



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

June 18, 2008



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Beaverton Plan Amendment
DLCD File Number 009-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: July 3, 2008

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Jeff Salvon, City of Beaverton

<paa>

DLCD

Notice of Adoption



THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of Beaverton**

Local file number: **CPA2008-0003/ZMA2008-0003**

Date of Adoption: **6/11/2008**

Date Mailed: **6/12/08**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **No** Date:

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation

- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Non-discretionary annexation related comprehensive plan map amendment and zoning map amendment for a single property identified on the Washington County Tax Assessors Map as 1S110BD11400. The adopted designations were prescribed by the Beaverton - Washington County Urban Planning Area Agreement and as such required no discretion in the adoption process.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Washington Co. R-5**

to: **City of Beaverton NR-SD**

Zone Map Changed from: **Washington Co. R-5**

to: **City of Beaverton R-7**

Location: **11775 SW Lynnfield Lane**

Acres Involved: **2.2**

Specify Density: Previous: **Maximum 5 units/Ac**

New: **Maximum 6 units/Ac**

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment..

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 009-08 (NOA)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Washington County, Clean Water Services, Tualatin Valley Water District, Tualatin Hills Park and Recreation District, Tualatin Valley Fire District

Local Contact: **Jeff Salvon**

Phone: (503) 526-3725 Extension:

Address: **PO Box 4755**

Fax Number: **503-526-3720**

City: **Beaverton**

Zip: **97076-4755**

E-mail Address: **jsalvon@ci.beaverton.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 4485

AN ORDINANCE AMENDING ORD. 4187 FIGURE III-1 THE COMPREHENSIVE PLAN LAND USE MAP TO APPLY THE CITY'S NEIGHBORHOOD RESIDENTIAL – STANDARD DENSITY PLAN DESIGNATION AND ORD. 2050 THE ZONING MAP TO APPLY THE CITY'S URBAN STANDARD DENSITY (R-7) ZONE TO A PARCEL LOCATED AT 11775 SW LYNNFIELD AVENUE IN CENTRAL BEAVERTON. CPA 2008-0003/ZMA 2008-0003, CITY OF BEAVERTON APPLICANT

WHEREAS, a proposal to annex the subject property into the City of Beaverton is scheduled for City Council consideration on May 19, 2008, and,

WHEREAS, section 10.40.2 of the Development Code specifies that “[t]he City may consider the zoning for any area proposed for annexation at the same time as it considers annexation of the area...”, and

WHEREAS, the Washington County – City of Beaverton Urban Planning Area Agreement specifies that “upon annexation the City agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations”; and

WHEREAS, pursuant to Ordinance 4187 Section 1.4.3.B.6 and Ordinance 2050 Section 40.97.15.C, the Beaverton Planning Services Division, on May 12, 2008 published a written staff report with findings and recommendations demonstrating applicability of the UPA to the proposed action a minimum seven (7) calendar days in advance of the scheduled City Council meeting on May 19, 2008; and,

WHEREAS, the City Council adopts as to criteria, facts and findings described in Community Development Department staff report on CPA2008-0003/ZMA2008-0003 by Associate Planner Jeff Salvon, dated May 12, 2008, and attached hereto as Exhibit “B”; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties on Map and Tax Lot 1S1 10 BD 11400 Neighborhood Residential – Standard Density, as shown on Exhibit “A”.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate the properties on Map and Tax Lots 1S1 10 BD 11400 Urban Standard Density (R7), as shown on Exhibit “A”.

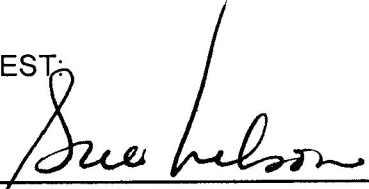
Section 3. This ordinance shall become effective thirty (30) days after its adoption by the council and approval by the mayor or upon the effective date of the ordinance annexing the subject property, whichever is later.

First reading this 19th day of May, 2008.

Passed by the Council this 9th day of June, 2008.

Approved by the Mayor this 10th day of June, 2008.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

VICINITY MAP

Ordinance
NO: 4485

EXHIBIT "A"



City of Beaverton

11775 SW LYNNFIELD LN

Comprehensive Plan Map and Zoning Map Amendment

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

3/14/08

Tax Lot #'s
1S110BD11400



Application #
CPA2008-03
ZMA2008-03



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: May 19, 2008 **REPORT DATE:** May 12, 2008

FROM: Jeff Salvon, Associate Planner

APPLICATIONS: CPA2008-0003
(11775 SW Lynnfield Lane Land Use Map Amendment)
ZMA2008-0003
(11775 SW Lynnfield Lane Zoning Map Amendment)

LOCATION: The northeast corner of Walker Road and SW Lynnfield Lane in Central Beaverton. The parcel is identified as tax lot 1S110DB11400.

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 (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 City's Urban Standard Density (R-7) zoning designation to the subject parcel effective upon the parcel's annexation.**

BACKGROUND

CPA2008-0003 proposes amendment of the Land Use Map and ZMA2008-0003 proposes amendment of the Zoning Map. Both amendments are requested in order to apply City land use and zoning to the subject parcel which is currently annexing into the City. 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 and observed that the parcel supports a single family residential dwelling with guest house which together total approximately 4,100 square feet of livable floor area.

Character. The property is located at the intersection of SW Lynnfield Lane, a County maintained street classified on the County's Functional Classification Map as a local street and SW Walker Road which is classified as an Arterial. The property is nicely landscaped with rich vegetation and a mature grove of fir trees. The parcel is relatively flat and storm water runoff is absorbed into the soil, channeled into an open trench on SW Lynnfield Lane, or directed into a storm water pipe under SW Walker Road.

Natural Resources. Washington County's *Cedar Hills – Cedar Mill Community Plan Map* does not depict any significant natural resources on the subject parcel.

ANALYSIS

COMPATIBILITY OF LAND USE 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.

COMPATABILITY OF 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. A majority of properties in the area of the subject parcel are in unincorporated Washington County and carry the County’s zoning. However, three parcels on the opposite side of Lynnfield Lane are within the City of Beaverton. All carry the R-7 zone designation. The unincorporated area surrounding the subject parcel carries the County’s R-5 zoning which is regarded as the County equivalent to the City’s R-7 zoning district. The proposal to apply the City’s R-7 zoning is therefore compatible with existing zoning in the area.

Washington County R-5 District designation. The subject parcel is 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 primary purpose is to protect existing neighborhoods developed at five (5) units per acre or less.

The excerpt below, from the Washington County – Beaverton Urban Planning Area Agreement (UPAA), specifies that the County’s R-5 land use designation is equivalent to the City’s R-7 zoning designation.

<p>WASHINGTON COUNTY – BEAVERTON URBAN PLANNING AREA AGREEMENT</p>		
<p>EXHIBIT “B”</p>		
<p>CITY – COUNTY LAND USE DESIGNATION EQUIVALENTS</p>		
<p>COUNTY</p>	<p>BEAVERTON</p>	
<p><u>Plan/Zoning</u> R-5</p>	<p><u>Plan</u> NR-SD</p>	<p><u>Zoning</u> R-7</p>

It should be noted that although the residential density on the subject parcel does not conform with the minimum required density for the current zone as specified in Section 302-1 above, Section 440-1 of *Washington County Community Development Code* allows for non-conforming uses that pre-exist the applicable land use regulations. It states:

A nonconforming use is a structure or use of land which does not conform to the provisions of this Code or Comprehensive Plan lawfully in existence on the effective date of enactment or amendment of this Code or Comprehensive Plan. It is the intent of this Section to allow and regulate existing uses and structures that were lawfully established and are not now in conformance with the applicable regulations of this Code.

The subject property was developed with its current use in 1960 while the standard requiring minimum density in the R-5 zone was adopted by Washington County in 2000 (via Ordinance # 555). Thus the current use is regarded as complaint in that it has been *grandfathered* as a legal use of the property. The City of Beaverton has a corresponding provision which allows for non-conforming uses in Section 30.05 of the Development Code. Subsequent to approval of this proposal, the property will be regarded as a legal non-conforming use in the City's R-7 Zone.

Summary. The UPAA specifies an application of the City's 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, compatible with zoning applied to adjacent properties, and conform 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 that, "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."

Thresholds 1 and 2 above both apply to the proposal.

SUBMISSION REQUIREMENTS

According to Development Code Section 40.97.15.3.D. *“An application for a Non-Discretionary Annexation Related Zoning Map Amendment may be initiated by the pursuant to Section 10.40 after:*

2.. The submittal of a valid annexation petition;

The proposal to annex the subject property was owner initiated with consent of the property owner and electors under ORS 222.125, and an annexation petition was submitted. First reading to consider annexation of the subject property is scheduled on the Council's May 19th 2008 agenda with the second reading scheduled for June 9, 2008. This proposal to assign plan and zone designations to the property will occur concurrently with the annexation proposal. Proposed plan and zone amendments will be contingent upon annexation of the subject parcel.

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 April 24, 2008.
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), the Washington County Department of Land Use and Transportation (DLUT), and to the subject property owner on April 21, 2008.
3. Notice was posted on the City's website on April 21, 2008.

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 to the subject parcel in the process of annexing into the City. The parcel carries the Washington County R-5 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 zoning 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. City Council will consider approval of the owner-initiated annexation on May 19, 2008 concurrent with this proposal. This approval of this proposal is contingent upon annexation approval of the subject property.

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.***

As noted in the Analysis section of this report, the UPAA is specific for the proposed amendment. Washington County R-5 goes to City R-7.

Finding: The R-7 zoning district 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 presented, 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 R-7 zoning district is appropriate for the subject parcel and is consistent with the Washington County – Beaverton Urban Planning Area Agreement.