles is**
20 **limited to fleet vehicles parked on site or in the agency's**
21 **ownership.**

22
23 Mr. Cooper pointed out that this same revision should also be made to
24 Section 20.15.15.2.A.3.a on page 6 of the Staff Report,

25
26 Referring to Exhibit No. 1.2, which consists of a letter submitted by
27 Henry Kane, dated May 9, 2007, Mr. Cooper stated that while this
28 letter suggests that the Land Use Subcommittee for the Beaverton
29 Committee for Community Development (BCCI) voted against this
30 application, he had received an e-mail from the Chairman of the Land
31 Use Subcommittee, indicating that the BCCI had chosen not to take a
32 position on this issue. Concluding, he offered to respond to questions.

33
34 Observing that Mr. Cooper had already addressed many of her issues,
35 Commissioner Bobadilla referred to page 4 and questioned whether
36 there is a word missing in Section 20.15.10.2.

37
38 Mr. Cooper responded that this is how the Development Code currently
39 reads, adding that while this phrase is somewhat awkward, he believes
40 that it is a broad use of language and intended to be all-encompassing.

41
42 Referring to Section 20.15.10.2.c(3) on page 5, Commissioner Bobadilla
43 questioned whether Mr. Cooper is able to provide a definition of
44 "minor equipment".

1
2 Mr. Cooper responded that no definition of minor equipment has been
3 provided.
4

5 Commissioner Bobadilla requested clarification with regard to the
6 proposed revisions in Section 20.15.15.2.A.12 on page 8 of the Staff
7 Report, and Mr. Cooper advised her that the first paragraph would
8 remain intact while the second paragraph would be deleted.
9

10 Referring to page 9 of the Staff Report, Commissioner Bobadilla
11 questioned whether staff is soliciting opinions from the Commission
12 with regard to their preferences with regard to the first definition for
13 Operations Center or the staff alternative, adding that she prefers the
14 alternative.
15

16 Mr. Cooper agreed with Commissioner Bobadilla, noting that this
17 allows for the distinction between public and private.
18

19 Referring to Section 20.15.15.2.A.3, Commissioner Bobadilla suggested
20 a revision, as follows:
21

22 3. Operation Centers. If major and minor automotive
23 services are provided, the following limitations shall
24 apply.
25

26 Commissioner Bobadilla emphasized that "limitations" is an extra
27 word and not necessary.
28

29 Observing that this should be easily understood by any individual with
30 a 10th grade reading level, Chairman Maks expressed his opinion that
31 this word should not be deleted.
32

33 Mr. Cooper noted that this does clarify that limitations are involved,
34 rather than the direction of the application, emphasizing that staff is
35 attempting to be less permissive and distinct.
36

37 Commissioner San Soucie expressed his opinion that this proposal
38 appears to define Operations Center, categorize these facilities as
39 public or private, and determine that a public Operations Center is an
40 outright use in a Light Industrial (LI) zoning district. He emphasized
41 that he would only be comfortable with supporting the addition of
42 private-entity Operations Centers within the LI zoning district would
43 be as a Conditional Use.
44

1 Chairman Maks questioned whether a private Operations Center is
2 allowed outright in any other zoning district.

3
4 Mr. Cooper responded that an Operations Center involves a collection
5 of uses, including the storage and maintenance of fleet vehicles, and
6 storage of materials, adding that these activities may be allowed in
7 another zoning district under a different category, such as wholesale or
8 industrial distribution, or manufacturing.

9
10 Commissioner San Soucie emphasized that the definition of Operations
11 Center is overly broad and allows too many uses, adding that he does
12 not feel comfortable with this. He pointed out that the activities
13 associated with such a facility may include accessory offices and
14 conference activities; indoor/outdoor storage of equipment, parts and
15 bulk materials; fleet parking of cars, trucks, buses, vans or other
16 vehicles; employee and visitor parking; major and minor automotive
17 services; sewer, water and storm water treatment facilities; and/or
18 pump, transmission, switching stations and other related facilities. He
19 pointed out that these are all conditional uses within the current
20 Development Code, noting that these conditional uses become more
21 potent as they become outright uses.

22
23 Mr. Cooper observed that Commissioner San Soucie had made a valid
24 point.

25
26 Commissioner San Soucie expressed his opinion that “accessory offices
27 and conference facilities” is also too broad of a term, noting that he
28 would be more comfortable with the phrase “accessory offices and
29 conference facilities related to those accessory offices”. He pointed out
30 that fleet parking of cars, trucks, buses, vans or other vehicles could
31 allow a staging area for heavy mining operations.

32
33 Mr. Cooper advised Commissioner San Soucie that heavy mining
34 operations may be possible in certain areas under the current
35 Development Code.

36
37 Commissioner San Soucie emphasized the importance of being specific
38 in describing the uses that would be allowed within each zoning
39 district.

40
41 Mr. Cooper agreed that it is necessary to be very specific with regard to
42 uses.

43

1 Commissioner San Soucie pointed out that it would also be necessary
2 to provide a specific definition for transportation agency.

3

4 Commissioner San Soucie referred to page 5 of the Staff Report,
5 specifically Section 20.15.10.2.A.3.c, and expressed his opinion that
6 this section should be revised, as follows:

7

8 b. The following automotive-related service activities are
9 not required to be conducted within the an enclosed
10 building:

11

12 Commissioner San Soucie noted that the same revision needs to be
13 made on page 7 of the Staff Report, specifically Section
14 20.15.15.2.C.3.c.

15

16 Chairman Maks pointed out that he is sitting in between two
17 Commissioners who are great candidates for the Code Review Advisory
18 Committee (C.R.A.C.).

19

20 Commissioner Stephens noted that a conference center becomes an
21 issue when it is not clearly integrated to the operations center.

22

23 Chairman Maks emphasized that the Beaverton School District does
24 not have a facility large enough to accommodate all of their
25 administrators.

26

27 APPLICANT

28

29 BEV BOOKIN, representing *The Bookin Group* on behalf of the
30 applicant, Howard Dietrich/*Park Plaza Offices*, explained that while
31 private citizens are able to propose text amendments, this proposed
32 text amendment affects any use in this category and must be judged on
33 its public merits. She provided a brief summary of her qualifications
34 and experience with regard to code, emphasizing that because they
35 tend to be confusing, incomplete, and inaccurate, definitions of use are
36 very difficult. Observing that a definition of public services and utility
37 uses is an extraordinarily vague term, she explained that this opens up
38 the potential for many uses. She discussed the differences between
39 public and private entities, noting that some private entities do provide
40 necessary services, and emphasized the importance of making certain
41 that this proposal does not inadvertently cut out any important group
42 of service providers just because they happen to be private.

43

1 Ms. Bookin described the purpose of the Industrial Park (IP) zoning
2 district and other similar zoning districts, observing that the intent
3 here is to allow an operations center in the IP zoning district, but
4 restrict this use to public agencies. Referring to page 9 of the Staff
5 Report, she emphasized that an operations center is intended to be an
6 integrated industrial facility and to service infrastructure and/or to
7 provide transportation services. Expressing her opinion that the
8 regulations within the Light Industrial (LI) zoning district are
9 straightforward, she noted that limitations are appropriate here with
10 regard to outright uses. Concluding, she pointed out that many of
11 these uses are already allowed outright within the LI zoning district.

12
13 Commissioner San Soucie noted that Commissioner Stephens had
14 already pointed out several potential clarifications and that he had
15 suggested some specific changes, and explained that it might be more
16 appropriate to reference buildings and facilities from which vans,
17 buses and other vehicles are dispatched, rather than a transportation
18 agency. He expressed his opinion that some of the more intense uses
19 should remain conditional uses.

20
21 Referring to Section 20.15.15.2.A.3.a. on page 6 of the Staff Report
22 which addresses the fueling, repair and servicing of vehicles limited to
23 fleet vehicles parked on site or in the agency's ownership, Chairman
24 Maks noted that regardless of whether it is public or private, he does
25 not want to create an area that is Tri-Met's regional washing facility.

26 27 PUBLIC TESTIMONY

28
29 HENRY KANE explained that he had submitted as an exhibit a
30 current version of ORS 197.763.6.A which states that "prior to the
31 conclusion of the initial evidentiary hearing, the participant may
32 request an opportunity to present additional evidence and the local
33 hearings authority shall grant such request by continuing the public
34 hearing pursuant to paragraph via this section." He noted that he is
35 requesting that the record be kept open because this is very important
36 and involves public policy, land use, and the protection of the
37 community. He pointed out that Mr. Cooper had spoken to the
38 B.C.C.I. Land Use Subcommittee at their April meeting, noting that he
39 had been unable to satisfactorily respond to their questions. He
40 explained that while he has no personal interest in this issue, is very
41 familiar with this zoning district, and currently has two appeals
42 pertaining to this area, he is unable to determine the real purpose of
43 this proposal.
44

1 Chairman Maks advised Mr. Kane that it is not appropriate to discuss
2 any pending applications or appeals.

3
4 Mr. Kane noted that he can find no justification for that public policy,
5 adding that the language is so loose that it could be interpreted many
6 ways. He expressed his opinion that if it is determined that this
7 proposal is in the interest of the public, the language should be more
8 appropriate.

9
10 **DAVID KAMIN** explained that he would like to discuss two issues,
11 noting that one of these issues – the washing of vehicles – has already
12 been addressed. Observing that he would also like to discuss vehicle
13 fueling, he questioned whether stationary or mobile fueling would be
14 involved. Emphasizing that mobile fueling is very messy and involves
15 spills all over the property, resulting in extra pollution, waste and
16 other issues. He suggested that there should be some limitation
17 providing that a certain number of vehicles would be required.

18 19 **APPLICANT'S REBUTTAL**

20
21 Referring to Mr. Kane's comments, Ms. Bookin expressed her opinion
22 that there is an opportunity to improve the proposed language. She
23 pointed out that this proposal would provide a benefit to the
24 community, she emphasized that she believes that all of Mr. Kane's
25 concerns can be addressed. She discussed Mr. Kamin's comments with
26 regard to stationary fueling, adding that his point is well taken and
27 could be easily addressed.

28
29 Observing that he has a request to leave the record open for seven (7)
30 days, Chairman Maks questioned whether staff has any comments.

31
32 Mr. Cooper pointed out that while he does not believe it is required to
33 grant a request to leave the record open for a Type 4 application, it is
34 obvious that staff would be returning at a later date to address certain
35 issues. Referring to Mr. Kane's comments with regard to his
36 presentation to the B.C.C.I. Land Use Subcommittee, he emphasized
37 that he did respond to all questions that evening to the best of his
38 ability, adding that he does not believe he left any unanswered
39 questions. Observing that Mr. Kane had stated that he had undercut
40 his own position, he noted that because his job involved being an
41 objective member of staff, he had not taken a position on this issue.

42
43 Chairman Maks explained that the Commission would like to direct
44 the applicant to work with staff to address the concerns and suggested

1 changes prior to returning with both a “clean” version and a “marked”
2 version.

3
4 Observing that he would be out of the country and unable to attend the
5 meetings on May 30, 2007 and June 6, 2007, Commissioner Stephens
6 expressed his opinion that Mr. Cooper and Ms. Bookin have done a
7 superb job. He noted that he is supportive of this proposal because he
8 believes that the LI zoning district is the appropriate location for this
9 type of consolidated facility and he enjoys not using what he referred to
10 as the traditional Euclidian zoning method.

11
12 Commissioner Winter **MOVED** and Commissioner Stephens
13 **SECONDED** a motion to **CONTINUE** TA 2007-0002 – Operations
14 Center 2007 to a date certain of May 30, 2007.

15
16 Motion **CARRIED**, unanimously.

17

18 **APPROVAL OF MINUTES:**

19

20 Minutes of the meeting of February 14, 2007, submitted.
21 Commissioner Stephens **MOVED** and Commissioner Bobadilla
22 **SECONDED** a motion that the minutes be approved as written.

23

24 Motion **CARRIED**, unanimously, with the exception of Commissioner
25 Winter, who abstained from voting on this issue.

26

27 **MISCELLANEOUS BUSINESS:**

28

29 The meeting adjourned at 9:27 p.m.

PLANNING COMMISSION MINUTES

May 30, 2007

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CALL TO ORDER: Chairman Dan Maks called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL: Present were Chairman Dan Maks; Planning Commissioner's Scott Winter, Marc San Soucie, Melissa Bobadilla, Jack Platten and Eric Johansen. Planning Commissioner Ric Stephens was excused.

Senior Planner Colin Cooper, AICP, Assistant Planner Ken Rencher Assistant City Attorney William Scheidrich, and Recording Secretary Sheila Martin represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Staff indicated that there were no communications at this time.

OLD BUSINESS:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 CONTINUANCES:

2

3 **II. TA 2007-0002 – OPERATIONS CENTER 2007**

4 (Continued from May 16, 2007)

5 The text amendment proposes to add the use “Operations Center”
6 for public entities (e.g. Tualatin Valley Water District, City of
7 Beaverton, and Beaverton School District) as a permitted use in
8 Sections 20.15.10 (Industrial Park District), 20.15.15 (Light
9 Industrial District), and Chapter 90 (Definitions). This would
10 include offices to support on-site activity of parking and customary
11 maintenance of fleet vehicles and miscellaneous equipment. This
12 text amendment is being initiated by Park Plaza LLC a property
13 owner within the LI and IP zoning districts.

14

15 Chairman Maks provided a brief description of the applicable approval
16 criteria and hearing procedure.

17

18 Senior Planner Colin Cooper submitted the Revised Staff Report, dated
19 May 23, 2007, and briefly described the simple revisions that had been
20 made to the proposed text. He also submitted a copy of a letter
21 submitted by Henry Kane, dated May 23, 2007. Referring to Exhibit
22 No. 1.6, he mentioned that this issue has been discussed with the
23 applicant.

24

25 Commissioner Winter questioned whether the City of Beaverton is the
26 applicant.

27

28 Mr. Cooper responded that the applicant is actually Howard
29 Dietrich/*Park Plaza Offices*, adding that Beverly Bookin of *The Bookin*
30 *Group* is the applicant’s representative.

31

32 Commissioner Platten discussed the importance of preserving
33 industrial land, emphasizing that it is not a good policy to place office
34 buildings in these areas.

35

36 Mr. Cooper explained that there are several types of industrial
37 property, noting that it is necessary to create some sort of balance.

38

39 Referring to Section 20.15.10.1.A.1 on page 4, Commissioner Bobadilla
40 expressed her opinion that the phrase “*which are prohibited in the*
41 *districts*” is repetitious and unnecessary.

42

43 Chairman Maks pointed out that because uses are constantly
44 changing, he prefers to retain this language.

1
2 Mr. Cooper explained that the office and conference facility had been
3 removed from the Operations Center definition.
4

5 **APPLICANT**

6
7 **BEVERLY BOOKIN**, representing *The Bookin Group* on behalf of the
8 applicant, pointed out that this involves what she referred to as
9 quintessential industrial use. She discussed the proposed revisions to
10 Chapter 90 with regard to the following definitions:
11

- 12 • Automotive Services, Minor
- 13 • Fleet Parking
- 14 • Operations Center
- 15 • Public Entity

16
17 Commissioner San Soucie expressed his opinion that the sentence that
18 provides that activities related to the operations center may be
19 conducted on- or off-site does not add anything to the definition for
20 Operations Center.
21

22 Ms. Bookin agreed that this particular sentence is redundant and not
23 necessary, emphasizing that it had never been intended that office and
24 conference center would be a freestanding use and that these would be
25 considered an accessory use.
26

27 Commissioner Platten mentioned the issue of house moving.
28

29 Observing that this issue is beyond the scope of the current proposal,
30 Mr. Cooper advised Commissioner Platten that he is referencing
31 existing text.
32

33 Ms. Bookin described the proposed revisions and the rationale for
34 these revisions.
35

36 Commissioner Platten suggested a correction to Section
37 20.15.15.2.A.3.c, as follows:
38

- 39 c. The following automotive-related activities are not required
40 to be conducted within ~~the~~ an enclosed building.

41
42 Ms. Bookin briefly discussed prohibited uses within the IP zoning
43 district.
44

1 Ms. Bookin described revisions to the permitted uses within the LI
2 zoning district.

3
4 Referring to Section 20.15.15.2.A.4.20, Commissioner San Soucie
5 proposed an alternative, as follows:

- 6
7 20. Automotive services, Minor or Major, entirely within an
8 enclosed building, except ~~when~~ that fleet vehicle
9 maintenance and repair associated with operations
10 centers, as provided in Section 20.15.10.2.A.3.c, may be
11 conducted outdoors.

12
13 Ms. Bookin agreed with Commissioner San Soucie's proposal, adding
14 that she believes all concerns have been addressed.

15
16 **PUBLIC TESTIMONY:**

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

19
20 Mr. Cooper clarified that while the notice does include definitions, it is
21 not necessarily specific to automotive service, and explained why he is
22 comfortable with this. He pointed out that although this notice had
23 been mailed to every owner of property within the IP zoning
24 designation, none of these individuals had submitted any comments.

25
26 The public portion of the Public Hearing was closed.

27
28 Commissioners Winter, San Soucie, Bobadilla, Platten, and Johansen,
29 and Chairman Maks expressed their support of the proposal.

30
31 Commissioner Winter **MOVED** and Commissioner San Soucie
32 **SECONDED** a motion to **APPROVE** TA 2007-0002 – Operations
33 Center 2007, based upon the facts and findings presented in the Staff
34 Report dated May 9, 2007, as amended, along with changes made by
35 the Commission, including Exhibit No. 1.6, as amended, and
36 supplemental Memorandum and public testimony received.

37
38 Motion **CARRIED** by the following vote:

39
40 **AYES:** Winter, San Soucie, Bobadilla, Johansen, Platten and
41 Maks.

42 **NAYS:** None.

43 **ABSTAIN:** None.

44 **ABSENT:** Stephens.

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NEW BUSINESS:

Commissioner San Soucie announced that the City has purchased a new recording system that will be used for live broadcast of the Planning Commission Meetings, noting that these sessions will be broadcast to the web where the public can access and view them at their convenience.

MISCELLANEOUS BUSINESS:

The meeting adjourned at 8:01 p.m.



CITY of BEAVERTON

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

CITY OF BEAVERTON STAFF REPORT AND RECOMMENDATION

TO: Planning Commission

STAFF REPORT DATE: Wednesday, May 9, 2007 (**Revised May 23, 2007**)

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

SUBJECT: TA 2007-0002 (Operations Center 2007)

REQUEST: Text Amendment to the Beaverton Development Code proposes to add "Operation Center" as a permitted use to Chapter 20, Land Uses, Section 20.15.10.2.A, Industrial Park District, and Section 20.15.15.2.A, Light Industrial District, and Chapter 90, Definitions.

APPLICANT: Park Plaza Offices, Howard Dietrich, PO Box 82440, Portland, OR. 97282

APPLICANT'S REPRESENTATIVE: The Bookin Group, LLC, Beverly Bookin, AICP, 1020 SW Taylor Street, Suite 760, Portland, OR. 97205

AUTHORIZATION: Ordinance 2050 (Development Code), effective through Ordinance 4432)

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

HEARING DATE: Wednesday, May 16, 2007

RECOMMENDATION: Staff recommend APPROVAL of text amendment application TA 2007-0002 (Operations Center 2007)

I. Proposed Legislative Text Amendment and Background

The applicant proposes to add "Operations Center" to the Industrial Park and Light Industrial (LI) zoning districts in order to provide clarity for uses that already exist or are routinely interpreted as being permitted uses.

Currently, *Section 20.15.10.2.A.3*, allows in the IP zone: "*Public services or utility uses, including vehicle storage and, incidental service and repair.*" The phrase "*including vehicle storage and, incidental service and repair.*" was added to the Development Code by TA 99-00008 (IP Zone Vehicle Storage) at the request of the Beaverton School District and approved by the City Council on March 6, 2000 (ORD 4093). The Beaverton School District proposed the text amendment for the IP zone in order to rectify the nonconforming status of the Beaverton School District Bus Barn located in the IP zone on Allen Boulevard. While it is reasonable to interpret "*incidental service and repair*" to be inclusive of the types of uses allowed under the definition of *Auto Service Minor* the language is not explicit. Additionally, *Section 20.15.10.2.A.* describes "Accessory structures and uses to a particular permitted use" as a permitted use, which could be interpreted to allow minor vehicle service that is directly associated and accessory with public service and vehicle storage. However, *Section 20.15.10.2.C.7* expressly prohibits "Automotive Services, Major or Minor" in the IP zone. Based on these ambiguous and contradictory standards the applicant is proposing this text amendment.

The prohibition on Auto Service Minor and Major in the IP zone was included with Text Amendment 960008 (Retail Trade: Add-On). Based on a review of the legislative history the text amendment it was intended to ensure that valuable industrial land was not used for lower intensity commercial rather than accessory industrial oriented vehicle uses. A review of the legislative history of the text amendment TA99-0008 (IP Zone Vehicle Storage), which as noted above added the allowance for "*vehicle storage and incidental serve and repair*", reveals that when the IP zone was amended it was with the intent to limit service and repair activity to those activities which fell below the use and activities allowed by the definition of Auto Service-Minor. The challenge in this language and the original intent is that the existing language is not clear nor is it practical to the types of existing operation centers that have long been established in the IP zoning district.

The LI zoning district would allow a facility serving a public entity for the storage, service, and dispatch of vehicles to be developed based on the following two sections of the Development Code, *Section 20.15.15.2.A.* "*Public service or utility uses other than those providing on premise services to individuals or the general public*" and *Section 20.15.15.2.A. 12* "*Storage or sale yard for contractors equipment, house moving, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition.*" Although some members of the public have argued that the Beaverton School District Bus Barn established at 167th Place is more appropriately

classified as “*Vehicle Storage*”; and, thus should be classified as Conditional Use in the LI zone. However, a review of the legislative record for TA 1-83 that established “*Vehicle Storage*” as a Conditional Use clearly reflects that the use is specific to the storage of inoperable or towed vehicles. Unlike the IP zone, the LI zone allows Automotive Service Minor and Major so long that it is entirely contained within an enclosed building.

Rather than continuing to rely upon the use of multiple sections of the Development Code the applicant, a land owner with several properties in the IP zone, is proposing a text amendment which directly states that an Operations Center for public entities in the IP zone and for any private or public entity in the LI zones would be a permitted use.

In the review of the proposed text amendment staff is proposing a change to the proposed definition of “Operation Center” that would eliminate the distinction between a public or private leaving that distinction to be made in Chapter 20 as policy makers believe appropriate for each zone.

Proposed Text:

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.10.2.A, Industrial Park District, will be amended to read as follows:

20.15 Industrial Land Use Districts

20.15.10. Industrial Park Districts: IP

1. **Purpose.** The Industrial Park District or "IP" District is intended to provide sites for manufacturing, distribution and industrial uses.
2. **District Standards and Uses.** IP Districts and uses shall comply with the following:
 - A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage except the uses detailed in C.1. and C.2., which are prohibited in the districts.
2. Wholesale and distributive activities.
3. ~~Operation centers for p Public services or agencies. utility uses, including vehicle storage and, incidental service and repair. [ORD 4093; March 2000] If major and minor automotive services are provided, the following limitations shall apply:~~
 - a. ~~Fueling, repair, washing, and servicing of vehicles is limited to fleet vehicles parked on site.~~
 - b. ~~All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.~~

c. The following automotive-service activities are not required to be conducted within the enclosed building:

- (1) Vehicle fueling from a stationary source;
- (2) Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
- (3) Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

4. Research laboratory.

B. Conditional Uses (No Chages)

20.15.10.2

C. Prohibited Uses

4. Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers for public agencies, as provided in 20.15.10. 2. A. 3. public transit vehicles. [ORD 4093; March 2000] [New ordinance citation]
5. Trailer sales or repair.
6. Eating or drinking establishments providing drive-in (windows) or take-out serving market areas outside the Industrial Park District. [ORD 3975, February 1997]
7. Automotive Services, Major or Minor [ORD 3975, February 1997], except when associated with operations centers for public agencies, as provided in Section 20.15.10. 2. A. 3. [New ordinance citation]

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.15.2.A, Light Industrial District, will be amended to read as follows:

20.15 Industrial Land Use District

20.15.15. Light Industrial Districts: LI

1. **Purpose.** The Light Industrial District or "LI" District is intended to provide for general industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment and other uses not compatible in Industrial Park or Campus Industrial areas.
2. **District Standards and Uses.** LI Districts and uses shall comply with the following:
 - A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage uses except any use having the primary function of storing, utilizing or manufacturing explosive materials.
2. Wholesale and distributive activities.
3. ~~Public service or utility uses other than those providing on-premise services to individuals and the general public.~~ Operation centers. If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair, washing and servicing of vehicles is limited to fleet vehicles parked on site or in the agency's ownership.
 - b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.

c. The following automotive service activities are not required to be conducted within the enclosed building.

- [1] Vehicle fueling from a stationary source;
- [2] Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
- [3] Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

- 4. Research laboratory.
- 5. Public parks, parkways, recreational facilities, trails and related facilities.
- 6. Administrative, educational and other related activities and facilities subordinate to a permitted use on the same premises as the principal use.
- 7. Cold storage plants.
- 8. Heavy equipment sales, including incidental service and repair.
- 9. Fuel oil distributors.
- 10. Printing, publishing and book binding.
- 11. Retail or combination retail/wholesale lumber and/or building materials yard.

12. Storage or sale yard for contractors equipment, house moving, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition. [ORD 4071; October 1999]
13. Storage yard for building materials.
14. Trailer, recreational vehicle or boat storage.
15. Accessory structures and uses to a particular permitted use.
16. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots but not within 200 feet of a residential zone.
17. Auto, truck and trailer rental.
18. Mini storage.
19. Nursery, daycare facilities. (See also Special Use Regulations Section, Uses Requiring Special Regulations - Nursery Schools, Day or Child Care Facilities.)
20. Automotive services, Minor or Major, entirely within enclosed building, except for fleet vehicle maintenance and repair associated with operations centers for public agencies, as provided in Section 20.15.15. 2. A. 3.c [New ordinance citation] [ORD 3975, February 1997]

Section 3: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 90 – Definitions, will be amended to read as follows:

Automotive Services, Minor. [ORD 3975, February 1997] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: ~~Gasoline service stations retail and wholesale fuel sales; tire sales or installation; glass installation; oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, or other similar service or repair detail shops, or other similar service or repair.~~

Fleet Parking. Accessory parking to a primary use for the storage of operable motorized vehicles, including cars, light and heavy trucks and buses, when these vehicles are not needed to support the primary use's off-site activities, e.g., repair/maintenance, delivery, transportation. [New ordinance citation]

Operations Center. A centralized facility for a public agency, public or private utility, company or institution from which the on- and off-site construction, operation, maintenance and repair of the entity's sites, buildings and facilities is directed or, in the case of a transportation agency, the site from which vans, buses and other vehicles are dispatched. Activities related to the operations center may be conducted on- or off-site. The activities associated with such a facility may include one or more of the following activities: accessory offices and conference facilities; indoor/outside storage of equipment, parts and bulk materials; fleet parking of cars, trucks, buses, vans or other vehicles; employee and visitor parking; major and minor automotive services; sewer, water and storm water treatment facilities; and/or pump, transmission, switching stations and other related facilities. [New ordinance citation]

Staff Alternative:

~~**Operations Center.** A centralized facility for a public agency, public or private utility, company or institution from which the on- and off-site construction, operation, maintenance and repair of the entity's sites, buildings and facilities is directed or, in the case of a transportation agency, the site from which vans, buses and other vehicles are dispatched.~~

Public Agency. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as but not limited to those for transit, sanitary/stormwater treatment, water, fire, school, parks/recreation, drainage and lighting. [New ordinance citation]

The proposed amendments to the Development Code text as shown above are attached in Exhibit 1.1.

II. Facts and Findings

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA 2007-0002 (Operations Center):

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

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2007-0002 (Operations Center 2007) proposes to amend Chapter 20 and Chapter 90 of the Beaverton Development Code currently effective through Ordinance 4432 (March 2007).

Therefore, staff find that approval criterion 1 one has been met.

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

The proposed text amendment has been initiated by Howard Dietrich, Park Plaza LLC, as allowed by Development Code Section 50.05.2. Mr. Dietrich submitted a fee of \$4357.00 for a Text Amendment in accordance with the Land Use Fee Schedule adopted by the City Council by Resolution No. 3861 on June 13, 2006.

Therefore, staff finds that Criterion Number 2 has been satisfied.

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

Metro's Urban Growth Management Functional Plan is comprised of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy
- Title 3: Water Quality and Flood Management Conservation
- Title 4: Retail in Employment and Industrial Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Regional Accessibility
- Title 7: Affordable Housing

Title 8: Compliance Procedures and

Title 9: Performance Measures

TA 2007-0002 proposes to amend Development Code Chapter 20 and 90 to add "*Operations Centers*" as a permitted use in the IP and LI zoning districts. The applicant has completed a review of Metro's Urban Growth Management Functional Plan (UGMFP) concentrating on Title 4, Industrial and Other Employment Areas, and specifically on Section 3.07.430, *Protection of Industrial Areas*. The applicant describes that the proposed Operations Center use is a truly industrial use for both primary and accessory uses. The intent of UGMFP Title 4 is to protect the Regions supply of industrial and employment land in several ways. First, is to identify and protect "Regionally Significant Industrial Areas." Beaverton does not have any "Regionally Significant Industrial Areas" therefore the proposed amendment does not conflict with that portion of the Title 4. Title 4 also seeks to avoid the encroachment of less intensive land uses into industrial zoned land. The proposed Operations Center is primarily intended to clarify the language of existing allowed uses and does not propose to introduce additional less intensive uses to the City's industrial zones. The North American Industry Classification System does not have a specific classification for Operations Center public or private the sub-components of the Operation Center, such as heavy equipment storage, materials storage, equipment repair, are by definition industrial because of the nature of the activity. Staff has reviewed UGMFP and find that the proposed text amendment does not affect any of the other Titles related to regional growth.

Therefore, staff finds that the proposed text amendment is consistent with approval criteria 3.

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

The proposed amendment proposes to add a new permitted use for the both the IP and LI zoning districts. The applicant's narrative identified several Beaverton Comprehensive Plan Policies that are appropriate for review of the proposed amendment.

3.4.1 Goal: *Provide a policy framework for a community designed to establish a positive identity while enhancing livability*

- h) Private, semi-public, and public uses such as churches, non-commercial schools and parks that contribute to the livability of Beaverton shall be permitted or conditionally allowed in most City zoning districts.*

- i) *Subsequent to their development in another zoning district, quasi-public and public uses should be converted to the Public/Quasi-Public zoning district on a regular basis through a City-initiated process. This will assist the general public in being aware of the location of such developments in their community and respond to the community's investment in public resources. Modifying only the zoning district and not the land use designation provides for future redevelopment opportunities through the zoning process.*
- j) *Ensure public and private facilities, especially essential public facilities, are available and provided at the time of development to reduce initial and long-range costs to City businesses and residents.*

The applicant states that the centerpiece of the proposed amendment is the addition of "Operation Centers" to the list of permitted uses within the IP and LI zoning district and an amendment to Chapter 90, to define an Operations Center. Based on the proposed definition an Operations Center would be included as a critical facility. Staff find that Goal 3.4.1., Policy h, i, and j, support the inclusion of operations centers within the IP and LI zones districts because as either currently found or as developed in the future Operation Centers provide an important function in the deliver of critical facility to the public.

3.12.1 Goal: *Attractive, compatible industrial, manufacturing, warehouse, and heavy industrial development at locations in the City served by good transportation networks.*

- a) *Regulate new development in Industrial Areas to maintain economic function while buffering incompatible adjacent uses*

The applicant responds to the above Industrial Development Land Use Policies and in the process addressed two of the most important considerations for the introduction of a new permitted use, land use incompatibility and consistency with Metro 2040 UGMFP.

The applicant responds to the possible incompatibility of the land uses associated with an Operations Centers by describing that proposed amendment requires any significant service or maintenance of vehicles to occur within an enclosed building. Additionally, the proposed amendment does not propose any change to the Site Development standards found in Section 20.15.50 currently intended regulate industrial zoned land that directly abuts residentially zoned land. For example, the 75 foot setback from any residentially zoned property required by Section 20.15.50.3.E. Furthermore, the proposed amendment does not effect the requirement of an

Operations Center or any industrial use to meet the vibration, odor, and heat and glare performance standards found in Development Code Section 20.15.65 and intended to protect surrounding property owners from potential incompatible uses.

Staff find that the proposed text amendment does not impact the City's industrially zoned land and therefore continues to meet both the City and industrial needs.

6.2.4. Goal: *An efficient transportation system that reduces the percentage of trips by single occupant vehicles, reduces the number and length of trips, limits congestion, and improves air quality.*

- a) Support and implement trip reduction strategies developed regionally, including employment, tourist, and recreational trip reduction programs.*

The applicant responds to Goal 6.2.4, Transportation Policy "a" by stating that the inclusion of Operations Center in the IP zoning districts will enable the repair and maintain of fleet vehicles on-site rather than moving them to other locations where the Auto Service-Minor use is a permitted use. Staff also find that by providing an explicit use designation of Operation Center in the IP and LI industrial zones facilities can be decentralized thereby reducing vehicle miles driven, which in turn supports reductions in congestion, energy use, and pollution.

Therefore, staff finds that the proposed text amendment is consistent with approval criterion four.

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

The proposed amendment does not impact or conflict with other provisions within the Development Code. As described earlier in the report the text amendment proposes to add "*Operations Center*" to the list of permitted uses in the IP and LI zoning districts and includes a definition of Operations Center in Chapter 90. None of the proposed amendments to the Development Code affect other provisions of Chapters 20 (Land Use), 30 (Non-Conforming Uses), 40 (Applications), 50 (Procedures), 60 (Special Regulations), or 90 (Definitions).

Therefore, staff finds that approval criterion 5 has been met.

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

The current Development Code and Ordinance No. 4187, which adopted the current Comprehensive Plan, are applicable to the proposed text amendment and are addressed in the findings of fact for approval criterion four and five. Staff did not identify additional City ordinance requirements and regulations contained in the Development Code or Beaverton Code that would be affected by or would conflict with the proposed text amendments.

Therefore, staff find that approval criterion 6 has been met.

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

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

Therefore, staff finds that approval criterion 7 has been met.

III. Conformance with Statewide Planning Goals

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

GOAL ONE - CITIZEN INVOLVEMENT

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

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

GOAL TWO - LAND USE PLANNING

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

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 1800, and most recently amended by Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4432). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The proposed Development Code amendment has been processed in accordance with Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application) of the Development Code. Section 40.85 contains specific approval criteria for the decision-making authority to apply during its consideration of the text amendment application. Section 50.50 (Type 4 Application) specifies the minimum required public notice procedures to insure public input into the decision-making process. The City of Beaverton's Comprehensive Plan is consistent with Statewide Planning Goal 2.

IV. Conclusion and Staff Recommendation

Establishing a use entitled "Operation Centers" as a permitted use in the IP for public entities and for public or private entities in the LI zones does not introduce a use that is inconsistent with the intent of either of these industrial zones. By purposefully excluding the Operation Center use from the Campus Industrial (CI) zone, staff recommend that the CI zone will continue to provide the opportunity for higher intensity employment uses anticipated by the Beaverton Comprehensive Plan and Development Code.

Based on the facts and findings presented, by staff and the applicant staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7. Therefore, staff recommend the Planning Commission **APPROVE** TA 2007-0002 (Operations Center 2007) at the May 16, 2007 regular Commission hearing.

V. Exhibits

- Exhibit 1.1 Applicant's Submittal and Proposed Text Amendment
- Exhibit 1.2 Henry Kane Letter
- Exhibit 1.3 Henry Kane Submittal, May 16, 2007 (Copy of ORS 197.XXX)
- Exhibit 1.4 Copies of Revised Operations Center Text – Track Changes and Clean Copies

I. SUMMARY OF PROPOSAL

Applicant/Owner: Howard Dietrich, President
Park Plaza LLC
PO Box 82448
Portland, Oregon 97282
Telephone: 503.975.3578
Facsimile: 760 773.1025

RECEIVED
FEB 27 2007
City of Beaverton
Development Services

Land Use Rep: Beverly Bookin, AICP, Principal
The Bookin Group LLC
1020 SW Taylor Street, Suite 760
Portland, Oregon 97205
Telephone: 503 241 2423
Facsimile: 503.241.2721
E-Mail: bookin@bookinggroup.com

Request: Approval of a Type 4 Zoning Code Text Amendment modifying regulations in Sections 20.15.10, Industrial Park (IP) District, and 20.15.15, Light Industrial (LI) District, and related new definitions in Chapter 90, Definitions, to:

- Create a definition for an "Operations Center" as an allowed use in both zones, replacing the current allowed use, "Public Services and Utility Uses".
- Clarify the conditions under which "Major and Minor Automotive Services" can be undertaken on the site of "Operations Centers" for the fueling, maintenance and minor repair of fleet vehicles associated with the operation of the facility and/or owned and operated by the facility's owner.

Summary: The Applicant wishes to propose a Type 4 Zoning Code Text Amendment modifying provisions for an outright use, "Public Services or Utility Uses", in the IP and LI zoning districts to be renamed as "Operations Centers" and clarify under what conditions fleet vehicles at such facilities may be fueled, maintained and repaired on site. Operations centers may be operated by such public agencies as cities, counties and special districts and such private entities as utilities, companies or institutions

As the Applicant owns several properties in the IP and LI zones, these regulations will make the sale or lease of these properties more attractive to users, including public agencies, looking for sites for such operations centers, as these regulations will permit on-site automotive fueling, maintenance and repair of fleet vehicles related to the center's operations. This is opposed to transporting the vehicles to an off-site location for these activities. These regulations are in the public interest because it is cost-efficient and energy-conserving to service fleet vehicles on the site where they are stored and/or from which they are dispatched. Moreover, many operations centers are operated by public agencies such as the City of Beaverton, Beaverton School District, Clean Water Services and TriMet, as is the case in Beaverton.

EXHIBIT 1.1

II. DESCRIPTION OF PROPOSAL

Summary. The Applicant requests approval of a Type 4 Zoning Code Text Amendment modifying regulations in Sections 20.15.10, Industrial Park (IP) District, and 20.15.15, Light Industrial (LI) District, and related new definitions in Chapter 90, Definitions, related to "Operations Centers". The proposed amendments are contained in the appendix and discussed in greater detail below.

Discussion. From a technical perspective, the regulations are designed to address two elements:

- Create a new definition in Chapter 90 for "Operations Center" as a replacement for the existing "Public Services or Utility Uses" now allowed in both zones by right.
- Explicit recognition that one of the associated uses at an operations center is fleet parking of vehicles and equipment and clarification of the extent that such vehicles can be fueled, repaired and maintained on the site.

The proposed text amendments are complicated and nuanced in and of themselves, further complicated by the fact that they are proposed for two zoning districts, the Industrial Park (IP) and Light Industrial (LI), which are intended to have a somewhat different intensity of industrial development. The proposal is described at length below.

New Definition of "Operations Center" As a first step, the proposed text amendments would modify "Public Services or Utility Uses", currently an outright use in both the IP and LI zoning districts (Sections 20.15.10.2.A.3 and 20.15.15.2.A.3, respectively) for which there is not a formal definition, to be replaced by "Operations Centers", with its own, fuller definition in Chapter 90, Definitions, as follows:

Operations Center. A centralized facility for a public agency, public or private utility, company or institution from which the on- and off-site construction, operation, maintenance and repair of the entity's sites, buildings and facilities is directed or, in the case of a transportation agency, the site from which vans, buses and other vehicles are dispatched. Activities related to the operations center may be conducted on- or off-site. The activities associated with such a facility may include one or more of the following activities: accessory offices and conference facilities; indoor/outside storage of equipment, parts and bulk materials; fleet parking of cars, trucks, buses, vans or other vehicles; employee and visitor parking; major and minor automotive services; sewer, water and storm water treatment facilities; and/or pump, transmission, switching stations and other related facilities. [New ordinance citation]

This definition replaces the fragment of description for "Public Services or Utility Uses", that is, ". . . including vehicle storage and incidental service and repair", which it is proposed to be eliminated in both sections.

Distinction between "Public" and "Private" Operations Centers. Because the Industrial Park (IP) zoning district is designed to be the "middle ground" between the less intense Campus Industrial (CI) and the more intense Light Industrial (LI) Districts, it appears to be the City's intent to limit the range of outright uses and development standards to create industrial activities that are generally contained within buildings with limited outdoor storage and fleet parking activities. This is indicated by the fact that "Storage or sale yard for contractors['] equipment, house mover, delivery vehicles. . . ." [20.15.10.2.C.4] and "Automotive Services, Major and Minor" [20.15.10.2.C.7], respectively, are explicitly prohibited in the IP zoning district. On the other hand, these storage and automotive service activities are permitted by right (Sections 20.15.15.2.A.12 and 20.15.15.2.A.20, respectively) in the LI zone.

For this reason, it is proposed that "operations centers" in the IP zone be limited to those associated with "public agencies", whereas any "operations center" including those associated with a "private utility, company or institution" would be permitted by right in the LI zone. Included in the "generic" definition of "operations center" presented above, examples of such private entities include electric and natural gas utilities, satellite television companies, electrical and plumbing contractors, public and private college systems and private health care systems. To further distinguish "operations

centers" associated with public and private entities, a new definition of "public agency" in Chapter 90, Definitions, as follows:

Public Agency. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as but not limited to those for transit, sanitary/stormwater treatment, water, fire, school, parks/recreation, drainage and lighting [New ordinance citation]

This is of more than academic interest as Beaverton is the site of at least six publicly-owned operations centers, including its own Operations/Maintenance Facility (9600 SW Allen Boulevard, Beaverton School District's Bus Dispatch Facilities (1270 NW 167th Place, 10420 SW Allen Boulevard and 10550 SW 5th Street, respectively); TriMet's Merlo Maintenance Facility/Bus Barn (16130 SW Merlo Road); and Clean Water Services' (CWS) Field Operations Facility (2025 SW Merlo Court). These are located in a variety of zones including the IP zone (City and Beaverton Bus Facilities on Allen Boulevard and SW 5th Street, respectively); Station Community-Employment (SC-E) (TriMet and CWS), and Interim Washington County zoning (Beaverton School District's NW 167th Place Bus Barn). It can be argued that these operations centers are an integral element of the City's and special service districts' ability to implement their missions for providing and maintaining public services and facilities.

In all of these, fleet parking is an accessory use. In the case of the City's and CWS' operational facilities, fleet parking consists of vehicles and other heavy equipment that are stored and maintained on-site and dispatched to off-site locations for street, facility, stormwater and other related infrastructure construction and maintenance. On the other hand, the School District's and TriMet's Bus Barns provide off-use storage for buses, vans and other vehicles that are used to carry out these agencies' transportation services.

Further Clarification of "Fleet Parking" at Operations Centers. In both the IP and LI zoning districts, it is further proposed that the phrase: "... including vehicle storage and incidental service and repair" be replaced explicitly with the specific activity applying to the maintenance of fleet vehicles and equipment, that is "major and minor automotive services", and if provided, the conditions under which such activities are regulated would include:

..... ...If major and minor automotive services are provided, the following limitations shall apply:

- a. Fueling, repair and servicing of vehicles is limited to fleet vehicles parked on site or in the agency's ownership.
- b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.
- c. The following automotive-related activities are not required to be conducted within the enclosed building:
 - (1) Vehicle fueling;
 - (2) Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
 - (3) Emergency repair of disabled vehicles, e.g., tire replacement [New ordinance citation]

For purposes of these regulations, minor changes in the definition of "Automotive Services, Minor" is proposed in Chapter 90, Definitions, as follows:

Automotive Services, Minor. [ORD 3975, February 1997] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: ~~Gasoline service stations~~ retail and wholesale fuel sales; tire sales or installation; glass installation; oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, or other similar service or repair

This includes the substitution of "gasoline service stations" with more descriptive "retail and wholesale fuel sales" and the addition of "oil changes and lubrications, general engine maintenance

and repair”, which adds further detail about the acceptable range of activities that qualify as “minor” automotive services as they would apply generically throughout the City and specifically for fleet maintenance at operations centers as defined above

As noted above, in the IP zone, which is meant to accommodate uses and activities in a more “industrial park” setting, existing related uses, “Storage or sale yard for contractors['] equipment, house mover, delivery vehicles. ...” [20.15.10(2)(C)(4)] and “Automotive Services, Major and Minor” [20.15.10(2)(C)(7)], respectively, are explicitly prohibited. For this reason, exceptions are proposed at the end of both (4) and (7) as follows: “ ... except for the storage activities associated with operation centers for public agencies as provided in 20.15.10.2.A.3.”; and “...except for fleet vehicle maintenance and repair associated with operation centers for public agencies, as provided in Section 20.15.10.2.A.3”, respectively. Because these uses are allowed by right in the LI zone, these same exceptions are proposed but without the modifier “for public agencies”. This ensures that there is at least one zoning district, the City’s most intense, where operations centers for private utilities and other private entities will be permitted.

Rationale. Although brought forward by a private property owner, as opposed to the City of Beaverton itself, the proposed amendments to the IP and LI zoning districts and related modified and new definitions in Chapter 90 are in the public interest.

- An “Operations Center” is a centralized location from which public agencies and private entities dispatch employees, vehicles and materials in the construction, management, maintenance and repair of an off-site system of infrastructure, facilities and/or buildings. In the case of transit or transportation agencies, these provide for the centralized storage and maintenance of vans, buses and other vehicles used in carrying out the entity’s transportation activities. Because such operations centers frequently are characterized by extensive outdoor storage of vehicles, equipment and materials, they are inherently “industrial” in character and, therefore, should be permitted by right or conditionally in at least one of the City’s three industrial zoning districts
- A significant proportion of such operations centers are public agencies such as cities, counties and special districts. Beaverton has at least six of these including its own City operations center on SW Allen Boulevard and those associated with CWS, TriMet and Beaverton School District. As such centers are necessary to construct and maintain public infrastructure or otherwise provide public services, it is in the public interest to at least allow operations centers associated with public agencies in the broadest range of zoning districts as possible.
- Fleet parking of vehicles and equipment is an integral activity associated with an operations center. Permitting the on-site maintenance and repair of such fleet vehicles is more efficient and energy conserving than having to move the vehicles to another site for these functions. Moreover, since operations centers are considered industrial uses, where better to have such functions than on the site itself, especially if the nature, range, and development restrictions for such activities are detailed in the zoning code.

III. LEGAL JUSTIFICATION

Summary. The Applicant requests approval of a Type 4 Zoning Code Text Amendment modifying regulations in Sections 20.15.10, Industrial Park (IP) District, and 20.15.15, Light Industrial (LI) District, and related new definitions in Chapter 90, Definitions, to:

- Create a definition for "Operations Center" as an allowed use in both zones, replacing the current allowed use, "Public Services and Utility Uses".
- Clarify the conditions under which "Major and Minor Automotive Services" can be undertaken on the site of an "Operations Center" for the fueling, maintenance and minor repair of fleet vehicles associated with the operation of the facility

Approval Criteria. The following approval criteria for a Type 4 zoning code text amendment are specified in Section 40.85.1.C 1-7 as follows:

1. The proposal satisfies the threshold requirements for a Text Amendment application. According to Section 20.85.15.1.A, the threshold for a Type 4 Text Amendment is met when "any change to the Development Code, excluding changes to the zoning map" is proposed. The proposed changes in this application apply to clarification/modification of allowed uses in the Industrial Park (IP) and Light Industrial (LI) zoning districts related to "operations centers" and related modified or new definitions in Chapter 90, Definitions. If adopted, these would change the text of the zoning code but not the zoning map, either related to a specific site zoned IP or LI, or to the entire class of properties so zoned. Thus, the proposal does meet the threshold requirements of Section 20.85.15.1.A, per this criterion.
2. All City application fees related to the application under consideration by the decision-making authority have been submitted. A check for \$4,357.00 has been submitted with this application, per the permit fee list contained on the City's website. This approval criterion is met.
3. The proposed Text Amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan. Compliance with the provisions of the Metro Urban Growth Management Functional Plan is demonstrated below, to address this approval criterion.
4. The proposed Text Amendment is consistent with the City's Comprehensive Plan. Compliance with the provisions of the City's Comprehensive Plan is demonstrated below, to address this approval criterion.
5. The proposed Text Amendment is consistent with the other provisions within the City's Development Code. The proposed body of deletions, modifications and additions are those needed to address this specific issue, that is, clarification of an outright use, "operations centers", in the IP and LI zones, specific accessory activities and facilities permitted as part of such a use, and related definitions. Assuming this package of amendments is approved, any applicant for such a use would be required to meet all of the other relevant development code provisions. This approval criterion is met.
6. The proposed Text Amendment is consistent with all applicable City ordinance requirements and regulations. This is the same as #5 above. This approval criterion is met.
7. Applications and documents related to the request, which require further City approval, shall be submitted to the City in the proper sequence. The application for the proposed body of text amendments is complete so that no additional applications or documents are required. This approval criterion is met.

Metro Urban Growth Management Functional Plan

Title 4: Industrial and Other Employment Areas

3.07 430 Protection of Industrial Areas

- A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project,..... The proposed “operations center” is a truly industrial use, that is, the staging area for the construction, maintenance and repair of public and private infrastructure or storage and maintenance of transit/transportation-related vehicles. Moreover, the clarification of accessory uses related to “major and minor automotive services” for such “operations centers”, also are industrial in character, as they are provided only for fleet vehicles associated with the operation of such centers or otherwise owned by the operations center’s owner. This provision of Title 4 does not apply.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on Metro’s Freight Network Map, November, 2003. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses. This provision does not apply as the primary use, “operations centers”, and related accessory uses, “major and minor automotive services”, are industrial in character.
- C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004. This provision does not apply as the primary use, “operations centers”, and related accessory uses, “major and minor automotive services”, are industrial in character.
- D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows.... These provisions do not apply as clarification of outright uses in the IP and LI zoning districts in no way affect future land divisions in the City of Beaverton’s designated Title 4 Industrial and Employment Areas.
- E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor space and 10 percent more land area. This provision does not apply as the modifications being sought are text amendments related to an outright industrial use in the IP and LI zoning districts and do not apply to a specific parcel where such non-conforming facilities may exist.

City of Beaverton Comprehensive Plan Goals and Policies

LAND USE ELEMENT

3.2 PLANNING CONTEXT

3.4.1 Goal: Provide a policy framework for a community designed to establish a positive identity while enhancing livability.

Policies:

- h) Private, semi-public, and public uses such as churches, non-commercial schools and parks that contribute to the livability of Beaverton shall be permitted or conditionally allowed in most City zoning districts. As the centerpiece of these Development Code text amendment modifications, "operations centers" are critical facilities for the provision of public infrastructure and transit services and for private utilities and other similar uses. However, "operations centers" are clearly industrial in character – that is, feature the outdoor storage of equipment, materials and fleet vehicles -- and, therefore, are typically not appropriate in non-industrial zones. For this reason, the text amendments apply to "operations centers" as an outright use in only the IP and LI zoning districts. This policy is met.
- i) Subsequent to their development in another zoning district, quasi-public and public uses should be converted to the Public/Quasi-Public zoning district on a regular basis through a City-initiated process. This will assist the general public in being aware of the location of such developments in their community and respond to the community's investment in public resources. Modifying only the zoning district and not the land use designation provides for future redevelopment opportunities through the zoning process. This policy does not apply as the generic use, "operations centers", are a legitimate use for both public agencies and private entities. Given the nature of the use, which is industrial in character, operations centers are most appropriately located in the more intense industrial zones regardless of public or private ownership.

PUBLIC FACILITIES AND SERVICES ELEMENT

5.7.1 Goal: Cooperate with the Beaverton School District in its efforts to provide the best possible educational facilities and services to Beaverton residents.

POLICIES:

- a) The City shall encourage the School District to provide facilities that will adequately accommodate growth while recognizing the limited supply of buildable land in the city for such facilities. Bus operational centers, where school buses are stored, maintained, repaired and dispatched, is an important accessory use for the school system. Such facilities are among those included in the proposed definition of both "operations centers" (... "or, in the case of a transportation agency, the site from which vans, buses and other vehicles are dispatched"....) and "public agency", (...special service districts such as those for.....school....). This policy is met
- d) The City shall work cooperatively with the School District in implementation of the Comprehensive Plan through the District's various programs, joint acquisition and development efforts. As noted above, assisting the school district to establish and operate accessory uses, such as bus operational centers, is in keeping with this policy.
- e) The City shall notify the School District when considering Comprehensive Plan or land use regulation amendments that may significantly impact school capacity. These proposed Development Code text amendments do not affect school capacity but are related to clarifying and facilitating the establishment of accessory activities such as bus operations centers needed for efficient and smooth operation of the district. This policy is met.

3.12 INDUSTRIAL DEVELOPMENT

3.12.1 Goal: Attractive, compatible industrial, manufacturing, warehouse, and heavy industrial development at locations in the City served by good transportation networks.

Policies:

- a) Regulate new development in Industrial Areas to maintain economic function while buffering incompatible adjacent uses. By definition, "operations centers" are industrial in character. The purpose of the text amendments are to clarify the definition of such uses and, if "major or minor automotive services" are to be undertaken on the site, under what conditions. As noted in Sections 20.15.10.2.A.3.b and 20.15.15.2.A.3.b, respectively, such automotive functions must be undertaken within an enclosed building with the exception of very minor activities contained in subsection (c) such as vehicle fueling, routine check of fluid levels and tire pressure and emergency repair of disabled vehicles. This is to insure that any noise, light, vibration and other potential negative impacts can be ameliorated to the greatest extent possible. This is an added protection because most IP and LI zoning districts in the City are not adjacent to residential areas in any event. This policy is met.
- b) Apply the Industrial Area land use designation consistent with the 2040 Regional Urban Growth Concept Map. This does not apply as the proposed changes to the text of two of the City's three industrial zoning districts does not affect Metro 2040 mapping. As noted above, the proposed text modifications are consistent with Metro's Title 4, Industrial and Employment Areas, as they clarify and modify an industrial use that is appropriate for development in such zones. This policy is met.
- c) Apply industrial zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix to provide appropriate locations for different types of industrial development. This policy does not apply because it addresses the zoning map, i.e., the appropriate locations of industrial zoning within the City, as opposed to the proposal, which affects the zoning text.
- d) Promote good design in developing industrial areas to provide a positive contribution to the community environment. The clarification of "operations centers" and their related accessory uses do not affect the design of industrial uses per se. This policy does not apply.
- e) Industrial development shall recognize and respect the character of the surrounding development. Again, the clarification of "operations centers" and their related accessory uses do not affect the design of industrial uses per se. This policy does not apply.
- f) Ensure that adequate traffic circulation, off-street parking, and loading and service areas are provided to serve the existing and projected development in industrial areas. This policy addresses the broader designation of industrial areas and the design standards by which individual properties are developed. The proposed text amendments are neutral with regard to the design and functioning of such industrial areas. This policy does not apply.

TRANSPORTATION ELEMENT

6.2.4. **Goal: An efficient transportation system that reduces the percentage of trips by single occupant vehicles, reduces the number and length of trips, limits congestion, and improves air quality.**

Policies:

- a) Support and implement trip reduction strategies developed regionally, including employment, tourist, and recreational trip reduction programs. Providing for on-site repair and maintenance of fleet vehicles stored and/or dispatched from an operations center eliminates the trips necessary to move these vehicles off-site to obtain these services. This policy is met.

APPENDIX

20.15. INDUSTRIAL LAND USE DISTRICTS**20.15.05. Campus Industrial Districts: CI [No change]****20.15.10. Industrial Park Districts: IP**

1. **Purpose.** The Industrial Park District or "IP" District is intended to provide sites for manufacturing, distribution and industrial uses.
2. **District Standards and Uses.** IP Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage except the uses detailed in C.1. and C.2., which are prohibited in the districts.
2. Wholesale and distributive activities.
3. Operations centers for p Public services or agencies. utility uses, including vehicle storage and, incidental service and repair. [ORD 4093; March 2000] If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair and servicing of vehicles is limited to fleet vehicles parked on site or in the agency's ownership.
 - b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.
 - c. The following automotive-related activities are not required to be conducted within the enclosed building:
 - (1) Vehicle fueling;

- (2) Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
- (3) Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

4. Research laboratory.....[No further change to this section proposed.]

B. Conditional Uses: (Subject to Section 40.15) [No changes.]

C. Prohibited Uses:

- 1. Any use having the primary function of storing, utilizing or manufacturing explosive materials.
- 2. Any principal use involving the rendering of fats, the slaughtering of fish or meat, or the fermenting of foods such as sauerkraut, vinegar or yeast.
- 3. Retail or combination retail-wholesale lumber and/or building materials yard, not including concrete mixing.
- 4. Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers for public agencies, as provided in 20.15.10. 2. A. 3. ~~public transit vehicles.~~ [ORD 4093; March 2000] [New ordinance citation]
- 5. Trailer sales or repair.
- 6. Eating or drinking establishments providing drive-in (windows) or take-out serving market areas outside the Industrial Park District. [ORD 3975, February 1997]
- 7. Automotive Services, Major or Minor [ORD 3975, February 1997], except for fleet vehicle maintenance and repair associated with operations centers or otherwise in the ownership of public agencies, as provided in Section 20.15.10. 2. A. 3. [New ordinance citation]

8. Mobile home parks and subdivisions. (OED 3739).....[No further changes proposed.]

20.15.15. Light Industrial Districts: LI

1. **Purpose.** The Light Industrial District or "LI" District is intended to provide for general industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment and other uses not compatible in Industrial Park or Campus Industrial areas.
2. **District Standards and Uses.** LI Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage uses except any use having the primary function of storing, utilizing or manufacturing explosive materials.
2. Wholesale and distributive activities.
3. ~~Public service or utility uses other than those providing on premise services to individuals and the general public.~~ Operations centers. If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair and servicing of vehicles is limited to fleet vehicles parked on site or in the agency's ownership.
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- [3] Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

- 4. Research laboratory.....
- 12. Storage or sale yard for contractors equipment, house moving, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition. [ORD 4071; October 1999]



Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers, as provided in 20.15.15. 2. A. 3. public transit vehicles. [ORD 4093; March 2000] [New ordinance citation]
- 13. Storage yard for building materials.
- 14. Trailer, recreational vehicle or boat storage.
- 15. Accessory structures and uses to a particular permitted use.
- 16. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots but not within 200 feet of a residential zone.
- 17. Auto, truck and trailer rental.
- 18. Mini storage.
- 19. Nursery, daycare facilities. (See also Special Use Regulations Section, Uses Requiring Special Regulations - Nursery Schools, Day or Child Care Facilities.)

20. Automotive services, Minor or Major, entirely within enclosed building, except for fleet vehicle maintenance and repair associated with operations centers or otherwise in the ownership of public or private operator, as provided in Section 20.15.15. 2. A. 3. [New ordinance citation] [ORD 3975, February 1997]

B. Conditional Uses:..... [No changes proposed.]

Henry Kane
12077 SW Camden Lane
Beaverton, OR 97008
503.643-4054
May 9, 2007

Chair and Members
City of Beaverton Planning Commission
PO Box 4755, Beaverton, OR 97076

MAY 09 2007
COMMUNITY DEVELOP DEPT.

Re: Text Amendment, TA2007-0002
"First Evidentiary hearing" and "Final Hearing" on MAY 16, 2007.

Greetings:

For the reasons set forth below, the undersigned Beaverton resident, elector and property tax taxpayer since 1973 opposes Text Amendment TA2007-0002.

On Tuesday evening, May 8, 2007, the Land Use Subcommittee of the Beaverton Committee for Community Development (BCCI), Beaverton's statutory land use advisory committee, cast a unanimous "no" vote. I am a member of said subcommittee, Vose NAC delegate to the BCCI, and voted "no."

The "no" vote followed discussion between subcommittee members and Planner Colin Cooper.

The summary part of the "Notice of Proposed Amendment" states:

"The text amendment proposes to add the use 'Operations Center' for public entities as a permitted use in Sections 20.15.10 (Industrial Park District), 20.15.15 (Light Industrial District), and Chapter 90 (Definitions). An Operations Center would include offices to support on-site activity of parking and customary maintenance of fleet vehicles and miscellaneous equipment." (emphasis added)

Applicant is Howard Dietrich, President, Park Plaza LLC, and is best known locally as the owner of the now-demolished Greenwood Inn on Allen Blvd. east of Highway 217.

Page 1 of the 'Summary of Proposal' claims:

"As the Applicant owns several properties in the IP and LI zones, these regulations will make the sale or lease of these properties more attractive to users * * *."

However, what is financially attractive to Mr. Dietrich is not dispositive.

"What is good for General Motors" is not necessarily "good" for the United States.

What is financially good for Mr. Dietrich is not necessarily "good" for adjacent and nearby residents, homeowners, businesses and school students adversely affected by toxic fumes and particulate matter, vibrations, noise, and odors.

The summary claims:

" * * * these regulations **will permit** on-site automotive fueling, maintenance and repair of fleet vehicles related to the center's operations." (emphasis added)

Mr. Dietrich would have the Planning Commission believe that the Beaverton Development Code regulating Industrial Park (IP) and Light Industrial (LI) districts **does not now** "permit on-site automotive fueling, maintenance and repair of fleet vehicles * * *."

The above-quoted claim is false.

The summary makes the following "red herring" claim:

" * * * This is opposed to transporting the vehicles to an off-site location for these activities."

The undersigned states as a fact that there is **no relationship** between the proposed "Operation Centers" and "transporting the vehicles to an off-site location for these activities," above.

Applicant at the May 16, 2007 public hearing can offer oral and written testimony and exhibits to contradict or challenge the within written testimony.

Oregon Uniform Jury Instruction 10.40 states:

If you find that any person has intentionally given false testimony in some part, you should distrust the rest of that person's testimony." (emphasis added)

In response to questions from BCCI land use subcommittee members, Mr. Cooper said public bodies with "fleet" vehicle activities could continue to do what they do without the proposed Text Amendments.

The Commission should reject the controversial text amendments pursuant to the following wisdom:

"If it's not broke, don't 'fix it!'"

The Commission should ask Beverly Brookin, Mr. Dietrich's land use representative, to answer the following questions:

1. Which public agencies in Washington County, if any, must transport its vehicles to "an off-site location for these activities."
2. Does the Beaverton School District support the proposed Text Amendments, and if so, the BSD's reasons?
3. Which public agencies, if any, in Washington County do not have an on-site building for maintenance of motor vehicles?

The Planning Commission can and should take official notice that there is little vacant land in Beaverton zoned for industrial uses.

The Text Amendment would allow construction of commercial office buildings in industrial zones on the claim they are "Operation Centers."

Commercial office buildings should not occupy scarce industrial-zoned land as a matter of public policy.

Conclusion

The Planning Commission should reject the challenged, controversial Text Amendments.

They are a "solution looking for a problem" when there is no "problem."

There is no need for text amendments for the sake of "clarity" when Beaverton Development Code sections governing "Industrial Park" and "Light Industrial" districts are plain clear and unambiguous. They do not require the Text Amendments for "clarity."

Respectfully submitted,



Henry Kane, OSB 61045-Inactive
Opponent

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EXHIBIT 1.2 68

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Respectfully submitted,



Henry Kane, OSB 61045-Inactive
Opponent

KAWA EX. 1

(5) At the commencement of a hearing under a comprehensive plan or land use regulation, a statement shall be made to those in attendance that:

- (a) Lists the applicable substantive criteria;
- (b) States that testimony, arguments and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
- (c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the board based on that issue.

(6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing pursuant to paragraph (b) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (c) of this subsection.

(b) If the hearings authority grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.

(c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.

(d) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179, unless the continuance or extension is requested or agreed to by the applicant.

(e) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

(7) When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

(8) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(9) For purposes of this section:

- (a) "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.
- (b) "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. [1989 c.761 §10a (enacted in lieu of 197.762); 1991 c.817 §31; 1995 c.595 §2; 1997 c.763 §6; 1997 c.844 §2; 1999 c.533 §12]

EXHIBIT # 1.3
DATE 5/16/07

197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

(1) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.

(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(A) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(B) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(C) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(b) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(3) The notice provided by the jurisdiction shall:

(a) Explain the nature of the application and the proposed use or uses which could be authorized;

(b) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

(c) Set forth the street address or other easily understood geographical reference to the subject property;

(d) State the date, time and location of the hearing;

(e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

(f) Be mailed at least:

(A) Twenty days before the evidentiary hearing; or

(B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

(g) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(h) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(i) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and

(j) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(4)(a) All documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public.

(b) Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations of ORS 215.427 or 227.178 and ORS 215.429 or 227.179.

EXHIBIT 1.4

Chapter 20

Industrial Zones Track Changes

Industrial Zones without Track Changes (“Clean”)

Chapter 90

Definitions with Track Changes

Definitions without Track Changes (“Clean”)

20.15. INDUSTRIAL LAND USE DISTRICTS

20.15.05. Campus Industrial Districts: CI [No change]

20.15.10. Industrial Park Districts: IP

- 1. **Purpose.** The Industrial Park District or "IP" District is intended to provide sites for manufacturing, distribution and industrial uses.
- 2. **District Standards and Uses.** IP Districts and uses shall comply with the following:

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- 3. Operation centers for p Public services or agencies. utility uses, including vehicle storage and, incidental service and repair. [ORD 4093, March 2000] If major and minor automotive services are provided, the following limitations shall apply:
 - a. Fueling, repair, washing and servicing of vehicles is limited to fleet vehicles parked on site.
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Deleted: or in the agency's ownership.

Deleted: related

Deleted:

(3) Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

4. Research laboratory.....

B. Conditional Uses: (Subject to Section 40.15) [No changes]

C. Prohibited Uses:

1. Any use having the primary function of storing, utilizing or manufacturing explosive materials.

2. Any principal use involving the rendering of fats, the slaughtering of fish or meat, or the fermenting of foods such as sauerkraut, vinegar or yeast.

3. Retail or combination retail-wholesale lumber and/or building materials yard, not including concrete mixing.

4. Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers for public agencies, as provided in 20.15.10. 2. A. 3. public transit vehicles. [ORD 4093; March 2000] [New ordinance citation]

5. Trailer sales or repair.

6. Eating or drinking establishments providing drive-in (windows) or take-out serving market areas outside the Industrial Park District. [ORD 3975, February 1997]

7. Automotive Services, Major or Minor [ORD 3975, February 1997], except when associated with operations centers for public agencies, as provided in Section 20.15.10. 2. A. 3. [New ordinance citation]

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CHAPTER 90 – DEFINITIONS

(Draft: 5/21/07)

Deleted: 3

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The following words and phrases shall be construed to have the specific meanings assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term “shall” is always mandatory and the word “may” is permissive.

The masculine gender includes the feminine and neuter.

[ORD 4224; August 2002].....

Automotive Services, Major. [ORD 3975, February 1997] Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washing.

Automotive Services, Minor. [ORD 3975, February 1997] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: ~~Gasoline service stations fuel sales;~~ tire sales or installation; glass installation; ~~oil changes and lubrications, general engine maintenance and repair,~~ radiator repair, detail shops, or other similar service or repair..

Fleet Parking. Accessory parking to a primary use for the storage of operable motorized vehicles, including cars, light and heavy trucks and buses, when these vehicles are not needed to support the primary use’s off-site activities, e.g., repair/maintenance, delivery, transportation. [New ordinance citation]

Operations Center. A centralized facility from which the on- and off-site construction, operation, maintenance and repair of the entity’s sites, buildings and facilities is directed, or the site from which vans, buses and other vehicles are dispatched. Activities related to the operations center may be conducted on- or off-site. The activities associated with such a facility may include one or more of the following activities: accessory offices; indoor/outside storage of equipment, parts and bulk materials; fleet parking; employee and visitor parking; and major and minor automotive services; [New ordinance citation]

Deleted: for a public agency, public or private utility, company or institution

Deleted: in the case of a transportation agency.

Deleted: and conference facilities.

Deleted: sewer, water and storm water treatment facilities; and/or pump, transmission, switching stations and other related facilities

Public Entity. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as those for transit sanitary/stormwater treatment, water, fire, sheriff, school, drainage and lighting. [New ordinance citation]

CHAPTER 90 – DEFINITIONS

(Draft:: 5/21/07)

The following words and phrases shall be construed to have the specific meanings assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term “shall” is always mandatory and the word “may” is permissive.

The masculine gender includes the feminine and neuter.

[ORD 4224; August 2002].....

Automotive Services, Major. [ORD 3975, February 1997] Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washing.

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Public Entity. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as those for transit sanitary/stormwater treatment, water, fire, sheriff, school, drainage and lighting. [New ordinance citation]

Henry Kane
12077 SW Camden Lane
Beaverton, OR 97008
503.643-4054

May 23, 2007

Chair and Commissioners
City of Beaverton Planning Commission
PO Box 4755
Beaverton, OR 97076

MAY 23 2007
COMMUNITY DEVELOPMENT DEPT.

Re: Text Amendment, TA2007-0002

Greetings:

Many thanks for granting my motion for seven days to submit written testimony in opposition to the above-identified proposed text amendment.

Accompanying this post-hearing written testimony are:

My May 9, 2007 written testimony, and

The top half of the color zoning map of the City of Beaverton effective April 5, 2007.

The purpose of the map is to identify the Light Industrial (LI) zone colored dark blue occupied in part at 167th Place by the Beaverton School District's bus storage depot., The LI district is south of Cornell Road, north of Walker Road and between 158th on the east and 185th on the west. Marked in yellow next to the BSD property is the Five Oaks Middle School. An "X" in the left and top margins help identify the LI zoned land.

For some ten years starting in 1969, my law office was in the Park Plaza West office complex between SW Beaverton-Hillsdale Highway to the SW Fifth by-pass. With a few exceptions, the tracts that were vacant in 1969 remain vacant some three decades later.

Yes, the complete Beaverton zoning map identifies some LI zones.

However, Beaverton is largely "built out." Land that might be annexed and rezoned to any industrial zone is small to zero.

Based on personal knowledge, I state as a fact that (1) most of the land zoned Industrial is fully developed and (2) developable Industrial zoned land is small and in relatively small tracts.

If asked, I believe staff would confirm that developable Industrial zoned land is small and in relatively small tracts.

Because the City has little undeveloped industrial zoned land, I suggest that it is poor land use planning and public policy to allow a proposed Text Amendment that would allow construction of office buildings and conference facilities on scarce industrial zoned land.

It is good public policy that office buildings and conference facilities should be built only in zones permitting office buildings and conference facilities.

Beaverton Development Code 20.15.10.1 states:

- “1. **Purpose.** The Industrial Park District or ‘IP’ District is intended to provide sites for manufacturing, distribution and industrial uses.” (emphasis added)

BDC 20.15.15 states:

- “2. **Purpose.** The Light Industrial District or ‘LI’ District is intended to provide for general industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment and other uses not compatible in Industrial Park or Campus Industrial areas” (emphasis added)

BDC 20.15.10.1 and 20.15.15 do not mention office buildings.

To paraphrase Shakespeare:

“A building by any other name is a building.”

The noun “performance center” means a building or other facility for performance of music of all categories such as “rock,” symphonic concerts, plays from comedy to Greek tragedy, and “performance” entertainment activities.

Despite the “hype,” a “performance center” center as defined in proposed Chapter 90 – DEFINITIONS, includes:

“ * * * accessory offices and conference facilities * * *.”
(emphasis in text as new matter)

“[A]ccessory offices and conference facilities,” the purpose of the text amendment, are not industrial uses.

If applicant Dietrich or any other applicant desires to erect an office building or “conference facilities,” the applicant should select a site zoned for that purpose or

request an appropriate zone change.

Planner Colin Powell and I appear to have different recollections on the issue of whether he said he approved the text amendment application.

The BCCI Land Use subcommittee meets on the second Tuesday of each month.

The subcommittee met with Mr. Cooper between about 6:05 p.m. and 7p.m. on Tuesday, May 8, 2002. My recollection is that Mr. Cooper had with him a copy of the staff report, dated "May 9, 2007."

Page 1 of the staff report identifies "STAFF" as "Colin Cooper, AICP, Senior Planner.

The bottom of Page 1 states:

"RECOMMENDATION: Staff recommend APPROVAL of text amendment application TA 2007-0002 (Operations Center 2007)."

It appears that the staff report supports my recollection of what Mr. Cooper said to me – He supported the proposed text amendment.

Subcommittee members questioned Mr. Cooper for about one hour concerning the proposed text amendment. The closest to a justification he gave the subcommittee was that it made existing provisions more definite.

Mr. Cooper also said in my presence that a property owner could do what the text authorized without the text amendments.

With the exception of office buildings and conference facilities, I agree with Mr. Cooper.

The subcommittee cast a unanimous "no" vote opposing the proposed Text amendments.

Among the subcommittee members voting "no" was Jim Persey, a former BCCI president, chair of Neighborhood Cleanup Day this June 2 and earlier years, and all round volunteer for the betterment of Beaverton. He asked probing questions of Mr. Cooper.

The Commission may recall that Commissioner San Souci asked relevant questions of the applicant's representative. My recollection was a lot of arm movement and mention of parts of the text amendment by the representative, but little to no relevant information or justification for the proposed text amendments.

This opponent has drafted numerous legislative bills enacted into law as part of the Oregon Revised Statutes since the state's first election recount law in 1955.

Legislative bill drafting principles include "Every word must be relevant, plain, clear and unambiguous."

The text amendments are so prolix that if enacted, might illustrate "The Law of unintended consequences."

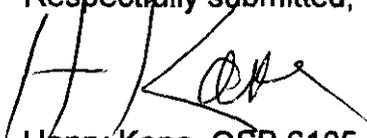
Were the proposed text amendments to become part of the Beaverton Development Code, I believe reaction to an application might be "We did not intend that."

BDC 10.60 states the applicant has the burden of proof.

The applicant has not complied with his burden of proof.

Therefore, the Commission should reject the proposed text amendments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H Kane", written over a horizontal line.

Henry Kane, OSB 6105-Inactive

Attachments

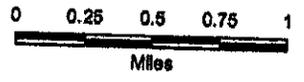
GEOGRAPHIC INFORMATION SYSTEM

ZONING MAP

Update Effective April 5, 2007

11,931.6 - Total Acres

City of
Beaverton



LEGEND

RESIDENTIAL

- R10 Urban Low Density
10,000 sq. ft. - Single Family
- R7 Urban Standard Density
7,000 sq. ft. - Single Family
- R5 Urban Standard Density
5,000 sq. ft. - Single Family
- R4 Urban Medium Density
4,000 sq. ft. - Single Family
- R3.5 Urban Medium Density
3,500 sq. ft. - Duplex / Multi-Family
- R2 Urban Medium Density
2,000 sq. ft. - Multi-Family
- R1 Urban High Density
1,000 sq. ft. - Multi-Family

COMMERCIAL

- CV Convenience Service Center
- CG Office Commercial
- NB Neighborhood Service Center
- CS Community Service
- GC General Commercial

MULTIPLE USE

- C-MU Corridor - Multiple Use
- BA-MDR Station Area - Medium Density
- BA-MU Station Area - Multiple Use
- BG-MDR Station Community - High Density
- BO-E Station Community - Employment
- BO-MU Station Community - Multiple Use
- Station Community - Sub Area
- TC-MDR Town Center - Med. Density Residential
- TC-MDR Town Center - High Density Residential
- TC-MU Town Center - Multiple Use
- RD-OT Regional Center - Old Town
- RD-E Regional Center - East
- RD-TO Regional Center - Transit Oriented

INDUSTRIAL

- CI Campus Industrial
- P Industrial Park
- U Light Industrial

INTERMUNICIPAL ZONING

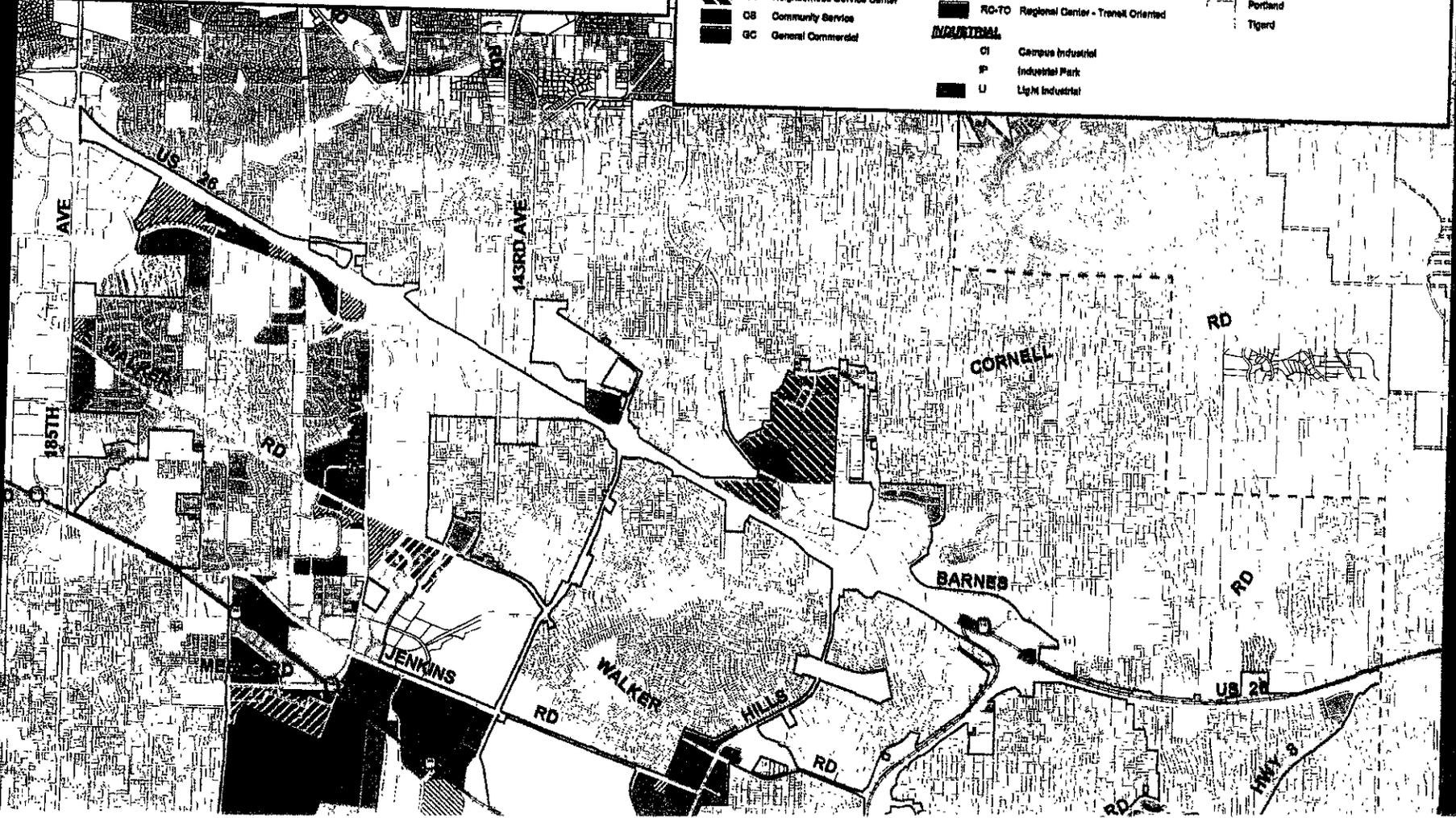
Wholly Intra Washington County Zoning

MISCELLANEOUS

- Beaverton City Limits
- Approved Annexations - (Effective at a later date)
- Taxlots
- Light Rail Station
- Light Rail Line
- Urban Growth Boundary
- County Line

OTHER CITY LIMITS

- Hillsboro
- Portland
- Tiger



Henry Kan
12077 SW Camden Lane
Beaverton, OR 97008
503.643-4054
May 9, 2007

Chair and Members
City of Beaverton Planning Commission
PO Box 4755, Beaverton, OR 97076

Re: Text Amendment, TA2007-0002
"First Evidentiary hearing" and "Final Hearing" on MAY 16, 2007.

Greetings:

For the reasons set forth below, the undersigned Beaverton resident, elector and property tax taxpayer since 1973 opposes Text Amendment TA2007-0002.

On Tuesday evening, May 8, 2007, the Land Use Subcommittee of the Beaverton Committee for Community Development (BCCI), Beaverton's statutory land use advisory committee, cast a unanimous "no" vote. I am a member of said subcommittee, Vose NAC delegate to the BCCI, and voted "no."

The "no" vote followed discussion between subcommittee members and Planner Colin Cooper.

The summary part of the "Notice of Proposed Amendment" states:

"The text amendment proposes to add the use 'Operations Center' for public entities as a permitted use in Sections 20.15.10 (Industrial Park District), 20.15.15 (Light Industrial District), and Chapter 90 (Definitions). An Operations Center would include offices to support on-site activity of parking and customary maintenance of fleet vehicles and miscellaneous equipment." (emphasis added)

Applicant is Howard Dietrich, President, Park Plaza LLC, and is best known locally as the owner of the now-demolished Greenwood Inn on Allen Blvd. east of Highway 217.

Page 1 of the 'Summary of Proposal' claims:

"As the Applicant owns several properties in the IP and LI zones , these regulations will make the sale or lease of these properties more attractive to users * * *."

However, what is financially attractive to Mr. Dietrich is not dispositive.

“What is good for General Motors” is not necessarily “good” for the United States.

What is financially good for Mr. Dietrich is not necessarily “good” for adjacent and nearby residents, homeowners, businesses and school students adversely affected by toxic fumes and particulate matter, vibrations, noise, and odors.

The summary claims:

“ * * * these regulations **will permit** on-site automotive fueling, maintenance and repair of fleet vehicles related to the center’s operations.” (emphasis added)

Mr. Dietrich would have the Planning Commission believe that the Beaverton Development Code regulating Industrial Park (IP) and Light Industrial (LI) districts **does not now** “permit on-site automotive fueling, maintenance and repair of fleet vehicles * * *.”

The above-quoted claim is false.

The summary makes the following “red herring” claim:

“ * * * This is opposed to transporting the vehicles to an off-site location for these activities.”

The undersigned states as a fact that there is **no relationship** between the proposed “Operation Centers” and “transporting the vehicles to an off-site location for these activities,” above.

Applicant at the May 16, 2007 public hearing can offer oral and written testimony and exhibits to contradict or challenge the within written testimony.

Oregon Uniform Jury Instruction 10.40 states:

If you find that any person has intentionally given false testimony in some part, you should distrust the rest of that person’s testimony.” (emphasis added)

In response to questions from BCCI land use subcommittee members, Mr. Cooper said public bodies with “fleet” vehicle activities could continue to do what they do without the proposed Text Amendments.

The Commission should reject the controversial text amendments pursuant to the following wisdom:

“If it’s not broke, don’t ‘fix it!’”

The Commission should ask Beverly Brookin, Mr. Dietrich's land use representative, to answer the following questions:

1. Which public agencies in Washington County, if any, must transport its vehicles to "an off-site location for these activities."
2. Does the Beaverton School District support the proposed Text Amendments, and if so, the BSD's reasons?
3. Which public agencies, if any, in Washington County do not have an on-site building for maintenance of motor vehicles?

The Planning Commission can and should take official notice that there is little vacant land in Beaverton zoned for industrial uses.

The Text Amendment would allow construction of commercial office buildings in industrial zones on the claim they are "Operation Centers."

Commercial office buildings should not occupy scarce industrial-zoned land as a matter of public policy.

Conclusion

The Planning Commission should reject the challenged, controversial Text Amendments.

They are a "solution looking for a problem" when there is no "problem."

There is no need for text amendments for the sake of "clarity" when Beaverton Development Code sections governing "Industrial Park" and "Light Industrial" districts are plain clear and unambiguous. They do not require the Text Amendments for "clarity."

Respectfully submitted,

Henry Kane, OSB 61045-Inactive
Opponent

May 30, 2007 – Corrections and Additions to proposed Operations Center Text.

Strikethroughs are staff corrections and suggestions to the copy of code that was distributed with the May 23, 2007 revised staff report.

Proposed Text:

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.10.2.A, Industrial Park District, will be amended to read as follows:

20.15 Industrial Land Use Districts

20.15.10. Industrial Park Districts: IP

1. **Purpose.** The Industrial Park District or “IP” District is intended to provide sites for manufacturing, distribution and industrial uses.
2. **District Standards and Uses.** IP Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage except the uses detailed in C.1. and C.2., which are prohibited in the districts.
2. Wholesale and distributive activities.
3. ~~Operations centers for p Public services or agencies utility uses, including vehicle storage and incidental service and repair. [ORD 4093; March 2000] If major and minor automotive services are provided, the following limitations shall apply:~~

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- a. Fueling, repair, washing, and servicing of vehicles is limited to fleet vehicles parked on site.
- b. All automotive service activities with the exception of those described in Subsection c below shall be undertaken in an enclosed building.
- c. The following automotive-service activities are not required to be conducted within the enclosed building:
 - (1) Vehicle fueling from a stationary source;
 - (2) Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.
 - (3) Emergency repair of disabled vehicles, e.g. tire replacement. [New ordinance citation]

4. Research laboratory.

B. Conditional Uses (No [REDACTED])

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20.15.10.2

C. Prohibited Uses

- 4. Storage or sale yard for contractors equipment, house mover, delivery vehicles, trucking terminal, used equipment in operable condition, and transit storage, except for the storage activities associated with operations centers for public agencies, [REDACTED] as provided in 20.15.10. 2. A. 3. public transit vehicles. [ORD 4093; March 2000] [New ordinance citation]

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5. Trailer sales or repair.
6. Eating or drinking establishments providing drive-in (windows) or take-out serving market areas outside the Industrial Park District. [ORD 3975, February 1997]
7. Automotive Services, Major or Minor [ORD 3975, February 1997], except when associated with operations centers for public agencies, [REDACTED], as provided in Section 20.15.10. 2. A. 3. [New ordinance citation]

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Section 2: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 20, Applications, Section 20.15.15.2.A, Light Industrial District, will be amended to read as follows:

20.15 Industrial Land Use District

20.15.15. Light Industrial Districts: LI

1. **Purpose.** The Light Industrial District or "LI" District is intended to provide for general industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment and other uses not compatible in Industrial Park or Campus Industrial areas.
2. **District Standards and Uses.** LI Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use, the following uses and their accessory uses are permitted:

1. Manufacturing, fabricating, processing, packing or storage uses except any use having the primary function of storing, utilizing or manufacturing explosive materials.
2. Wholesale and distributive activities.
3. ~~Public service or utility uses other than those providing on premise services to individuals and the general public. Operations centers. If major and minor automotive services are provided, the following limitations shall apply:~~
 - a. ~~Fueling, repair, washing and servicing of vehicles is limited to fleet vehicles parked on site or in the agency's ownership.~~
 - b. ~~All automotive service activities with the exception of those described in Subsection c~~

Comment [c1]: Should Utility uses be left here as a permitted use similar to the IP zone?

below shall be undertaken in an enclosed building.

c. The following automotive-service activities are not required to be conducted within ~~the~~ an enclosed building.

[1] Vehicle fueling from a stationary source;

[2] Routine check of fluid level and tire pressure and replacement of minor equipment such as light bulbs and windshield wipers.

[3] Emergency repair of disabled vehicles, e.g., tire replacement. [New ordinance citation]

4. Research laboratory.
5. Public parks, parkways, recreational facilities, trails and related facilities.
6. Administrative, educational and other related activities and facilities subordinate to a permitted use on the same premises as the principal use.
7. Cold storage plants.
8. Heavy equipment sales, including incidental service and repair.
9. Fuel oil distributors.
10. Printing, publishing and book binding.
11. Retail or combination retail/wholesale lumber and/or building materials yard.

12. Storage or sale yard for contractors equipment, house moving, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition. [ORD 4071; October 1999]
13. Storage yard for building materials.
14. Trailer, recreational vehicle or boat storage.
15. Accessory structures and uses to a particular permitted use.
16. Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots but not within 200 feet of a residential zone.
17. Auto, truck and trailer rental.
18. Mini storage.
19. Nursery, daycare facilities. (See also Special Use Regulations Section, Uses Requiring Special Regulations - Nursery Schools, Day or Child Care Facilities.)
20. Automotive services, Minor or Major, entirely within enclosed building, except for fleet vehicle maintenance and repair associated with operations centers for ~~public agencies~~, as provided in Section 20.15.15. 2. A. 3.c [New ordinance citation] [ORD 3975, February 1997]

Section 3: The Development Code, Ordinance No. 2050, Ordinance 4432, Chapter 90 – Definitions, will be amended to read as follows:

Automotive Services, Minor. [ORD 3975, February 1997] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: ~~Gasoline service stations retail and wholesale fuel sales; tire sales or installation; glass installation; oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, or other similar service. or repair detail shops, or other similar service or repair.~~

Fleet Parking. Accessory parking to a primary use for the storage of operable motorized vehicles, including cars, light and heavy trucks and buses, when these vehicles are not needed to support the primary use's off-site activities, e.g., repair/maintenance, delivery, transportation. [New ordinance citation]

Operations Center. A centralized facility from which the on- and off-site construction, operation, maintenance and repair of the entity's sites, buildings and facilities is directed, or the site from which vans, buses and other vehicles are dispatched. Activities related to the operations center may be conducted on- or off-site. The activities associated with such a facility may include one or more of the following activities: accessory offices; indoor/outside storage of equipment, parts and bulk materials; fleet parking; employee and visitor parking; and major and minor automotive services; [New ordinance citation]

Deleted: for a public agency, public or private utility, company or institution

Deleted: in the case of a transportation agency.

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Deleted: sewer, water and storm water treatment facilities, and/or pump, transmission, switching stations and other related facilities

Public Entity Agency. A tax-exempt public jurisdiction, district or agency including but not limited to federal and state agencies, cities, counties and special service districts such as those for transit sanitary/stormwater treatment, water, fire, sheriff, school, drainage and lighting. [New ordinance citation]

Deleted: Agency

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

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 AAJ
Planning Services HTB

PROCEEDING: First Reading

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

BUDGET IMPACT

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

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

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 _____ day of _____, 2007.

Passed by the Council this _____ day of _____, 2007.

Approved by the Mayor this _____ day of _____, 2007.

ATTEST:

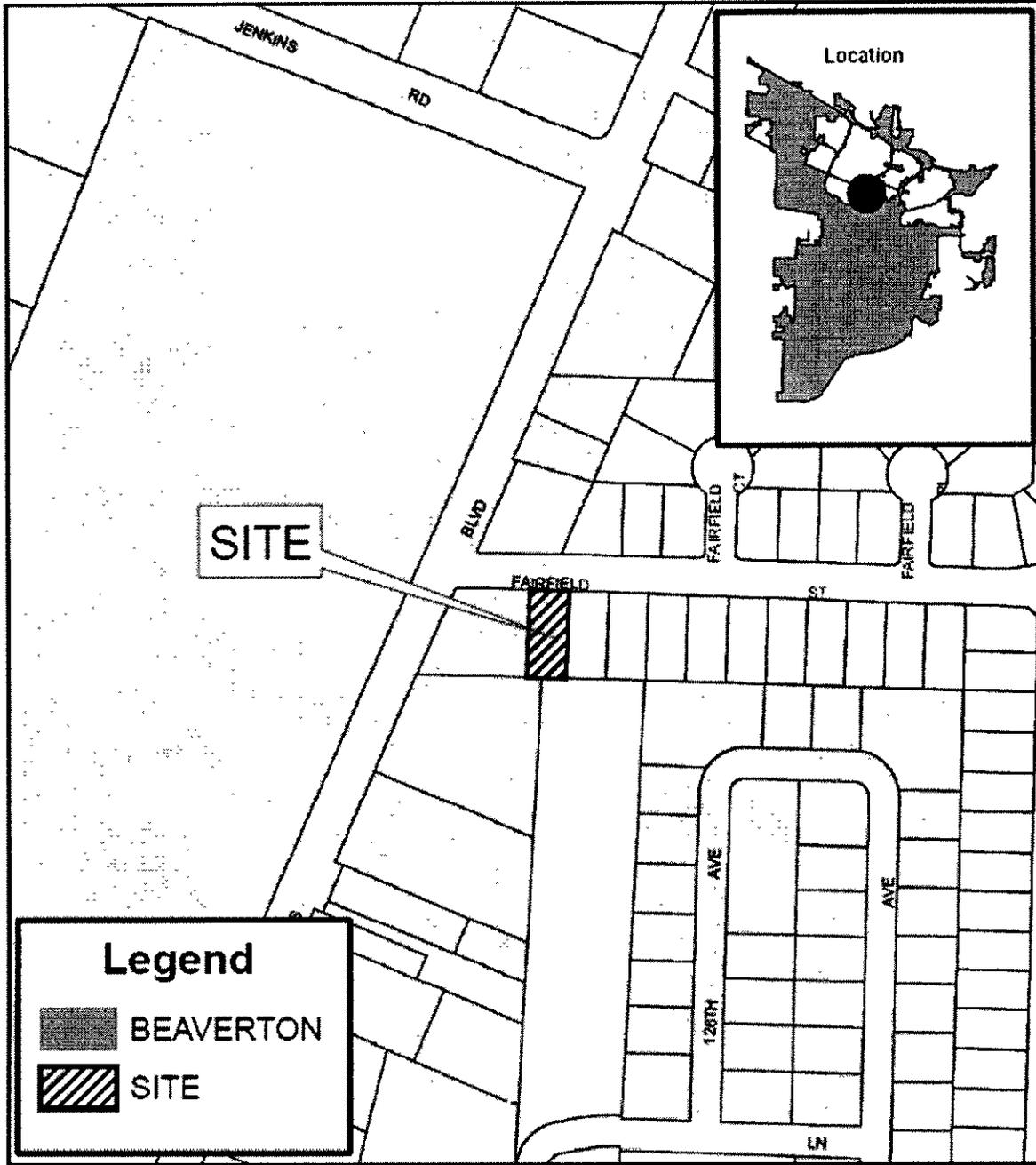
APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

VICINITY MAP

EXHIBIT "A"



 CITY OF BEAVERTON	CPA2007-0013 / ZMA2007-0013	5/17/07 Tax Lot #'s 1S109DA02930	N ▲
	COMMUNITY DEVELOPMENT DEPARTMENT Planning Services Division	12730 SW FAIRFIELD ST	



CITY of BEAVERTON

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

STAFF REPORT

TO: City Council

AGENDA DATE: July 9, 2007 **REPORT DATE:** July 2, 2007

FROM: Jeff Salvon, Associate Planner

APPLICATION: CPA2007-0013
(12730 SW Fairfield Street Land Use Map Amendment)
ZMA2007-0013
(12730 SW Fairfield Street Zoning Map Amendment)

LOCATION: SW Fairfield Street approximately 110 feet East of SW Cedar Hills Boulevard, on the south side of Fairfield Street. The parcel is identified as 1S109DA02900.

NEIGHBORHOOD ASSOCIATION: Central Beaverton Neighborhood Association Committee

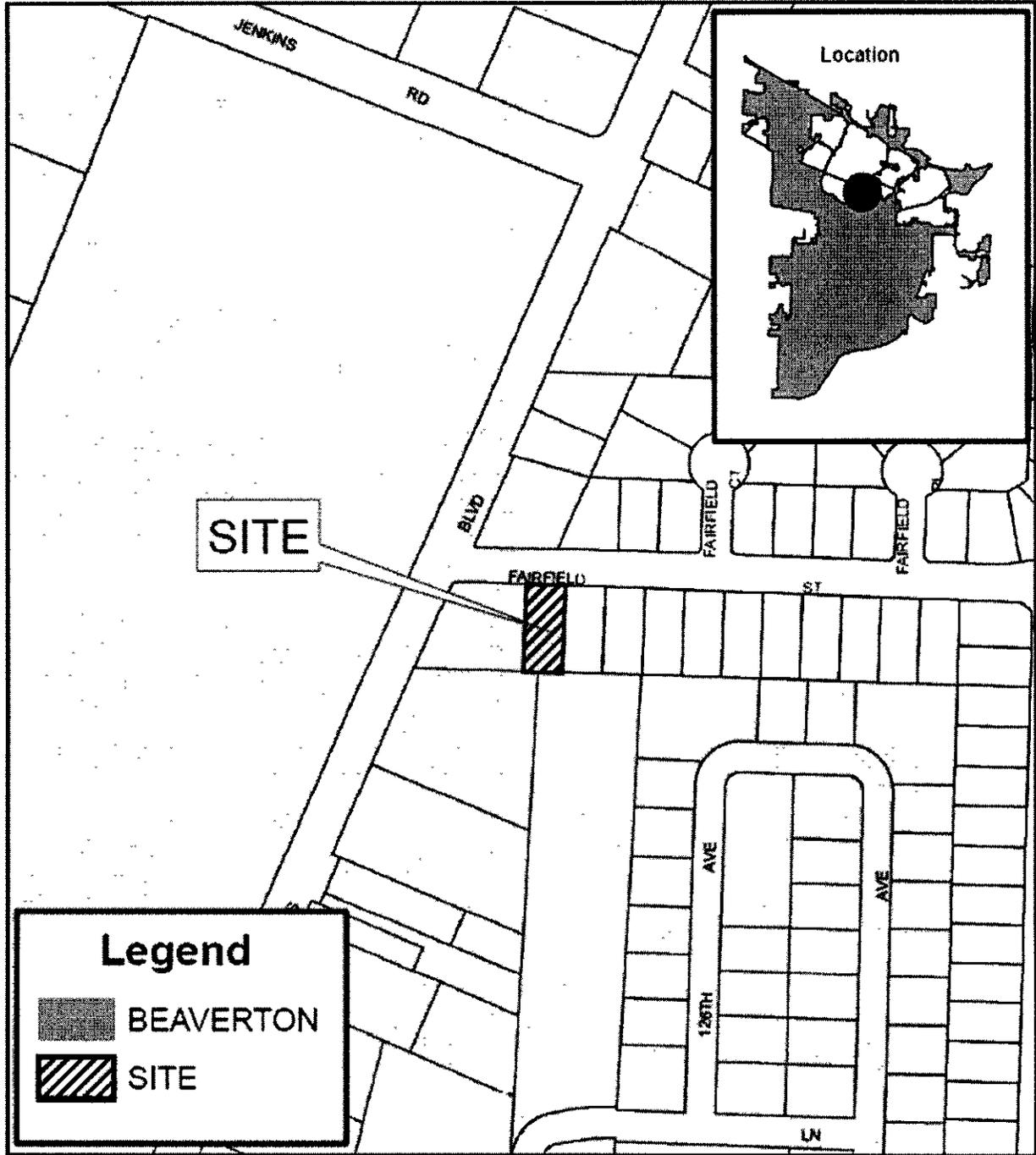
REQUEST: Apply the City's Neighborhood Residential-Standard Density (NR-SD) land use designation and the City's Urban Standard Density Residential (R-7) zoning designation to the subject parcel.

APPLICANT: City of Beaverton Community Development Director

APPROVAL CRITERIA: Comprehensive Plan Section 1.5.2 and the Development Code Section 40.97.15.3.C

RECOMMENDATION: Staff recommends the City Council adopt an ordinance applying the Neighborhood Residential-Standard Density (NR-SD) land use designation and the Urban Standard Density Residential (R-7) zoning designation to the subject parcel effective thirty days after the Mayor's signature.

VICINITY MAP



Legend

-  BEAVERTON
-  SITE



CITY OF BEAVERTON

CPA2007-0013 / ZMA2007-0013

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

5/17/07

Tax Lot #'s

15109DA02900

N



12730 SW
FAIRFIELD ST

BACKGROUND

CPA2007-0013 proposes amendment of the Land Use Map and ZMA2007-0013 proposes amendment of the Zoning Map. Both amendments are requested in order to apply City land use and zoning for the subject parcel annexed in March, 2007. The parcel currently carries the Washington County R-5 (Residential 5 Units per Acre) designation, as depicted on the County's Cedar Hills - Cedar Mill Community Plan Map.

EXISTING CONDITIONS

Uses. Staff performed a field survey of the site and observed the parcel to be vacant with no above ground structural improvements on the site.

Character. The subject parcel is located on the edge of a residential subdivision adjacent to a newly constructed commercial development. Remnants of a building footprint provided evidence that a residential dwelling was recently demolished making the site primed for redevelopment.

Natural Resources. Washington County's *Cedar Hills – Cedar Mill Community Plan* map does not depict any significant natural resources in the area of the subject parcel.

ANALYSIS

COMPATIBILITY OF DESIGNATIONS

City of Beaverton Neighborhood Residential- Standard Density land use designation. Section 3.13 of the Land Use Element of the *Comprehensive Plan for the City of Beaverton* details the City's residential land use designations. One goal is identified for the Standard Density Residential designation, as follows:

“3.13.3 Goal: Establish Standard Density Residential areas to provide moderate sized lots for typical single family residences with private open space.”

The policies of Section 3.13.3 include a directive that the City “[a]pply zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix to allow a variety of housing choices.” The proposal is to apply the City's Neighborhood Residential – Standard Density plan designation and to apply the appropriate zone for the property consistent with the Zoning District Matrix.

APPLICABLE ZONING DISTRICTS

The implementing zoning districts for the City's Neighborhood Residential-Standard Density (NR-SD) Comprehensive Plan designation are R-5 and R-7. The zoning of properties around the subject parcel includes the City's R1 and CS zones and the Washington County R-5 zone. Determination as to which zone designation is most

suitable for the parcel will be dictated by the Urban Planning Area Agreement between the City and Washington County.

Washington County R-5 District designation. The subject parcels are designated R-5 on the County's Cedar Hills – Cedar Mill Community Plan. Section 302-1 of the *Washington County Community Development Code* states that,

“The R-5 District is intended to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than five (5) units per acre and no less than four (4) units per acre, except as specified otherwise by Section 300-2, Section 300-5, or Section 302-6.

The UPAA excerpt, below, specifies that the County's R-5 designation is equivalent to the City's R-7 zoning designation.

<i>WASHINGTON COUNTY – BEAVERTON URBAN PLANNING AREA AGREEMENT</i>		
<i>EXHIBIT “B” CITY – COUNTY LAND USE DESIGNATION EQUIVALENTS</i>		
<u>COUNTY</u>	<u>BEAVERTON</u>	
<u>Plan/Zoning</u> R-5	<u>Plan</u> NR-SD	<u>Zoning</u> R-7

Summary. The UPAA specifies a City NR-SD Plan designation and R-7 Zone for the subject parcel. The designations specified in the UPAA are consistent with the City's Planning goals and policies and conforms with specifications in the Comprehensive Plan and Zoning District Matrix.

COUNTY RESPONSIBILITY TO NOTIFY

Special Policy II.A. of the UPAA states in part, "...the COUNTY will advise the CITY of adopted policies which apply to the annexed areas and the CITY shall determine whether CITY adoption is appropriate and act accordingly." The County has not advised the city of adopted policies which may apply to the annexed area.

PROCESS

THRESHOLD

The subject property is designated on the County's *Cedar Hills – Cedar Mill Community Plan Map* as R-5, which, in a non-discretionary process, requires implementation of the City's R-7 zoning designation under the *Urban Planning Area Agreement (UPAA)*.

Comprehensive Plan Process. Due to annexation of the subject parcel and the non-discretionary nature of the proposal, review and approval of this proposed Comprehensive Plan Map Amendment qualifies as a Non-Discretionary Amendment per *Comprehensive Plan* Section 1.3.

Development Code Process. Due to annexation of the subject parcel and the non-discretionary nature of the proposal, review and approval of this proposed Zoning Map Amendment qualifies as a Non-Discretionary Annexation Related Zoning Map Amendment per Development Code Section 40.97.15.3.A, which states, "An application for Non-Discretionary Annexation Related Zoning Map Amendment shall be required when the following thresholds apply:

1. "The change of zoning to a City zoning designation as a result of annexation of land into the City."
2. "The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for discretion."

SUBMISSION REQUIREMENTS

According to Development Code Section 40.97.15.3.D. "an application for a Non-Discretionary Annexation Related Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement". The annexation of the subject property was owner initiated with consent of the property owner and elector (which does not apply in this case due to the fact that the property is vacant) under ORS 222.125, and an annexation petition for annexation was submitted. This annexation was approved under Ordinance No. 4421.

PUBLIC NOTICE

Section 1.4.3.A of the Comprehensive Plan prescribes the notice to be provided for these types of applications.

Notice for Non-Discretionary Annexation Related Comprehensive Plan Map Amendments must be provided, as indicated below, not less than twenty (20) and not more than forty (40) calendar days prior to when the item first appears on the City Council's agenda.

1. Legal notice was published in the Beaverton Valley Times on June 14, 2007.
2. Notice was mailed to the Central Beaverton Neighborhood Association Committee, Cedar Hills – Cedar Mill Citizen Participation Organization (CPO 1), Chair of the Committee for Citizen Involvement (CCI), and to the subject property owner on June 18, 2007.
3. Notice was posted on the City's website on June 18, 2007.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above. The notice requirements for this CPA/ZMA have been met.

CRITERIA FOR APPROVAL

COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.5.2.A specifies that non-discretionary annexation related map amendments need not comply with Plan criteria because they are not land use decisions under Oregon Statutes and are those stipulated by Exhibit "B" of the Urban Planning Area Agreement. Findings to address Comprehensive Plan sections which address Statewide Planning Goals and Metro Urban Growth Regional Framework Plan criteria are therefore regarded as not applicable to this proposal.

ZONING MAP AMENDMENT CRITERIA

Development Code Section 40.97.15.3.C., which contains Non-Discretionary Annexation Related Zoning Map Amendment Approval Criteria, states:

"In order to approve a Non-Discretionary Annexation Related Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:"

1. *The proposal satisfies the threshold requirements for a Non Discretionary Annexation Related Zoning Map Amendment application.*

Section 40.97.15.3.A. Threshold, states:

"An application for Annexation Related Zoning Map Amendment shall be required when one or more of the following thresholds apply:

1. The change of zoning to a City zoning designation as a result of annexation of land into the City.
2. The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for discretion."

The zone change is requested in order to apply City land use and zoning for the subject parcel annexed in March, 2007. The parcel carries the Washington County R-5 (Residential 5 Units per Acre) designation, as depicted on the County's Cedar Hills – Cedar Mill Community Plan map.

As noted in the Process section of this report, the UPAA specifies a City R-7 designation for the County R-5 designation. Therefore, no discretion is required in determining the appropriate zoning designation.

Finding: Staff finds that the request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

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

The City is assuming the role of the applicant in this proposed zoning map amendment. Fees have not been submitted for review of the application as the City does not require collection of fees from itself.

Finding: Staff finds that this criterion is not applicable.

- 3. *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.***

Development Code Section 50.25.1 states, "Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Zoning Map Amendment applications processed by the City shall be determined to be complete upon submittal of a valid annexation petition or executed annexation agreement." The subject property was petitioned with the owners' consent under ORS 222.125. This City-initiated annexation was approved under Ordinance 4421.

Finding: Staff finds that the request satisfies the application submittal requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

- 4. *The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.***

The UPAA is specific for the proposed amendment:

- Washington County Residential – 5 units per acre, goes to R-7, Residential – 7,000 square feet per principal dwelling unit.

No discretion is being exercised in assigning the zoning designation.

The UPAA requires the City to review the appropriate Community Plan which in this case is the Cedar Hill – Cedar Mill Community Plan. The subject property is not in an Area of Special Concern, and has no specific design elements applicable to it.

Finding: The R-7 designation is specified by, and is therefore consistent with, the Washington County - Beaverton UPAA.

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

No further applications and documents are required of this request.

Finding: Staff find that this criterion is not applicable.

CONCLUSION

Based on the facts and findings in this report, staff concludes that amending the Comprehensive Plan Land Use Map to depict the City's Neighborhood Residential-Standard Density (NR-SD) land use designation and amending the City's Zoning Map to depict the City's Urban Standard Density Residential (R-7) zoning district is appropriate for the subject parcel.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Beaverton Code Chapter 6 Relating to Parking Zone Additions

FOR AGENDA OF: 07-09-07 **BILL NO:** 07151

Mayor's Approval: Linda A. Adland

DEPARTMENT OF ORIGIN: Public Works

DATE SUBMITTED: 06-26-07

CLEARANCES: City Attorney US

PROCEEDING: FIRST READING

EXHIBIT: Ordinance

BUDGET IMPACT

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

At its June 11, 2007 meeting, the City Council adopted a resolution supporting the initial implementation actions of the Beaverton Downtown Parking Solutions report. These actions include: 1) amending the Beaverton Code to allow for the addition of parking management zones; and, 2) appointing a downtown advisory committee that can provide advice on a downtown parking program.

Beaverton Code Chapter 6, Traffic Issues Process, outlines the appropriate process to acknowledge advisory committee parking, management-related recommendations. It is also the appropriate process to use to add parking management zones in the City. Exhibit 1 details the proposed text amendment to this code.

INFORMATION FOR CONSIDERATION:

The proposed Ordinance embodies the changes made to the Beaverton Code. The Ordinance is ready for the required readings.

RECOMMENDED ACTION:

First Reading.

ORDINANCE NO. 4445

AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 6

WHEREAS, the Council finds that parking issues should be initiated or informed by staff or an appointed parking advisory body; and,

WHEREAS, the Council finds that parking management zones should be added as appropriate to the Code through the Traffic Issue Process in order to serve patrons, encourage mixed use, and support economic vitality within the zone; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

(Strikeouts are deletions; bold underlined text are insertions.)

Section 1: Beaverton Code 6.02.050 is amended to read:

TRAFFIC ISSUE PROCESS

6.02.050 Title and Purpose. ~~The purpose of this ordinance is to authorize the City Traffic Engineer and Traffic Commission~~ **is authorized** to approve and direct the implementation of restrictions and other devices, such as warnings, on public roadway use that are determined necessary and in the public interest. **Issues pertaining to parking and the Permit Parking Areas of this code that are processed through the Traffic Issue Process may be informed by City staff and persons appointed by the Mayor to advise on such matters.** Such authority is subject to review and approval by the City Council in accordance with procedures established herein. This ordinance shall be known and may be referred to herein as the "Traffic Issue Process".

Section 2: Beaverton Code 6.02.390C is amended to read:

C. City Council's Authority Over City-Owned Parking Lots.

1. The City Council by resolution may add other city-owned parking lots or remove those listed in this section.

2. The City Council may adopt parking management zones as recommended and processed through the Traffic Issue Process of this code. Such management zones shall serve patrons, encourage mixed-use development, and support desired economic uses within that zone.

3. Such action may be temporary or permanent.

4. The vehicle parking permit shall not preclude such action by the City Council, nor entitle the permit holder to recover the permit fee or any part thereof.

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