

## ORDINANCE NO. 10-1012

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**AN ORDINANCE AMENDING A PORTION OF THE CITY'S COMPREHENSIVE PLAN MAP FROM COUNTY FU – FUTURE URBAN TO MUC - MIXED USE CORRIDOR AND TITLE 17: ZONING, CHAPTER 17.06.030: A PORTION OF THE OFFICIAL ZONING MAP, OF THE OREGON CITY MUNICIPAL CODE, FROM COUNTY - FU-10 TO MUC-1 – MIXED USE CORRIDOR DISTRICT FOR THE PROPERTY IDENTIFIED AS CLACKAMAS COUNTY MAP 3-2E-10C, TAX LOT 800.**

**WHEREAS**, the City of Oregon City has adopted Comprehensive Plan and Zoning Maps to implement the Comprehensive Plan in conformance with statutory requirements and the requirements of the Statewide Land Use goals; and

**WHEREAS**, the City of Oregon City Comprehensive Plan and Zoning Maps may be amended and updated as necessary upon findings of facts that satisfy approval criteria in the City of Oregon City Municipal Code Section 17.68.020; and

**WHEREAS**, the owner of the subject site, identified as Clackamas County Map 3-2E-10-C, Tax Lot 800, has requested the approval of a Comprehensive Plan Amendment from Future Urban designation to MUC – Mixed Use Corridor designation, and a Zone Change from “County – FU-10” to “MUC-1” Mixed Use Corridor district, for a 9.6 acre parcel of land; and

**WHEREAS**, the proposed comprehensive plan designation of the site as MUC supports the Mixed Use Corridor District zoning designation, and

**WHEREAS**, the zone change from FU-10 District to MUC-1 is for a property that is has been located within the City's Urban Growth Boundary since 1979;

**WHEREAS**, the MUC-1 Zone meets the intent of the Comprehensive Plan Policies for mixed-use development, housing choices and increased density near activity centers and along the Beaver Creek Road corridor;

**WHEREAS**, the subject property is not within the Metro Urban Growth Functional Management Plan Title 4 (Industrial and Employment Land) area that has been slated for redesignation out of Title 4 land on Metro's Urban Design Type Map; and therefore the City need not wait for the Title 4 map change before proceeding with the rezoning; and

**WHEREAS**, based on the demonstrated significant effect to the intersection at Highway 213/Meyers Road, before receiving building permits the applicant shall contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection. The amount of the proportional share shall be determined based on a revised traffic impact analysis that will be submitted at the time a development application is submitted when the proposed uses are known; and

**WHEREAS**, the city considers the construction of the Meyers Road Extension between High School Ave and OR-213 by 2027 a reasonably likely improvement that will be demonstrate compliance with the Transportation Planning Rule (OAR 660-12-0060), and the project is identified in the City's capital improvement program and the city collects SDCs for this project's cost; and

**WHEREAS**, the projected transportation and public infrastructure impacts resulting from a zone change from FU-10 to MUC-1 Mixed Use Corridor District shall be required to comply with the specific Conditions of Approval and all applicable city regulations at the time a development is proposed on the property, and the applicant has demonstrated compliance with the Transportation System Plan, Public Infrastructure Master Plans and Oregon City Municipal Code; and

**WHEREAS**, notice of the proposed comprehensive plan map amendment and zone change was mailed to residents within 300 feet of the subject site and the Beavercreek Hamlet; and, in addition, signs were posted on the property, notice was published in a local newspaper and the City held public hearings where the objectives and concepts of the proposal were presented and discussed; and

**WHEREAS**, on August 30<sup>th</sup>, 2010, the Planning Commission held a public hearing and, after considering all the public testimony and reviewing all the evidence in the record, recommended approval of the requested comprehensive plan amendment and zone change (with conditions) to the City Commission by a 4 – 0 vote; and

**WHEREAS**, on October 6<sup>th</sup>, 2010, the City Commission held a public hearing and took testimony from the Hamlet of Beavercreek and subsequently extended the written comment period for 7 days to consider additional arguments; and

**WHEREAS**, on October 20<sup>th</sup>, 2010, the City Commission allowed additional testimony from the Hamlet of Beavercreek and voted not to consider a portion of the additional information submitted by the Hamlet concerning the finding that the construction of Meyers Road was reasonably likely to be constructed ; and

**WHEREAS**, on November 3<sup>rd</sup>, 2010, the City Commission, after considering all of the public testimony and written arguments, found that the application, as conditioned, met all of the applicable approval criteria for a comprehensive plan amendment and zone change; and

**WHEREAS**, approving the comprehensive plan amendment and zone change is in compliance with the Goals and Policies of the Oregon City Comprehensive Plan and as proposed and conditioned is in compliance with all applicable city requirements.

**NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:**

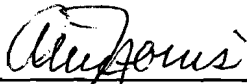
Section 1. The requested comprehensive plan map amendment Comprehensive Plan Amendment from Future Urban designation to MUC – Mixed Use Corridor designation (PZ 10-1), and a Zone Change from “County – FU-10” to “MUC-1” Mixed Use Corridor district (ZC 10-1) are hereby approved as proposed by the applicant with conditions for the property identified as Clackamas County Map 3-2E-10C, Tax Lot 800 and the Comprehensive Plan Map and Zoning Map are hereby changed accordingly.

Section 2. The comprehensive plan amendment and zone change are approved as proposed by the applicant with the conditions of approval attached to this Ordinance as Attachment A, Exhibit 1.

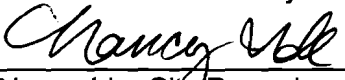
Section 3. The Commission adopts the findings and conclusions from the August 30, 2010 Planning Commission staff report, included as Attachment A, Exhibit 2, and the

Supplemental Findings, dated October 26, 2010, included as Attachment A, Exhibit 3 and incorporated herein to support the City's approval to amend the comprehensive plan map and zoning map.

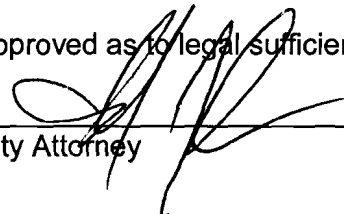
Read for the first time at a regular meeting of the City Commission held on the 3<sup>rd</sup> day of November 2010, and the City Commission finally enacted the foregoing ordinance this 3<sup>rd</sup> day of November 2010.

  
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ALICE NORRIS, Mayor

Attested to this 3rd day of November 2010

  
\_\_\_\_\_  
Nancy Ide, City Recorder

Approved as to legal sufficiency:

  
\_\_\_\_\_  
City Attorney

## **CITY COMMISSION CONDITIONS OF APPROVAL**

Planning Files: PZ 10-01 / ZC 10-01

ORDINANCE: 10-1012

1. The Applicant is responsible for this project's compliance with Engineering Policy 00-01. The policy pertains to any land use decision requiring the Applicant to provide any public improvements.
2. Public facilities/infrastructure locations shall be provided as determined by the future development's conditions of approval.
3. Future developments shall obtain the appropriate Erosion Prevention and Sedimentation Control permit(s) at the time of construction plan submittal.
4. Based on the demonstrated significant effect to the intersection at Highway 213/Meyers Road, before receiving building permits the applicant shall contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection. The amount of the proportional share shall be determined based on a revised traffic impact analysis that will be submitted at the time a development application is submitted when the proposed uses are known.
5. If the Beavercreek Road Concept Plan (BRCP) is formally adopted subsequent to approval of the proposed rezoning, as part of any subsequent site plan design review approval, master plan, phased development review, or other appropriate review, the development shall comply with the BCRP, and any design and performance standards adopted thereto.
6. If the Beavercreek Road Concept Plan is not yet adopted at the time the applicant seeks development approval, the applicant's proposal shall be consistent with the intent and purpose of the Mixed Employment Village, which is to provide retail, office, civic and residential uses in an urban, pedestrian friendly and mixed use setting that is transit supportive in its use, density and design. Development shall create an active urban environment that incorporates pedestrian-friendly amenities, urban building design consistent with the Beavercreek Road Concept Plan and cost effective green development practices. At a minimum, the overall development site shall achieve an average minimum floor area ratio (FAR) of 0.25 and a minimum building height of thirty-four feet except for accessory structures or buildings under one thousand square feet. The applicant may seek to modify these standards through the master plan adjustment or variance process with city approval.

7. In accordance with OCMC 17.29.070, the required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs. An individual phase of a project approved through the Master Plan process OCMC 17.65 shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, including phased development, that the required density for the project will be achieved at project build-out.



### NOTICE OF LAND USE DECISION

PZ 10-01, ZC 10-01

**DATE OF MAILING OF NOTICE OF DECISION: November 5<sup>th</sup>, 2010**

**OWNERS:** Marylwood, LLC  
Att: Phil Gentemann  
7128 SW Gonzaga St  
Portland, OR 97223

**APPLICANT:** Theta, LLC  
PO Box 1345  
Lake Oswego, OR 97035

**REQUEST:** Approval of a Comprehensive Plan Map Amendment from County FU – Future Urban to MUC - Mixed Use Corridor and a Zoning Map Change from County - FU-10 To MUC-1 – Mixed Use Corridor District for the Property identified as Clackamas County Map 3-2E-10C, Tax Lot 800.

**LOCATION:** 19896 Beaver Creek Road  
Clackamas County Map 3-2E-10C, Tax Lot 800

**CONTACT:** Pete Walter, AICP, Associate Planner

**DECISION:** On November 3<sup>rd</sup>, 2010, after reviewing all of the evidence in the record and considering all of the arguments made by the applicant, opposing and interested parties, the City Commission voted 5-0 to approve with conditions the requested Comprehensive Plan Map amendment and Zone Change. Accordingly, the City Commission adopted as its own the Staff Report, Supplementary Findings and Conditions of Approval for File Numbers PZ 10-01 and ZC 10-01 and approved Ordinance Number 10-1012.

**PROCESS:** Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

The application, decision, and supporting documents are available for inspection at the Oregon City Planning Division located at 320 Warner-Milne Road, Oregon City, OR 97045, (503) 657-0891, between the hours of 8am and 1pm. Copies of these documents are available (for a fee) upon request.

## CONDITIONS OF APPROVAL

Planning Files: PZ 10-01 / ZC 10-01

1. The Applicant is responsible for this project's compliance with Engineering Policy 00-01. The policy pertains to any land use decision requiring the Applicant to provide any public improvements.
2. Public facilities/infrastructure locations shall be provided as determined by the future development's conditions of approval.
3. Future developments shall obtain the appropriate Erosion Prevention and Sedimentation Control permit(s) at the time of construction plan submittal.
4. Based on the demonstrated significant effect to the intersection at Highway 213/Meyers Road, before receiving building permits the applicant shall contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection. The amount of the proportional share shall be determined based on a revised traffic impact analysis that will be submitted at the time a development application is submitted when the proposed uses are known.
5. If the Beavercreek Road Concept Plan (BRCP) is formally adopted subsequent to approval of the proposed rezoning, as part of any subsequent site plan design review approval, master plan, phased development review, or other appropriate review, the development shall comply with the BCRP, and any design and performance standards adopted thereto.
6. If the Beavercreek Road Concept Plan is not yet adopted at the time the applicant seeks development approval, the applicant's proposal shall be consistent with the intent and purpose of the Mixed Employment Village, which is to provide retail, office, civic and residential uses in an urban, pedestrian friendly and mixed use setting that is transit supportive in its use, density and design. Development shall create an active urban environment that incorporates pedestrian-friendly amenities, urban building design consistent with the Beavercreek Road Concept Plan and cost effective green development practices. At a minimum, the overall development site shall achieve an average minimum floor area ratio (FAR) of 0.25 and a minimum building height of thirty-four feet except for accessory structures or buildings under one thousand square feet. The applicant may seek to modify these standards through the master plan adjustment or variance process with city approval.
7. In accordance with OCMC 17.29.070, the required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs. An individual phase of a project approved through the Master Plan process OCMC 17.65 shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, including phased development, that the required density for the project will be achieved at project build-out.



### AUGUST 30, 2009 PLANNING COMMISSION HEARING

**FILE NO.:** PZ 10-01: Comprehensive Plan Map Amendment  
ZC 10-01: Zone Change

**APPLICANT/ OWNER** Marylwood, LLC, Attn: Phil Gentemann  
7128 SW Gonzaga St  
Portland, OR 97223

**REPRESENTATIVE:** Theta, LLC  
PO Box 1345  
Lake Oswego, OR 97035

**REQUEST:** The applicant is seeking approval for a Comprehensive Plan Amendment from Future Urban designation to MUC - Mixed Use Corridor designation, and a Zone Change from "County - FU-10" to "MUC-1" Mixed Use Corridor district, for a 9.6 acre parcel of land.

**LOCATION:** 19896 Beavercreek Road  
Clackamas County Map 3-2E-10C, Tax Lot 800

**REVIEWER:** Pete Walter, AICP, Associate Planner  
Bob Cullison, Development Services Manager

**RECOMMENDATION:** Recommend to the City Commission an Approval as Proposed by the Applicant with Conditions for their consideration at the September 15, 2010 hearing.

**PROCESS:** Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final. THE APPLICATION IS ON FILE AT THE OREGON CITY CITY HALL. IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3880.



## **I. BACKGROUND:**

The property in question is annexed to Oregon City. It is designated Future Urban on the City's Comprehensive Plan. In order to develop the property the applicant has taken the first step of applying for a change to the Comprehensive Plan designation and city zoning.

The applicant has chosen to amend the Comprehensive Plan designation from Future Urban to Mixed Use Commercial, and has applied for a Zone Change from FU-10 – Future Urban to MUC-1, Mixed Use Corridor.

The major review criteria are consistency with the Oregon City Comprehensive Plan and Statewide Planning Goals. The goals and objectives of the Beavercreek Road Concept Plan have not been used as review criteria since the plan was remanded to the City and to Metro by the Land Use Board of Appeals (LUBA) on appeal.

Additionally, since the proposed zone change has been determined to affect an ODOT transportation facility, State Highway OR-213, the applicant has to show compliance with the State Transportation Planning Rule OAR 660-12-0060 (TPR), and has submitted a Traffic Impact Analysis pursuant to state and city guidelines in this regard.

## **II. BASIC FACTS:**

1. **Property Description:** The subject property is located at 19896 Beavercreek Road in Oregon City, also known as T3S-R2E-10C tax lot 800. The property is 9.59 acres in size, triangular in shape and is relatively flat with slopes not exceeding 5% (running SE to NW).

The subject property is surrounded by undeveloped land to the north, northeast and southeast, and was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. Carrington Place, an existing residential subdivision zoned R-6, and existing single family residential lots zoned R-3.5 and R-10 are all to the southwest, and the Oregon City High School is to the northwest, both of which are located across Beavercreek Road from the subject site. A 50-foot wide Williams Natural gas pipeline corridor easement runs across the northerly corner of the property, which creates a strip of unbuildable area except for parking/maneuvering, open space and/or setbacks. The signalized intersection of Meyers and Beavercreek Road is located along the subject property frontage.

2. **Zoning/Permitted Use:** The property is zoned Future Urban – 10, which is a County holding zone with a 10-acre minimum lot size. The site is also under Farm Use tax deferral.
3. **Surrounding Uses/Zoning:** Properties to the north, east and south of the subject site are zoned FU-10, and are part of the same 122-acre annexation approved by the voters that annexed the subject parcel in 2008 (Oregon City Planning file AN 07-02, Metro File CL1807). The property contains five (5) single-family dwellings. It is currently zoned FU-10 "Future Urbanizable". Properties to the west across Beavercreek Road include Oregon City High School (Zoned R-8 Single Family Residential) and city subdivisions zoned R-6 Single Family Residential and R-3.5 Dwelling District.

4. **Density Calculations:** There is currently one house on the property. If the proposed application is approved the property could be developed with a variety of uses including multi-family residential use. .
5. **Comments:** Notice of the proposed plan amendment and zone change requesting comments was sent to the Department of Land Conservation and Development, advertised in the Clackamas Review, mailed to property owners within 300 feet of the subject site and the property was posted with a Land Use Action sign requesting comments.

Comments were received from the following persons:

**Mike Mermelstein, Caufield Neighborhood Association.** (Exhibit F). The Caufield Neighborhood Association is concerned that the permitted uses under MUC-1 is too broad, and would like to see the list narrowed and more focused. The Neighborhood Association is also concerned about the appearance of commercial and development along Beaver Creek Road.

Regarding the Caufield Neighborhood Association's comments, the applicant has requested re-zoning to MUC-1, which if approved would affect the allowable uses of the property. However, the applicant does not propose to narrow or alter the zoning code language governing permitted uses in the MUC-1 zone district. A request to narrow the range of permissible uses for the MUC-1 zone district would require a separate, Legislative amendment to the zoning code that would need to be approved by the Planning Commission and City Commission. Such a request has not been proposed.

A specific development proposal is not proposed at this time. Future development of the site would require a separate Site Plan and Design Review application, at which time the adopted architectural and landscaping design review requirements of the Oregon City Municipal Code would apply.

**Gail Curtis, AICP, Senior Planner, Oregon Department of Transportation,** (Exhibit D). ODOT reviewed the application and provided comments regarding the impact of the proposed rezoning on Highway 213. The proposed rezoning would have a significant effect, per the requirements of OAR 660-12-0060, on the intersection of the State Highway OR-213 and Meyers Road and is required to provide appropriate mitigation for the impact.

The issues raised by the comments submitted that address an approval criteria have been addressed throughout the report and staff has provided findings, and when appropriate, conditions, to address the issues raised and to ensure that the proposal complies with the approval criteria.

## **DECISION-MAKING CRITERIA:**

## Municipal Code Standards and Requirements

**OCMC Title 17, Zoning:** Chapter 17.29 - "MUC"—Mixed-Use Corridor District  
Chapter 17.50, Administration and Procedures  
Chapter 17.68, Zone Changes and Amendments

**Oregon City Comprehensive Plan (2004)** Relevant Goals and Policies (OCMC 17.68.020.A.)

**Statewide Planning Goals** OAR 660-015-000(1) - (14)

**Metro 2040 Urban Growth Functional Plan** Titles 1 and 7.

### OREGON CITY MUNICIPAL CODE

#### **17.50.050 - Preapplication conference and neighborhood meeting.**

*A. Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents. Conditional use, subdivision, or site plan and design review (excluding minor site plan and design review) applications shall schedule and attend a meeting with the city-recognized neighborhood association in whose territory the application is proposed. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended. The applicant shall send, by certified mail, return receipt requested, a letter to the chairperson of the neighborhood association and the citizen involvement committee describing the proposed project. A meeting shall be scheduled within thirty days of the notice. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall hold their own meeting after six p.m. or on the weekend, with notice to the neighborhood association, citizen involvement committee, and all property owners within three hundred feet. If the applicant holds their own meeting, a copy of the certified letter shall be required for a complete application. The meeting shall be held within the boundaries of the neighborhood association or in a city facility.*

**Finding:** The applicant advertised and held a neighborhood meeting with the Caufield Neighborhood Association on January 26<sup>th</sup>, 2010 to discuss the proposal with affected property owners. This standard is met.

*B. Preapplication Conference. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with city staff to discuss the proposal. To schedule a preapplication conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the city, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans. The purpose of the preapplication conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The planning division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the preapplication conference. Notwithstanding any representations by city staff at a preapplication conference, staff is not authorized to waive any requirements of this Code, and*

*any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the city of any standard or requirement.*

*C. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the director's opinion, the development does not warrant this step.  
(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)*

**Finding:** The applicant attended the required pre-application conference on November 9, 2009 (See Exhibit A4), and submitted the formal application within 6-months of the pre-application conference. This standard is met.

### **17.68.020 Zone Changes and Amendments – Criteria**

*The criteria for a zone change are set forth as follows:*

#### ***A. The proposal shall be consistent with the goals and policies of the comprehensive plan.***

The applicant states that as outlined within this narrative below, the requested zone change and comprehensive plan amendment are consistent with the applicable goals and policies of the City's Comprehensive Plan.

According to the applicant, the goal of the proposal is to establish a City zone so that the property may be developed in the future to the highest and best use. As development occurs on the easterly side of Beavercreek Road, the applicant believes this proposed zoning and comprehensive plan designation will be in concert with the goals of the City. The Mixed Use Corridor (MUC) District is designed to apply along selected sections of the transportation corridors.

#### **Goal 2.3 Corridors**

*Focus transit-oriented, higher intensity, mixed-use development along selected transit corridors.*

##### ***Policy 2.3.1***

*Ensure planning for transit corridors includes facilities and access management, aesthetics (including signage and building facade improvements), infill and redevelopment opportunities, high-density residential development, and business assistance to existing businesses.*

**Finding:** The applicant indicates that the subject property is at the existing signalized intersection of Beavercreek and Meyers Roads and will serve as the only access from the transit corridor. This connection will provide for connectivity and circulation opportunities to a future connected local street network. The MUC-1 zone will allow for mixed use development that could include high density residential and a variety of medical, office and retail uses. Since development and use is not proposed as a part of this application, specific building requirements (aesthetics, facades, etc.) will be reviewed at the time a site plan and design review application is submitted. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 2.4 Neighborhood Livability**

*Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.*

***Policy 2.4.2***

*Strive to establish facilities and land uses in every neighborhood that help give vibrancy, a sense of place, and a feeling of uniqueness; such as activity centers and points of interest.*

**Finding:** The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. The property was originally designated low density residential and was subsequently designated Future Urban by the City in 2004. As development occurs on the easterly side of Beavercreek Road, the applicant believes this proposed zoning and comprehensive plan designation (MUC-1 and MUC) will be in concert with the goals of the city. The MUC-1 designation allows for a variety of uses which all relate to potential services and housing options that could help create the vibrant core area that is the goal of the City. Since development and use are not specifically proposed as a part of this application, specific requirements would be reviewed under the future design review application. The permitted uses offer opportunities when development occurs to project a vibrancy and uniqueness through architecture, landscaping and mixed uses. **The applicant has adequately demonstrated compliance with this policy.**

***Policy 2.4.3***

*Promote connectivity between neighborhoods and neighborhood commercial centers through a variety of transportation modes.*

**Finding:** Please see findings under OCMC 17.68.020(C) regarding the applicant's Transportation Impacts, compliance with the Transportation Planning Rule, and proposed mitigation. The applicant indicates that Beavercreek Road has been identified as a transportation corridor. Bus service is already available at Highway 213, Beavercreek Road and Molalla Road with service to Clackamas Community College. In time, Tri-Met bus service will be extended to the site and already provides conductivity to the light rail at Clackamas Town Center. The Beavercreek road cross section provides for bike lanes. Access to the site will be at the signalized intersection of Beavercreek and Meyers Roads which provides connectivity from the existing residential neighborhoods, school and this future mixed use. With the potential future design review application for the subject property, transportation requirements will be addressed to meet this policy. **The applicant has adequately demonstrated compliance with this policy.**

***Policy 2.4.4***

*Where environmental constraints reduce the amount of buildable land, and/or where adjacent land differs in uses or density, implement Comprehensive Plan and zoning designations that encourage compatible transitional uses.*

**Finding:** The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. When annexed, the property was assigned the Clackamas County zoning

designation of FU-10, which is a "holding" zone requiring a 10-acre minimum lot size. The surrounding farmland property to the north, northeast and southeast was brought into the UGB in 2002/2004 and has a Comprehensive Plan designation of Future Urban. The requested MUC-1 zone allowed uses fall into this category and would be consistent with these goals. There are no environmental constraints on the subject property. However, there is a 50-foot wide gas corridor easement runs across the northerly corner of the property, which creates a strip of unbuildable area. This strip would be suitable for parking/maneuvering, open space and/or setbacks. **The applicant has adequately demonstrated compliance with this policy.**

*Policy 2.4.5*

*Ensure a process is developed to prevent barriers in the development of neighborhood schools, senior and childcare facilities, parks, and other uses that serve the needs of the immediate area and the residents of Oregon City.*

**Finding:** The applicant indicates that there are no plans for a neighborhood school on this property. Oregon City High School is located to the northwest of the subject site. The MUC-1 zone includes assisted living facilities, parks and childcare centers as allowed uses. Public or private education facilities are allowed as a Conditional Use in the MUC zone. Therefore, no barriers would be created by allowing this requested zone change and comprehensive plan amendment. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 2.5 Retail and Neighborhood Commercial**

*Encourage the provision of appropriately scaled services to neighborhoods.*

*Policy 2.5.1*

*Encourage the redevelopment of linear commercial corridors in ways that encourage expansion of existing businesses and infill development, and at the same time reduces conflicting traffic movements, improves the aesthetic character of these commercial areas, and encourages trips by transit, bicycling and walking.*

**Finding: Complies with Conditions.** Please see findings under OCMC 17.68.020(C) regarding the applicant's Transportation Impacts, compliance with the Transportation Planning Rule, and proposed mitigation. The applicant indicates that Beaver Creek Road has been identified as a transportation corridor. With the potential future design review application for the subject property, these goals will be addressed to meet this policy. Limited access from Beaver Creek Road will reduce conflicting traffic movements and provide an avenue for conductivity and circulation with a future local street network. Bike lanes are included in the Beaver Creek Road design and will encourage ridership from this site to residential areas. The proposed mixed use corridor district encourages improved aesthetic character by requiring substantial landscaping minimums.

A traffic analysis is attached to this application that analyzes the proposed zone change in compliance with the Transportation Planning Rule (TPR), OAR 660-012-0060. The analysis determined that there will be a significant affect on surrounding transportation facilities because of the increased site development potential associated with the proposed change from County FU-10 to the Mixed Use zone.

Given a significant affect was identified under the TPR, capacity analyses were prepared to identify appropriate mitigation measures under OAR 660-012-0060(2). The analysis of impacts was conducted for the future long-term horizon corresponding to the end of the City's planning period.

The traffic capacity models used in the TPR analyses were developed in collaboration with City of Oregon City and Oregon Department of Transportation staff to reflect growth assumptions, planned improvements, and potential improvements consistent with agency plans. The No-build analyses reflect an assessment of how the intersections will operate with the existing zoning and were used as the baseline condition. A reasonable worst-case mixed-use development scenario was then overlaid on the models to analyze the possible impact of the proposed zone change.

With the recommended mitigation measures in place and requirements to ensure that the future approvals support the development of a mixed-use pedestrian friendly neighborhood, the proposed zone change from County FU-10 Future Urban to Mixed Use zoning is consistent with the planned function, capacity, and performance standards of the transportation facilities. **The applicant can assure this standard is met through Condition of Approval 4.**

*Policy 2.5.2*

*Allow and encourage the development of small retail centers in residential neighborhoods that provide goods and services for local residents and workers. Generally, these centers should be located at the intersections of two or more streets that are classified as neighborhood collectors or higher.*

**Finding:** The applicant indicates that the subject property is located at the intersection Beaver Creek and Meyers Roads which are classified as neighborhood collectors or higher. The Mixed Use Corridor District has the range of permitted uses that could provide the local residents with vital goods, services and employment. Beaver Creek Road has been identified as a transportation corridor. The subject property is at the signalized intersection of Beaver Creek and Meyers Road. The MUC-1 zone would allow for a variety of retail and medical uses that could potentially serve the community. While the development plans for the site will be determined at a future date, the proposed plan amendment and zone change are consistent with this policy. **The applicant has adequately demonstrated compliance with this policy.**

*Policy 2.5.4*

*Encourage the development of successful commercial areas organized as centers surrounded by higher density housing and office uses, rather than as commercial strips adjacent to low-density housing.*

**Finding:** The applicant indicates that the subject property is on the easterly side of Beaver Creek Road and separated from low density housing. The MUC-1 zone allows for mixed use development along corridors which includes multi-family housing. Thus, any future development of the site that may include commercial areas would be consistent with this policy. The currently existing housing near the site across Beaver Creek

Road is a combination of residential zones including R-6, R-3.5 and R-10. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 2.6 Industrial Land Development**

*Ensure an adequate supply of land for major industrial employers with family-wage jobs.*

***Policy 2.6.8***

*Require lands east of Clackamas Community College that are designated as Future Urban Holding to be the subject of concept plans, which if approved as an amendment to the Comprehensive Plan, would guide zoning designations. The majority of these lands should be designated in a manner that encourages family-wage jobs in order to generate new jobs and move towards meeting the city's employment goals.*

**Finding:** The subject property is not identified as employment land on Metro's 2040 Map and was not brought into the Urban Growth boundary to meet regional employment needs. The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. The current holding zone is County FU-10 Future Urban, which has a 10-acre minimum lot size. The property was included as a part of the Beavercreek Road Concept Plan, however it was brought into the UGB prior to the Title 11 concept planning requirement and therefore may be considered for rezoning irrespective of the status of the Beavercreek Road Concept Plan. The requested zone of MUC-1 would allow for a variety of uses that will add employment opportunities to the area and meet the goals of the Beavercreek Road Concept Plan. Many of the permitted uses in the MUC zone, such as professional services, dental services, and veterinary clinics are family-wage jobs. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 2.7 Oregon City Comprehensive Plan Land-Use Map**

*Maintain the Oregon City Comprehensive Plan Land-Use Map as the official long-range planning guide for land-use development of the city by type, density and location.*

***Policy 2.7.1***

*Maintain a sufficient land supply within the city limits and the Urban Growth Boundary to meet local, regional, and state requirements for accommodating growth.*

**Finding:** The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. The current Oregon City Comprehensive Plan map (Ordinance No. 08-1014) identifies this area as FU - future urban. Permitted uses in the MUC-1 zone offer an array of uses including multi-family and commercial uses. These allowed uses are consistent with the goals and policies to accommodate growth. **The applicant has adequately demonstrated compliance with this policy.**

***Policy 2.7.2***

*Use the following 11 land-use classifications on the Oregon City Comprehensive Plan Land-Use Map to determine the zoning classifications that may be applied to parcels:*

- Low Density Residential (LR)
- Medium Density Residential (MR)
- High Density Residential (HR)
- Commercial (C)
- Mixed Use Corridor (MUC)
- Mixed Use Employment (MUE)



- *Mixed Use Downtown (MUD)*
- *Industrial (I)*
- *Public and Quasi-Public (QP)*

- *Parks (P)*
- *Future Urban Holding (FUH)*

**Finding:** The applicant indicates that the requested comprehensive plan amendment would change the zoning designation of this site to MUC, which is an allowed classification under this policy and would help in meeting the goals of property use for the area. **The applicant has adequately demonstrated compliance with this policy.**

*Policy 2.7.3*

*Recognize the design types of Metro's 2040 Growth Concept. Establish boundaries for the Regional Center in Downtown Oregon City; Corridors along 7<sup>th</sup> Street, Molalla Avenue, Beavercreek Road, and Highway 99; Industrial areas; and for Inner and Outer Neighborhoods.*

**Finding:** The applicant indicates that the Metro 2040 Growth Concept map designated this property as an "outer neighborhood", which is a very low density residential designation. The property was designated FU-10 in 2004, and included in the concept planning process for the Beavercreek Road Concept Plan due to it's being contiguous with lands along Beavercreek Road that were undergoing Concept Planning pursuant to Metro Title 11. As a part of the Beavercreek Concept Plan this property was envisioned to be a sustainable community with high-density mixed-use employment and housing. Beavercreek Road has been identified as a transportation corridor, and the subject property is at the intersection of Beavercreek Road and Meyers Road. The MUC-1 zone and the corresponding uses together with an MUC Comprehensive plan designation fit in with these goals. The applicant indicates that Metro has provided support of the proposal. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 6.1 Air Quality**

*Promote the conservation, protection and improvement of the quality of the air in Oregon City.*

*Policy 6.1.1*

*Promote land-use patterns that reduce the need for distance travel by single-occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.*

**Finding:** The applicant indicates that one of the major concepts of a sustainable community is that services in the neighborhood are "walkable." The future development plans for this site will include provisions for pedestrian and bicycle modes of transportation. In addition, as a part of this plan, Beavercreek Road has been identified as a transportation corridor, where multiple forms of transportation will be available. The MUC-1 zone allows and encourages mixed use development. Permitted uses in the MUC-1 zone include both residential and commercial uses which promote and encourage alternate forms of transportation. These concepts together with design review will encourage a development that meets this policy. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 8.1 Developing Oregon City's Park and Recreation System**

*Maintain and enhance the existing park and recreation system while planning for future expansion to meet residential growth.*

*Policy 8.1.5*

*Identify and construct a network of off-street trails throughout the city for walking and jogging.*

**Finding:** The applicant indicates that an MUC-1 zone would not interfere with any adopted trail being developed in the future. Further, there is a 50-foot wide gas corridor easement that runs across the northerly corner of the property, which creates a strip of unbuildable area that may be suitable for a walking trail per the easement guidelines. Specific plans for a trail network on the parcel would be required at the time a development is proposed. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 9.8 Transportation System**

*Recognize the importance of the land use-transportation link and encourage businesses to locate in areas already served by the type of transportation system they need.*

*Policy 9.8.1*

*Through coordination with TriMet and local employers, encourage and promote the use of mass transit to travel between residential areas and employment areas.*

**Finding:** The applicant indicates that Beavercreek Road has been identified as a major arterial transportation corridor in the City's Transportation System Plan. An MUC-1 zone would encourage mixed-use development that would benefit from multi-modal transportation. Currently bus service is available at the intersection of Beavercreek Road and Hwy. 213, and to the Clackamas Junior College on Hwy. 213. Future service to the High School and this property is expected when justified. This would be examined and reviewed more closely at time of development application (site plan and design review). **The applicant has adequately demonstrated compliance with this policy.**

*Policy 9.8.5*

*Work with the Oregon Department of Transportation to preserve and improve the capacity of Highway 213 and its intersection with I-205.*

**Finding: Complies with Conditions.** Please refer to the findings under Section 17.68.020(C) for a more detailed analysis of the applicant's Traffic Impact Analysis and the required mitigation. The applicant indicates that a traffic report has been prepared that studies the effects of various uses allowed by the MUC-1 zone to the area. The traffic capacity models used in the TPR analyses were developed in collaboration with City of Oregon City and Oregon Department of Transportation staff to reflect growth assumptions, planned improvements, and potential improvements consistent with agency plans. The No-build analyses reflect an assessment of how the intersections will operate with the existing zoning and were used as the baseline condition. A reasonable worst-case mixed-use development scenario was then overlaid on the models to analyze the possible impact of the proposed zone change. Mitigation has been identified. A more detailed review would be required at time of development application (site plan and design review). **The applicant can assure this standard is met through Condition of Approval 4.**

*Policy 9.8.7**Assess methods to integrate the pedestrian, bicycle and elevator transportation modes into the mass transit system.*

**Finding:** Please refer to the findings under Section 17.68.020(C) for a more detailed analysis of the applicant's Traffic Impact Analysis. The applicant indicates that the Beavercreek Road has been identified as a major arterial transportation corridor in the City's Transportation System Plan as well as a Transit Corridor from the entrance to Clackamas Community College campus north.. Major Arterial roads are required to be built to provide a full range of transportation modes. Compliance with this standard is feasible and will be reviewed at the time a development application is proposed for the property. An MUC-1 zone would encourage mixed use development that would benefit from multi-modal transportation. This will be examined and reviewed more closely at time of development application (site plan and design review). **The applicant has adequately demonstrated compliance with this policy.**

**Goal 10.1 Diverse Housing Opportunities***Provide for the planning, development and preservation of a variety of housing types and lot sizes.**Policy 10.1.3**Designate residential land for a balanced variety of densities and types of housing, such as single-family attached and detached, and a range of multi-family densities and types, including mixed-use development.*

**Finding:** the applicant indicates that currently the subject property has a holding zone of FU-10. The proposed rezoning to MUC-1 is reasonable given the zones goals of mixed use and high density residential. The multi-family use allowed under MUC-1 would allow for a potential alternative to single family homes already in the area. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 11.1 Provision of Public Facilities***Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.**Policy 11.1.4: Support development of underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land use compatibility can be found relative to the environment, zoning and comprehensive plan goals.**Policy 11.1.6**Enhance efficient use of existing public facilities and services by encouraging development at maximum levels permitted in the Comprehensive Plan, implementing minimum residential densities, and adopting an Accessory Dwelling Unit Ordinance to infill vacant land.*

**Findings:** The adequacy of respective Public Facilities is addressed below.

Water, Sewer, and Stormwater Facilities

According to the Oregon City Development Services Manager, the sanitary line at the end of Emerson Court does not extend to Beaver Creek Road. But if an easement was obtainable, the sewer line could be extended and would work to serve the subject property for development or if an easement cannot be obtained, the applicant can connect into the public system by going south to Glen Oak and replacing a section of sanitary line to a manhole about 330 feet to the west. Public sewer services are available and sized to accommodate additional flows from this property. The property is appropriately sized so that stormwater be handled on-site and eventually directed to the nearest natural drainageway and compliance is feasible. The water line in Beaver Creek Road is a 16-inch line.

#### Transportation

Please refer to the findings under Section 17.68.020(C) for a more detailed analysis of the applicant's Traffic Impact Analysis.

#### Schools

Oregon City School District did not comment on this application.

#### Police

The impact of approximately nine acres of mixed-use development on the capacity of the police is minimal and would be addressed when the actual development application is submitted. When the property was annexed, a Development Agreement (Exhibit G) was approved to assure adequate police services would be provided to new development on the property. At this time the applicant feels confident that any deficiencies could be corrected prior to any development construction or occupancy.

#### Fire Protection

Fire protection for property would be provided by Clackamas Fire District #1. Applicant indicates that the much larger Oregon City High School facility directly across the street was found to be adequate and is largely a function of sufficient water. The public water system is a looped system with sufficient capacity and pressure to support the necessary fire protection. Additional fire hydrants and possible fire sprinkler systems will be included with an actual development application.

Staff has reviewed the applicant's proposal and finds that the public facilities and services are presently capable of supporting the requested comprehensive plan amendment and zone change. With the exception of transportation system impacts, as described under Section 17.68.020(B) and (C), **the applicant has adequately demonstrated compliance with this policy.**

#### **Goal 12.1 Land Use-Transportation Connection**

***Ensure that the mutually supportive nature of land use and transportation is recognized in planning for the future of Oregon City.***

*Policy 12.1.3*

*Support mixed uses with higher residential densities in transportation corridors and include a consideration of financial and regulatory incentives to upgrade existing buildings and transportation systems.*

**Finding: Conditionally Complies.** Please refer to the findings under Section 17.68.020(C) for a more detailed analysis of the applicant's Traffic Impact Analysis. The applicant indicates that the proposed MUC-1 zone would encourage mixed uses that would benefit from being on Beaver Creek Road which has been designated a transportation corridor. **The applicant can assure this standard is met through Condition of Approval 4.**

*Goal 12.5 Safety*

*Develop and maintain a transportation system that is safe.*

*Policy 12.5.1*

*Identify improvements that are needed to increase the safety of the transportation system for all users.*

**Finding: Conditionally Complies.** Please refer to the findings under Section 17.68.020 (C) for a detailed analysis of the applicant's Traffic Impact Analysis. The applicant indicates that the traffic analysis has identified improvements that will be needed to increase the safety of the local transportation system. Beaver Creek Road has been identified as a major arterial transportation corridor in the city's Transportation System Plan. Major Arterial roads are required to be built to provide a full range of transportation modes. Compliance with this standard is feasible and will be reviewed at the time a development application is proposed for the property. The applicant states that the proposed MUC-1 would encourage mixed-use development that would be benefited by multi-modal forms of transportation. **The applicant can assure this standard is met through Condition of Approval 4.**

*Goal 12.6 Capacity*

*Develop and maintain a transportation system that has enough capacity to meet users' needs.*

*Policy 12.6.1*

*Provide a transportation system that serves existing and projected travel demand.*

**Finding:** Please refer to the findings under Section 17.68.020(C) for a detailed analysis of the applicant's Traffic Impact Analysis and proposed mitigation. The applicant indicates that Beaver Creek Road has been identified as a transportation corridor. Capacity of the transportation system would be reviewed in more detail at time of development application.

A traffic analysis is attached to this application that analyzes the proposed zone change in compliance with the Transportation Planning Rule (TPR), OAR 660-012-0060. The analysis determined that there will be a significant affect on surrounding transportation facilities because of the increased site development potential associated with the proposed change from FU-10 to the Mixed Use zone.

Given a significant affect was identified under TPR, capacity analyses were prepared to identify appropriate mitigation measures under OAR 660-012-0060(2). The analysis of impacts was conducted for the future long-term horizon corresponding to the end of the City's planning period of 2027.

With the mitigation measures identified by the applicant in place and requirements to ensure that the future approvals support the development of a mixed-use pedestrian friendly neighborhood, the proposed zone change from EFU to Mixed Use zoning is consistent with the planned function, capacity, and performance standards of the transportation facilities. **The applicant can assure this standard is met through Condition of Approval 4.**

*Policy 12.6.2*

*Identify transportation system improvements that mitigate existing and projected areas of congestion.*

**Finding:** Please see findings for Policy 12.6.1 above.

**Goal 13.2 Energy Conservation**

*Plan public and private development to conserve energy.*

*Policy 13.2.1*

*Promote mixed-use development, increased densities near activity centers, and home-based occupations (where appropriate).*

**Finding:** The applicant indicates that at this time the property owner is proposing a zone change from FU-10 to Mixed Use Corridor District-1 (MUC-1), and a comprehensive plan amendment from Future Urban (FU) to Mixed Use Corridor (MUC). There are no development plans proposed and no uses proposed at this time. The goal is to establish a City zone so that the property may be developed in the future to the highest and best use, commensurate with the city's desires for the area. The MUC-1 Zone would appear to meet the intent of this policy for mixed-use development and increased density near activity centers and along corridors. As development occurs on the easterly side of Beaver Creek Road, the applicant believes the proposed MUC zoning and comprehensive plan designation will be in concert with the goals of the City, and the above policy. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 14.1 Urban Growth Boundary**

*Establish, and amend when appropriate, the Urban Growth Boundary in the unincorporated area around the city that contains sufficient land to accommodate growth during the planning period for a full range of city land uses, including residential, commercial, industrial, and institutional.*

*Policy 14.1.2*

*Concept plans that provide more detail than the city's Comprehensive Plan will be required prior to development of lands within the Urban Growth Boundary.*

**Finding:** This property was brought into the UGB prior to the concept planning requirement. (Exhibit I). The applicant indicates that the property was added to the UGB in 1979 and was not subject to the concept

planning requirements of Title 11. Surrounding farmland property was brought into the UGB in 2002 and 2004. No changes to the UGB are proposed as a part of this application.

The Beaver Creek Road Concept Plan was adopted by the City in 2008. While the concept plan is the subject of a LUBA remand to the city and Metro in order to reconcile certain findings regarding adopted Design Type consistency with the Metro 2040 plan, the adopted concept plan does provide a publicly shared vision for development of lands, including the subject property, within the Urban Growth Boundary. **The applicant has adequately demonstrated compliance with this policy.**

**Goal 14.3 Orderly Provision of Services to Growth Areas**

*Plan for public services to lands within the Urban Growth Boundary through adoption of a concept plan and related Capital Improvement Program, as amendments to the Comprehensive Plan.*

*Policy 14.3.1*

*Maximize new public facilities and services by encouraging new development within the Urban Growth Boundary at maximum densities allowed by the Comprehensive Plan.*

*Policy 14.3.2*

*Ensure that the extension of new services does not diminish the delivery of those same services to existing areas and residents in the city.*

*Policy 14.3.4*

*Ensure the cost of providing new public services and improvements to existing public services resulting from new development are borne by the entity responsible for the new development to the maximum extent allowed under state law for Systems Development Charges.*

**Finding:** Amendments to the Capital Improvement Program have been adopted to assure orderly provision of services to growth areas in accordance with this policy. The most recent updates include an updated Transportation System Development Charge (TSDC) that does include urban level development assumptions within the Beaver Creek Concept Plan area. The new TSDC's were adopted by Resolution 09-02 (Exhibit H). Additionally, the City TSDC includes 30% of the estimated costs of State Facility Projects that are located within the City limits, which includes impacted intersections on Highway 213. **The applicant has adequately demonstrated compliance with this policy.**

***B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed in the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.***

Sewer, Water, Storm Drainage, Recreation, Good and Services, Fire, Police

**Finding:** The adequacy of these public facilities and services was address above under Goal 11.1.1. Adequacy of Transportation Facilities is addressed below.

***C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.***

**Trip Generation**

The applicant has submitted a TPRA which provides an explanation of the rationale for a mixed use development scenario based on the proposed zoning, overall parcel size, and limitations imposed on the parcel by the required street network necessary to develop adjacent lands east of the parcel within the Urban Growth Boundary. It further provides a detailed analysis of trip generation using a combination of land uses consistent with MUC-1 zoning consisting of the following:

- Shopping center (20,000 square feet)
- Office (80,000 square feet)
- Townhouse/condominium (30 units)

The TPRA indicates that the net increase was calculated to be 173 new primary trips due to the rezoning.

**Transportation Planning Rule**

For zone changes and comprehensive plan amendments, the City must make findings that the proposed amendment complies with the TPR OAR 660-012-0060. There must be substantial evidence in the record to either make the finding of “no significant effect” on the transportation system, or, if there is a significant effect, assurance that the allowed land uses are consistent with the identified function, capacity, and performance standard of the transportation facility within the planning horizon (year 2027).

The City's Transportation Consultant, Replinger and Associates, reviewed the applicant's Transportation Planning Rule Analysis (TPRA) Exhibit C.

**Analysis Period**

The TPRA uses year 2027 as the horizon year. Traffic volumes for this year were developed based on previous analyses and on the values from the regional transportation model and consultation with ODOT and the City.

**Operations / Intersection Analysis**

Traffic operations analysis was conducted for the PM peak hour for 2027 with and without the proposed rezoning. In addition, at ODOT's request, the analysis was conducted using two versions of the street network:

- 1) With the planned extension of Meyers Road between Highway 213 and Beaver Creek Road; and
- 2) Without the extension of this section of Meyers Road.



The analysis indicates that the intersections along Highway 213 from Beavercreek Road to Meyers Road are expected to exceed ODOT's mobility standards by 2027 without the development, but that other intersections are calculated to meet operational standards. The engineer notes that this is consistent with the analysis conducted for the Beavercreek Road Concept Plan, although that plan is the subject of a remand from the Land Use Board of Appeals (LUBA).

The "with rezoning" analysis adds the predicted 173 additional trips to the original year 2027 volumes. ODOT determined that if the rezoning caused the volume-to-capacity ratio (v/c) to increase by more than 0.01, they considered it to be a significant impact and thus requires mitigation. For the street network scenario that assumes Meyers Road is not extended, the two locations at which this criterion is met are: Highway 213/Molalla Avenue and Highway 213/Meyers Road. This is shown in the Applicant's TPRA on Table 5, which is provided here:

**Table 5 Forecast Year 2027 OR 213 Intersection Operations**

Intersection	Volume-to-Capacity Ratio			
	Performance Standard	2027 Base Conditions	2027 Conditions with Rezone	Incremental Impact
OR 213/ Beavercreek Road	0.99	1.10	1.11	+0.01
OR 213/ Molalla Avenue	0.99	1.09	1.12	+0.03
OR 213/ Meyers Road	0.99	0.98	1.00	+0.02
OR 213/ Glen Oak Road	0.99	1.31	1.32	+0.01

For the scenario that assumes Meyers Road is extended, the only intersection potentially exceeding the >0.01 v/c criterion is Highway 213/Meyers Road. This is shown in the Applicant's TPRA on Table 6, which is provided here:

**Table 6 Forecast 2027 OR 213 Intersection Operations**

Intersection	Volume-to-Capacity Ratio			
	Performance Standard	2027 Base Conditions	2027 Conditions with Rezone	Incremental Impact
OR 213/ Beavercreek Road	0.99	1.10	1.11	+0.01
OR 213/ Molalla Avenue	0.99	1.09	1.09	—
OR 213/ Meyers Road	0.99	1.13	1.17	+0.04
OR 213/ Glen Oak Road	0.99	1.29	1.29	—

### Reasonably Likely Improvements

ODOT provided comments (Exhibits D. and E.) regarding the proposed project. For evaluation of local plan amendments and zone changes, Section 660-12-0060 of the TPR requires that needed improvements either have committed funding, are in a financially constrained Metropolitan Planning Organization (MPO) transportation plan, or are "reasonably likely" to be provided by the end of the planning period in order for the capacity provided by the needed improvement to be considered "available" to the proposed amendment.

The key location is Highway 213/Meyers Road. Meyers Road between Highway 213 and Beavercreek Road is included in the City's TSP. As a new road in a new corridor, its implementation is more dependent on development than an already-existing facility that needs to be upgraded.

Since adoption of the TSP, the easterly segment of Meyers Road has been constructed and a condition of approval placed on the Clackamas Community College which makes it highly likely that the westerly portion will be constructed within the 16-year planning horizon assessed for the proposed rezoning (Exhibit K). The central segment is somewhat more dependent on development. Since the traffic forecasts for 2027 are predicated on considerable regional development, it seems highly likely that both the development assumed in the College's Master Plan and the development of the privately held parcels in the central segment will occur by 2027.

Furthermore, the cost of the Meyers Road Extension from Highway 213 to High School Lane was included in the City's 2009 Transportation System Development Charge Study, with a city funding responsibility of 100%, with a total estimated cost of \$10,000,000 and an SDC eligible cost of \$5,415,282 (Exhibit N). The city is already collecting SDC's for this needed improvement.

Subsequently, it is reasonable to assume that the Meyers Road extension improvement is "reasonably likely" to be provided by the planning horizon (year 2027).

### Proposed Mitigation

The applicant's engineer indicates that the addition of an exclusive right-turn lane on westbound Meyers Road at Highway 213 improves the operations of the intersection such that it's performance in the "with rezoning" scenario is better than the 2017 scenario without the rezoning. The engineer also calculates that the addition of a northbound through lane on Highway 213 allows either 2017 scenario to meet ODOT's mobility standards.

ODOT supports the findings and recommended mitigation identified in the TIA with the following provisions to ensure no significant effect on OR 213: 1) The City of Oregon City documents through the land use decision that the Meyers Road extension improvement is "reasonably likely" to be provided by the planning horizon (year 2027), and 2) The land use decision includes a condition requiring the applicant to contribute funding

to City of Oregon City for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection (Exhibit K).

The applicant has demonstrated that mitigation is readily available to offset the impact. The addition of an exclusive right-turn lane on westbound Meyers Road at Highway 213 is shown to substantially improve the performance of the intersection. Though a right-turn lane is not specifically identified in the TSP at this location, the addition of a right-turn lane where a collector or minor arterial intersects a major highway is a fairly common feature.

Mr. Replinger states that the needed mitigation may be considered a Transportation System Management measure that is supported by policies in the TSP, Oregon Highway Plan and Metro's RTP. At this particular location, the College's plans for development place no significant constraints on a modest expansion of right-of-way for Meyers Road in this quadrant.

Mr. Replinger concludes that the applicant has demonstrated that the improvements identified the system can, with modest mitigation, accommodate the proposed rezoning.

Therefore, Staff recommends that the Planning Commission apply the following Condition of Approval:

Based on the demonstrated significant effect to the intersection at Highway 213/Meyers Road, before receiving building permits the applicant shall contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection. The amount of the proportional share shall be determined based on a revised traffic impact analysis that will be submitted at the time a development application is submitted when the proposed uses are known.

**The applicant can assure this standard is met through Compliance with Condition of Approval 4.**

***D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.***

The applicant has addressed statewide planning goals in addition to the Goals and Policies of the Comprehensive Plan as outlined below.

**Statewide Planning Goal 1: Citizen Involvement - OAR 660-015-0000(1)**

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

*The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use*

*Planning process. The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues. Federal, state and regional agencies, and special- purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.*

**Finding:** The applicant indicates that this application procedure allows for citizen involvement and communication throughout the entire process. Before this land use application was submitted an informational meeting was held with the Caufield Neighborhood Association and surrounding neighbors within 300 feet of the subject property. The submittal included a mailing list of these neighbors within 300 feet of the subject property and the Caufield Neighborhood Association Chairs so that the City could send notices of application and invitation to attend and/or participate in the public hearing held by the planning commission and the city commission. Finally, should this application be approved, a notice will be sent to all people of standing who participated in these public hearings giving them a final opportunity to appeal the decision if desired. **The statewide planning goal is met.**

### **Statewide Planning Goal 2: Land Use Planning - OAR 660-015-0000(2)**

#### ***PART I -- PLANNING***

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

**Finding:** The applicant indicates that this zone change and comprehensive plan amendment request is being reviewed for consistency with all applicable City Code sections, the City Comprehensive Plan, Statewide Goals, Metro designations, etc. by the process of this Type IV decision which entails a quasi-judicial process with at least one public hearing by the planning commission and one public hearing by the city commission. The applicant has been prepared pursuant to the applicable Administration and Procedures codified in OCMC Chapter 17.50 and the process for Zone Changes and Plan Amendments in OCMC 17.68. **The statewide planning goal is met.**

### **Statewide Planning Goal 6: Air, Water And Land Resources Quality - OAR 660-015-0000(6)**

*To maintain and improve the quality of the air, water and land resources of the state. All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.*

**Finding:** The applicant indicates that this zone change and comprehensive plan amendment request will allow for the subject property to be designated with a City zone so that it may be developed in the future to the highest and best use. Public facilities are presently capable of supporting any of the uses allowed within an MUC-1 zone. All waste discharges from future development will be accommodated with a utility system

designed to City standards so as not to threaten or violate applicable state or federal environmental quality statutes, rules or standards. An existing 8-inch sanitary line is at the end of Emerson Court and stubbed to Beaver Creek Road. Storm water will be directed north to the existing natural drainage way and/or along the existing Beaver Creek Road storm system. Water quality measures for storm water will be incorporated into final plans to meet or exceed the requirements of the City. **The statewide planning goal is met.**

**Statewide Planning Goal 9: Economic Development - OAR 660-015-0000(9)**

*To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. Comprehensive plans and policies shall contribute to a stable and healthy economy in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability and cost; labor market factors; educational and technical training programs; availability of key public facilities; necessary support facilities; current market forces; location relative to markets; availability of renewable and non-renewable resources; availability of land; and pollution control requirements.*

**Finding:** The applicant indicates that the Mixed Use Corridor District has been identified by the city to be designed along selected sections of specified transportation corridors including Beaver Creek Road. As development occurs on the easterly side of Beaver Creek Road, the applicant believes the proposed zoning and comprehensive plan designation (MUC-1 and MUC) will be in concert with the goals of the City. The permitted uses offer a wide variety of potential to increase the economic growth and provide facilities to support current markets. The allowed uses in an MUC-1 zone will help contribute to the goals of providing a stable and healthy economy with potential employment opportunities and/or alternative housing options to the typical single family home. **The statewide planning goal is met.**

**Statewide Goal 10: Housing - OAR 660-015-0000(10)**

*To provide for the housing needs of citizens of the state.*

*Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*

**Finding:** The applicant indicates that MUC-1 zone allows for multi-family housing and assisted living facilities which would contribute a more varied housing option to the overall housing inventory of the City. **The statewide goal is met.**

**Statewide Goal 11: Public Facilities and Services - OAR 660-015-0000(11)**

*To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

**Finding:** The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City in 2008. Public facilities are presently capable of supporting any of the uses

allowed within an MUC-1 zone. All services are available at the site and have capacity and framework to serve the urbanization of this property and the adjacent rural areas. There is public water available to the site from a currently existing 12-inch line is Beaver Creek Road. An existing 8-inch sanitary line is at the end of Emerson Court and stubbed to Beaver Creek Road. Storm water will be directed north to the existing natural drainage way and/or along the existing Beaver Creek Road storm system. The future development of this site, once the City zone and comprehensive plan designation are set, will allow for timely, orderly and efficient use of public services. **The statewide goal is met.**

**Statewide Goal 12: Transportation - OAR 660-015-0000(12)**

*To provide and encourage a safe, convenient and economic transportation system.*

*A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility.*

**Finding:** The applicant indicates that Beaver Creek Road has been identified as a major arterial transportation corridor. The applicant's traffic analysis supported mixed use including commercial, industrial, and multi-family uses with Beaver Creek Road being the primary transportation corridor. Tri-met currently serves Clackamas Community College with bus service via Molalla Ave, Highway 213, and Beaver Creek Road. No service is currently provided to this site, but with development and the adjacent Oregon City High School extension of service is planned. Bus service has direct connections to light rail at Clackamas Town Center with connections to the City of Portland, Gresham, Hillsboro and the Airport. The Beaver Creek Road cross section includes bicycle lanes together adjacent to the vehicle lanes. There was sufficient right-of-way dedicated with the High School when coupled with future dedications along the subject property to install the master plan cross section.

A traffic analysis is attached to this application that analyzes the proposed zone change in compliance with the Transportation Planning Rule (TPR), OAR 660-012-0060. The analysis determined that there will be a significant affect on surrounding transportation facilities because of the increased site development potential associated with the proposed change from FU-10 to the Mixed Use zone. Given a significant affect was identified under TPR, capacity analyses were prepared to identify appropriate mitigation measures under OAR 660-012-0060(2).

The analysis of impacts was conducted for the future long-term horizon corresponding to the end of the City's planning period.

The traffic capacity models used in the TPR analyses were developed in collaboration with City of Oregon City and Oregon Department of Transportation staff to reflect growth assumptions, planned improvements,

and potential improvements consistent with agency plans. The No-build analyses reflect an assessment of how the intersections will operate with the existing zoning and were used as the baseline condition. A reasonable worst-case mixed-use development scenario was then overlaid on the models to analyze the possible impact of the proposed zone change.

With the recommended mitigation measures identified by the applicant in place and requirements to ensure that the future approvals support the development of a mixed-use pedestrian friendly neighborhood, the proposed zone change from FU-10 to Mixed Use zoning is consistent with the planned function, capacity, and performance standards of the transportation facilities. **The statewide goal is met.**

**Statewide Goal 14: Urbanization - OAR 660-015-0000(14)**

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Finding:** the applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City by a city vote November 7, 2007 with ratification in January 2008. As development occurs on the easterly side of Beaver Creek Road, the applicant believes the proposed zoning and comprehensive plan designation (MUC-1 and MUC) will be in concert with the goals of the City. All necessary public utilities are available to the site at this time in order to allow for its development to urban densities. For this reason, this application is consistent with an orderly and efficient transition from rural to urban land use. **The statewide goal is met.**

**COMPLIANCE WITH METRO URBAN GROWTH FUNCTIONAL PLAN (TITLES 1 AND 7)**

Findings regarding compliance with Title 1 of the UGFMP - *Requirements for Housing and Employment Accommodation*, and Title 7 – *Housing Choice*, are provided in Exhibit M.

**CONCURRENCE WITH THE BEAVERCREEK ROAD CONCEPT PLAN**

The subject property was included as part of the Beaver Creek Road Concept Plan, which was appealed to LUBA and which was remanded to Metro and the City of Oregon City. Therefore, findings regarding concurrence with the Beaver Creek Road Concept Plan are informational only and have been provided in Exhibit L. They should not be considered approval criteria that must be satisfied in order to approve this the Zone Change and Comprehensive Plan Amendment.

According to the Beaver Creek Road Concept Plan, the area proposed for plan amendment and re-zoning falls within the “Mixed Employment Village” – MEV plan designation:

*“The purpose of the Mixed Employment Village is to provide employment opportunities in an urban, pedestrian friendly, and mixed use setting. The MEV is intended to be transit supportive in its use mix, density, and design so that transit remains an attractive and feasible option. The MEV allows a mix of retail, office, civic and residential uses that make up an active urban district and serve the daily needs of adjacent neighborhoods and*

*Beavercreek Road sub-districts. Site and building design will create pedestrian-friendly areas and utilize cost effective green development practices. Business and program connections to Clackamas Community College and Oregon City High School are encouraged. Businesses making sustainable products and utilizing sustainable materials and practices are encouraged to reinforce the identity of the area and promote the overall vision for the Beavercreek Road area."*

#### **IV. CONCLUSION AND RECOMMENDATION:**

Based on the findings in this Staff Report, the Community Development Director has determined that the applicant has met, or can meet with the recommended Conditions of Approval, the applicable requirements in the Oregon City Municipal Code for approval of the proposed application.

Therefore, the Community Development Director recommends that the Planning Commission recommend to the City Commission an Approval as Proposed by the Applicant with Conditions for their consideration at the September 15, 2010 hearing, for the Application identified as Planning Files PZ 10-1 and ZC 10-01, for a Comprehensive Plan Amendment from Future Urban designation to MUC – Mixed Use Corridor designation, and a Zone Change from "County – FU-10" to "MUC-1" Mixed Use Corridor district, for the property located at 19896 Beavercreek Road and identified as Clackamas County Map 3-2E-10C, Tax Lot 800.



## V. EXHIBITS

The following exhibits are attached to this staff report.

- A. Applicant's Land Use Application Packet
  - 1. City of Oregon City Land Use Application form & list of permit approvals sought
  - 2. Preliminary title report with legal description
  - 3. Land Use Narrative
  - 4. Pre-application Conference Summary
  - 5. Neighborhood Contact information
  - 6. Tax Map, Site Map, Comprehensive Plan Map, Beaver Creek Road Concept Plan Map
  - 7. APPENDIX
  - 8. Traffic Report – *(See B – Exhibit Below)*
  - 9. Beaver Creek Road Concept Plan
  - 10. Supporting emails, correspondence, annexation agreement
  - 11. Exhibit Drawings (full sized) – **On File**
- B. Transportation Planning Rule Analysis, dated June 21, 2010, prepared by Joe Bessman, PE, PTOE, Senior Engineer, and Chris Bremer, PE, Principal Engineer, Kittelson and Associates, Inc.
- C. City Transportation Engineers Review of the Applicant's Transportation Planning Rule Analysis, dated August 9, 2010, prepared by John Replinger, PE, Replinger and Associates.
- D. ODOT Comments on Rezoning, dated August 17, 2010, prepared by Gail Curtis, AICP, Senior Planner
- E. ODOT Comments on TPR Analysis, dated August 12, 2010, prepared by Avi Tayar, PE, Development Review Team Leader, Region 1 Traffic.
- F. Comments of Caulfield Neighborhood Association, prepared by Mike Mermelstein (received August 13, 2010).
- G. Police Services Development Agreement, Planning File AN 07-01.
- H. Resolution 09-02, A Resolution Repealing Resolution 97-56, Adopting A Methodology, Project Lists, And Amounts For The City's Transportation System Development Charge And Establishing Effective Dates, adopted April 1, 2009.
- I. Metro Comments, Email, May 1, 2007, regarding waiver of Title 11 compliance.
- J. Metro Comments, Regarding the re-zoning proposal.
- K. Notice of Decision and Conditions of Approval for Clackamas Community College Master Plan, Planning File CP 07-01, issued June 24, 2008.
- L. Concurrence with the Beaver Creek Road Concept Plan (For Information purposes only, not approval criteria)
- M. Findings for Compliance with the Metro Urban Growth Functional Management Plan *Title 1 - Requirements for Housing and Employment Accommodation*, and *Title 7 - Housing Choice*.
- N. Excerpt – 2009 Transportation System Development Charge Study with Cost Estimates for Project R-98 – Meyers Road Extension: Highway 213 to High School Lane.

**RECOMMENDED CONDITIONS OF APPROVAL****Planning Files: PZ 10-01 / ZC 10-01****Planning Commission Hearing Date: August 30, 2010**

1. The Applicant is responsible for this project's compliance with Engineering Policy 00-01. The policy pertains to any land use decision requiring the Applicant to provide any public improvements.
2. Public facilities/infrastructure locations shall be provided as determined by the future development's conditions of approval.
3. Future developments shall obtain the appropriate Erosion Prevention and Sedimentation Control permit(s) at the time of construction plan submittal.
4. Based on the demonstrated significant effect to the intersection at Highway 213/Meyers Road, before receiving building permits the applicant shall contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection. The amount of the proportional share shall be determined based on a revised traffic impact analysis that will be submitted at the time a development application is submitted when the proposed uses are known.



## SUPPLEMENTAL FINDINGS

October 26, 2010

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On October 20, 2010, the Hamlet of Beavercreek (“HBC”) submitted a letter and read the letter into the record at the City Commission hearing, generally reiterating the comments provided in the October 13, 2010 letter that the Hamlet submitted into the record. As part of the comments from the HBC, issues were raised concerning the city finding that the construction of Meyers Road was “reasonably likely” to occur and requesting that the finding be amended to indicate that Meyers Road “will be” built. The Commission determined, by a vote of 4-0-1, that the information/request set out in the second full paragraph of page 2 of the HBC letter, starting on the fifth line of that paragraph, was new issue and would not be considered.

The Commission determined that proposed condition of approval 6 shall be amended to more specifically incorporate the design details envisioned in the Beavercreek Road Concept Plan for the Mixed Employment Village, which this property is located within. The Commission finds that condition of approval 6 shall read as follows:

6. *If the Beavercreek Road Concept Plan is not yet adopted at the time the applicant seeks development approval, the applicant’s proposal shall be consistent with the intent and purpose of the Mixed Employment Village, which is to provide retail, office, civic and residential uses in an urban, pedestrian friendly and mixed use setting that is transit supportive in its use, density and design. Development shall create an active urban environment that incorporates pedestrian-friendly amenities, urban building design consistent with the Beavercreek Road Concept Plan and cost effective green development practices. At a minimum, the overall development site shall achieve an average minimum floor area ratio (FAR) of 0.25 and a minimum building height of thirty four feet except for accessory structures or buildings under one thousand square feet. The applicant may seek to modify these standards through the master plan / adjustment or variance process with city approval.*

At the September 20, 2010 meeting, the Commission determined that the Ordinance would be brought back to the November 3, 2010 meeting for a first reading of the Ordinance, incorporating these supplemental findings and the revised condition of approval 6 into their decision.



At the October 6, 2010 public hearing, the Commission closed the public hearing but left the written record open until October 13, 2010 for additional comments. On October 13, 2010, the HBC submitted written comments into the record for planning files PZ 10-01 and ZC 10-01, an application to amend the Comprehensive Plan and Zoning of a 9.59-acre property located at 19896 Beavercreek Road. These supplemental findings are adopted by the City Commission with respect to the issues raised by HBC in its October 13 letter.

### **GENERAL FINDINGS**

The City Commission finds that this is an application for a plan amendment and to rezone a parcel of land that is within the City of Oregon City. As such, the applicant's obligation is to address the requirements of the Oregon City Comprehensive Plan and Municipal Code, Statewide Planning Goals and Oregon Administrative Rule (OAR) 660-12-0060 (Transportation Planning Rule, or "TPR"), which contains the applicable transportation criteria for a zone change analysis. The essential requirement of the TPR is to ensure that the transportation system can accommodate the net effect of the change in use, either as planned or through mitigation.

A thorough Land Use Application and a transportation impact analysis (TIA) addressing the relevant approval criteria were completed and submitted to the City for consideration. The TIA was prepared by Kittelson and Associates, licensed professional traffic engineers, and is dated June 21, 2010. This analysis was reviewed and its findings accepted by the Oregon Department of Transportation (ODOT) and by city staff and the Planning Commission. Specifically, the finding of the TIA is that the plan amendment and rezone would have a "significant effect" (as stipulated in the TPR and defined by ODOT as an increase of more than 0.1 in the volume-to-capacity ratio) at the intersection of Highway 213 (OR 213) and Meyers Road. Further, this significant effect can be mitigated thru the Meyers Road extension and by providing a dedicated right-turn lane that would serve traffic movements from Meyers Road to northbound OR 213. Finally, ODOT and city staff have concurred that all other applicable TPR requirements are met.

The specific issues raised by HBC are set out and addressed below.

### **SPECIFIC FINDINGS IN RESPONSE TO HBC COMMENTS**



**HBC COMMENT:** “Title 11 first requires that local governments place interim measures on the new urban land to protect it from urbanization before a plan is completed and adopted. When new land is brought into the urban growth boundary, Metro collaborates with local cities and counties to plan how the new communities will be developed and served by roads, schools and other urban services.

In December 2002, the Metro Council voted to expand the urban growth boundary by 18,638 acres. In 2004 and 2005, the Metro Council voted to expand the urban growth boundary by an additional 2,500 acres for industrial land purposes. Before this land is converted from rural to urban use, Metro requires that it be planned by the local city or county that will provide services for the new urban area.

This 9.59 acre parcel was previously part of the Beavercreek Road Concept Plan and subject to Title 11 requirements. Oregon City now proposes to develop this parcel separately and states Title 11 will not apply since this property was brought into the UGB in 1979 (prior to Title 11 requirements), and furthermore, is no longer subject to Title 11 requirements since the Concept plan has not been approved.

We question Title 11 status for this property. Please clarify if this parcel was under Title 11 when part of the Beavercreek Road Concept Plan. And if so, then explain why the City now states that it is not? Also, because this parcel was not annexed into the City until 2008, when Metro required compliance with Title 11, wouldn't this property now be subject to the requirements of Title 11?”

**FINDING:** The City Commission finds that Title 11 is applicable to properties that have been recently added to a jurisdiction's Urban Growth Boundary (UGB), after Title 11 took effect, which is not the case for the subject site. This property was added to the Oregon City UGB in 1979, at which time a Metro Design Type was assigned to the property. The property was included in the Concept Planning process, but was not required to be reviewed under Title 11; Metro so concurs. The timing of the annexation of the property is irrelevant to determining compliance with Title 11, which, once again, is required for properties added to a UGB since Title 11 took effect, but is not a requirement for annexation into a city.

Hence, the City Commission finds that Title 11 is not applicable to this site and the approval criteria have been met.



**HBC COMMENT:** “The proposed density for this 9.59 acre parcel was much higher when part of the Beavercreek Road Concept Plan under MEV zoning, however now the density is being reduced. The city must transfer this density and where will that be? Understand that as the city transfers density further out, the rural lands of the Hamlet of Beavercreek and other surrounding County CPO's will be pressured by urbanization coming directly up against their boundaries.”

**FINDING:** The City Commission finds that this comment does not identify an approval criterion which is supposedly not being met. It is unclear which “density” or density requirement the HBC comment is referring to. Though housing is one of the envisioned uses within the Mixed Employment Village (MEV), the Beavercreek Road Concept Plan Job and Housing Density Assumptions did not assume any housing units would be constructed within the MEV when demonstrating compliance with the minimum housing requirements within the Beavercreek Road Concept Plan. The Beavercreek Road Concept Plan identified the MEV as a transition area between the North Employment Campus and the South Neighborhood and would allow a mix of retail, office, civic and residential uses with an active street level developed with 3-5 story buildings. The applicant has proposed the MUC-1 zoning designation, which allows similar uses to those proposed for the area in the Beavercreek Road Concept Plan and buildings up to 3 stories. The staff report outlines how the application complies with the goals and policies of the Oregon City Comprehensive Plan, such as mixed use developments along corridors, zoning with supporting services for residential and office, and the efficient use of public infrastructure. Again, HBC points to no actual approval standard it would assert the applicant has failed to meet.

Thus, the City Commission find that the application is consistent with the Goals and Policies of the Oregon City Comprehensive Plan; the above comments fail to demonstrate any approval criteria are not met; and the applicant has demonstrated compliance with the applicable approval criteria.

**HBC COMMENT:** “Testimony was brought forward by a member of the Hamlet of Beavercreek, stating that taking this 9.59 acre parcel out of the Concept Plan would allow for ‘piecemeal Development’. The Beavercreek Road Concept Plan, as well as Title 4 land, has not been planned or approved, therefore we do not know what the plan will look like. If development begins on this 9.59 acre parcel prior to the Concept Plan being planned and approved, then how will the city and developer understand the proper development of this parcel so that it actually blends in with the



Concept Plan and appears as though it is part of this entire community? If planning is not correctly executed for this 9.59 acre parcel it just could become a project which the city will regret. We do not believe this is what you want, but rather we feel you want to develop a concept plan for which you can take much pride.”

**FINDING:** Again, the City Commission finds that Title 11 is applicable to properties that have been recently added to a jurisdiction’s Urban Growth Boundary (UGB), after Title 11 took effect, which is not the case for the subject site. This property was added to the Oregon City UGB in 1979, at which time a Metro Design Type was assigned to the property. The property was included in the Concept Planning process, but was not required to be reviewed under Title 11; Metro so concurs. The timing of the annexation of the property is irrelevant to determining compliance with Title 11, which, once again, is required for properties added to a UGB since Title 11 took effect, but not for annexation into a city.

HBC has identified no applicable approval standard with which the applicant has not complied.

Thus, the City Commission finds that Title 11 is not applicable to this site and the approval criteria have been met. Until such time that the Beaver Creek Road Concept Plan is approved and the implementing zoning is adopted, any development on the site will be designed to comply with the site plan and design review standards of the Municipal Code and all conditions of approval adopted by the City Commission. Further, the City Commission finds that Condition of Approval No. 5 is specifically designed to address any transition which may be required when the Concept Plan is adopted and implemented; HBC has failed to explain why that condition is insufficient to serve this purpose.

The City Commission finds that the application is consistent with the Goals and Policies of the Oregon City Comprehensive Plan; the above comments fail to demonstrate that any approval criteria are not met; and the applicant has demonstrated compliance with the applicable approval criteria.

**HBC COMMENT:** “Testimony was given at both the September 15th, and October 6th, 2010 hearings regarding financial concerns on the part of the applicant. The applicant explained that he is seeking a Zone change for this property which will allow him to obtain the necessary financing for this parcel and that apparently without a Zone change the lender may consider foreclosure.



City Attorney, Ed Sullivan, quickly brought to the attention of the Commission that they cannot consider the financial concerns of the applicant as part of their decision to approve, or disapprove, these land use applications.”

**FINDING:** The City Commission finds that the city attorney is correct. The City Commission finds that the financial circumstances of the applicant provide neither a basis for approval nor a basis for denial for this application. The City Commission specifically disregards for all purposes herein the applicant’s professed need to obtain rezoning in order to retain its financing.

**HBC COMMENT:** “Certainly Transportation is one of the largest concerns with respect to this proposed development since both Beavercreek Road and Highway 213 are already at their maximum capacity. A letter from Gail Curtis, AICP, Senior Planner of ODOT, states the proposed rezoning would have a significant effect, per the requirements of OAR 660-12-0060, on the intersection of State Highway OR-213 and Meyers Road and that appropriate mitigation for the impact from this development is required. ODOT states the TIA identified that with the addition of a westbound right-turn lane at the OR 213/Meyers Rd intersection and the Meyers Rd extension that the intersection operation improves. ODOT recognized that the westbound right-turn lane is also needed to mitigate for the traffic impacts associated with the Beavercreek Road Concept Plan area. ODOT then states it supports the findings and recommended mitigation identified in the TIA with the following provisions to ensure no significant effect on OR 213:

1. The City of Oregon City documents through the land use decision that the Meyers Road extension improvement is ‘reasonably likely’ to be provided by the planning horizon (year 2027.)
2. The land use decision includes a condition requiring the applicant to contribute funding to Oregon City for construction of the westbound right-turn lane at the OR 213/Meyers Rd intersection.”

**FINDING:** The City Commission finds that, as noted in the overview, above, the rezone has a "significant effect" at the OR 213/Meyers Road intersection that can be adequately mitigated by the provision of a right-turn lane from Meyers Road to northbound OR 213. The Oregon Department of Transportation requested the City condition any future development application for the property with a proportional fair share contribution to the construction of this mitigation. The





City has agreed to impose this condition and does so here. The City has also made the finding that the Meyers Road extension improvement is "reasonably likely" to be provided by the planning horizon (year 2027.)

The City Commission hence finds that the comments submitted present no basis for determining the applicant has failed to comply with the relevant approval standards and that the proposed conditions of approval address the needed transportation improvements to comply with the Oregon City Municipal Code, Comprehensive Plan and TPR requirements.

**HBC COMMENT:** "Regarding Condition 2, the Hamlet seeks clarification. If the applicant is seeking Zone change for financial reasons, can the applicant financially contribute funding to the City of Oregon City for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection? Additionally, what is the total amount of funding required from the applicant and when is it due to the City?"

**FINDING:** The City Commission finds that the financial circumstances of the applicant provide neither a basis for approval nor a basis for denial for this application. The City Commission specifically disregards for all purposes herein the applicant's professed need to obtain rezoning in order to retain its financing.

Secondly, the City Commission finds that pursuant to Condition of Approval No. 4, the applicant is required to contribute a proportional share of funding for the construction of the westbound right turn lane at the OR 213/Meyers Rd intersection before receiving building permits. If the applicant lacks the ability to pay the required funds, no project can be developed on the subject site. The total amount of funding required from the applicant will be determined prior to the issuance of building permits.

**HBC COMMENT:** "The provision to extend Meyers Road to 213 makes no sense! The City is proposing to virtually take traffic from the overloaded Beavercreek/Meyers intersection and dump it out onto another already overloaded intersection at Meyers and Highway 213. This doesn't seem to be mitigation, but rather is nonsensical."

**FINDING:** The City Commission finds that the Meyers Road extension is identified in the City's Transportation System Plan; it is not being proposed for the first time as a part of this amendment



and rezone. The TIA considered the effect of extending the Meyers Road connection, in relation to the rezone. The TIA finding is that with the Meyers Road extension the rezone has a significant effect at the OR 213/Meyers Road intersection, which can be mitigated by providing a westbound right-turn lane from Meyers Road to northbound OR 213. HBC has submitted no credible evidence or argument to the contrary.

The City Commission also finds that the above comment expresses an opinion but does not address any relevant approval criteria, and finds that there are no facts offered to support this opinion. The City Commission finds that the TSP and relevant transportation approval criteria are met.

**HBC COMMENT:** “Have you also considered that you are proposing to place future heavy traffic on Meyers Road, by the High School, where speed limits are posted 20 MPH? These slower speeds will queue traffic dramatically and create a traffic mess in this vicinity.”

**FINDING:** The City Commission finds that the traffic analysis of the Beavercreek Road/Meyers Road intersection approved by ODOT and city staff found no significant effect from the proposed zone change, including the purported effect described in the above comment. HBC has submitted no cognizable evidence or credible argument to the contrary.

The City Commission finds that based upon the traffic analysis prepared by the applicant and reviewed by city and ODOT staff and the conditions of approval adopted here, the relevant transportation approval standards are met.

**HBC COMMENT:** “We bring your attention also to the Traffic Report addressing the intersection of Molalla Avenue and Highway 213. The report shows (357) trips onto Molalla without the Meyers Road extension and a count of 325 trips with the extension, please explain why it would be down 22 trips? Additionally, why would you propose to put even more traffic onto the Intersection of Highway 213 and Molalla Avenue when this will create a heavier back up in traffic? Currently, traffic at the Peak Hour on Highway 213 and Molalla backs up to the Haggen's Market and beyond.”

**FINDING:** When previously missing street segments such as the Meyers Road extension are completed, motorists revise their travel patterns to travel more directly via the newly completed



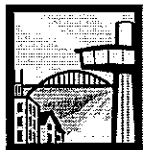
street. This explains why the traffic volumes will be different at the location noted by HBC (the northbound left-turn from OR 213 to Molalla Avenue). Those drivers will be able to simply cross OR 213 at Meyers Road, rather than travel north on OR 213 to turn left onto Molalla Avenue. There are locations where the volumes will increase (sometimes significantly), as a result of the new connection. The redistribution of travel due to the Meyers Road extension was discussed, reviewed against the approval criteria, and approved by ODOT and city staff. The TIA indicates that with the Meyers Road extension being completed, there is no significant effect to the OR 213/Molalla Avenue intersection as a result of the proposed zone change. HBC has submitted no cognizable evidence or credible argument to the contrary.

Thus, the City Commission finds that based upon the traffic analysis prepared by the applicant and reviewed by city and ODOT staff, the relevant transportation approval standards are met.

**HBC COMMENT:** “Again, the proposal to extend Meyers Road does not make any sense. This is a small two-way street with stop signs only and no signal until Warner Milne Road. The only way that an extension of Meyers Road will be helpful is if the City dramatically improves Meyers Road and puts it through to Leland Rd, preventing traffic from being dumped onto Highway 213. In its current state, Meyers Road is not beneficial in any way to moving anything other than lesser amounts of traffic east and west between Beaver Creek Rd and Glen Oak Rd.”

**FINDING:** The City Commission finds that this comment and its criticism of the Meyers Road extension contain several errors of fact. Meyers Road is signalized at OR 213. Meyers Road already directly connects from OR 213 to Leland Road. Meyers Road is constructed to City standard as a Minor Arterial from OR 213 to approximately Frontier Parkway, including curb, gutter, and complete sidewalk on the north side and a majority of the sidewalk on the south side, on-street striped bike lanes, and one travel lane in each direction. Finally, Meyers Road does NOT connect Beaver Creek Road to Glen Oak Road, nor is it planned to connect these two roadways. The Meyers Road extension from OR 213 to Beaver Creek Road is an identified improvement in the TSP needed to improve local connectivity, provide a complete, connected transportation system and provide transportation options.

The City Commission hence finds that the above opinion of HBC is inaccurate and does not address any relevant approval criteria; that there are no facts offered to support this opinion; and that the TSP and relevant transportation approval criteria are in fact met.



**HBC COMMENT:** “Finally, let us not lose sight of the real elephant in the room, and that is for the intersection of Beavercreek Road and Highway 213. This is where our attentions should be focused, now and in the future, since this is the true pinch point for vehicular traffic in this entire region. Continued stresses, from all future development by the City, will have great effects upon this intersection, which even with continual expansion, fails miserably.”

**FINDING:** The City Commission finds that, while the above comment may reflect HBC’s opinion, it presents no facts to dispute the conclusion in the TIA prepared by licensed professional traffic engineers that no significant effect will result from the proposed rezone at the OR 213/Beavercreek Road intersection. The TIA was prepared in consultation with and reviewed by ODOT and city staff and found to comply with all applicable transportation standards as proposed or with the recommended conditions of approval.

The City Commission again finds that based upon the traffic analysis prepared by the applicant and reviewed by city and ODOT staff, the relevant transportation approval standards are met.

**HBC COMMENT:** “The Hamlet of Beavercreek’s Findings in the City’s Staff Report is that many discrepancies exist in the statements.”

**FINDING:** The City Commission finds that the above general comment is unclear and its meaning is indecipherable. HBC has not credibly and factually identified any relevant discrepancies or errors in the TIA, the findings made by the Planning Commission or contained in the Staff Report, or in the underlying “statements” upon which those documents rely.

The City Commission finds that the application as proposed, with the recommended conditions of approval, complies with the applicable approval criteria for a Comprehensive Plan Amendment and Zone Change.

**HBC COMMENT:** “We do not believe the applicant has adequately demonstrated compliance with the Transportation Impacts, nor has the applicant proved that a Zone change to MUC-1 would be desirable for this land.”



**FINDING:** The City Commission finds that the methodology, approach, analysis procedures, findings, and recommendations contained in the TIA have been discussed with and reviewed and approved by ODOT and city staff, and HBC points to no evidence and raises no argument which would place that approval in question. The TIA fully documents that the TPR requirements for a zone change are met with the existing and planned transportation system, including the provision of a right-turn lane from Meyers Road to northbound OR 213. No one has presented credible evidence to the contrary.

The City Commission finds that the application as proposed, with the recommended conditions of approval, complies with the applicable approval criteria for a Comprehensive Plan Amendment and Zone Change.

**HBC COMMENT:** “We fail to see how this proposed development will benefit Oregon City. We do not understand why you are deviating from the Concept Plan for one property owner? And now you are decreasing density, from the previous MEV zoning in the Concept Plan, where this property was to be the ‘cornerstone’ of the plan? We question where will the density be transferred to within the Concept Plan? Lastly, why are you creating absolutely huge expenses for a transportation system that will be needed once development is proposed? Why would you do this just for a 9.59 acre parcel? It doesn’t pen out and seems to be a terrible waste of taxpayer dollars at a time when the economy simply does not support this type of wasteful spending. It seems the intelligent and prudent decision would be to wait until the Beaver Creek Road Concept Plan is designed and adopted, along with the Title 4 lands. We feel this 9.59 acre parcel should be placed back into the Concept Plan and allowed to be developed as originally intended under MEV zoning.”

**FINDING:** Here, HBC recapitulates several of the comments addressed above, especially with respect to the Concept Plan and questions of density. Hence, the City Commission in turn incorporates here its findings with respect to those concerns, set out above. HBC again fails to point to any failure of the applicant to comply with the approval standards in this case.

The City Commission finds that the application as proposed, with the recommended conditions of approval, complies with the applicable approval criteria for a Comprehensive Plan Amendment and Zone Change.



**HBC COMMENT:** “Rather it is more desirable to return this property to the Concept Plan, allowing it to be developed as intended and to be part of a ‘planned community’. This property was intended to be the Cornerstone of the Concept Plan, however when taken away from the Concept Plan this current land use application will deter from the overall vibrancy and uniqueness originally intended for this land. The applicant has not demonstrated compliance with Goal 6.1 Air Quality, please note that Beaver Creek Road is identified as a transportation corridor which is NOT walkable. The applicant has not demonstrated compliance with Goal 6.1 Air Quality, please note that Beaver Creek Road is identified as a transportation corridor that is not walkable.”

**FINDING:** The City Commission finds that the above thoughts relating to the Concept Plan have been addressed in its findings above. The City Commission again finds as it did with respect to the issue of compliance with the Concept Plan, above.

With respect to Goal 6.1 Air Quality, Policy 6.1.1 of the Comprehensive Plan states:

*Promote land-use patterns that reduce the need for distance travel by single-occupancy vehicles and increase opportunities for walking, biking and/or transit to destinations such as places of employment, shopping and education.*

**The following finding was prepared for the Planning/City Commission staff report, and the City Commission reiterates it here:** The applicant indicates that one of the major concepts of a sustainable community is that services in the neighborhood are "walkable." The future development plans for this site will include provisions for pedestrian and bicycle modes of transportation. In addition, as a part of this plan, Beaver Creek Road has been identified as a transportation corridor, where multiple forms of transportation will be available. The MUC-1 zone allows and encourages mixed use development. Permitted uses in the MUC-1 zone include both residential and commercial uses which promote and encourage alternate forms of transportation. These concepts together with design review will encourage a development that meets this policy. Thus, the City Commission finds that the applicant has adequately demonstrated compliance with this policy.

The City Commission finds that if this property is developed, the applicant will be required to comply with the Oregon City Municipal Code for the design of the buildings, street improvements (including sidewalks) and provisions for pedestrian and bicycle access. It is difficult to



understand how providing such needed amenities would not be in compliance with the above goal and policy of the Comprehensive Plan.

The City Commission finds that no facts have been submitted demonstrating that the above policy is not being met by the proposed application.

**HBC COMMENT:** “The Hamlet feels Statewide Goal 14 has not been met. The applicant believes the proposed zoning and Comp Plan designation MUC 1 will be in concert with the goals of the city. We have already outlined that it would be best to keep this parcel in the Concept Plan where it will be developed as a planned community. These are just a few ways in which the applicant has failed to adequately demonstrate that this is the best use for this 9.59 acre parcel. It is probable that the Hamlet could have indicated more discrepancies if it had been given the opportunity to fully participate in the hearings before the Planning Commission.”

**FINDING:** Statewide Planning Goal 14 – Urbanization, states:

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The applicant indicates that the subject property was brought into the UGB in 1979 and annexed into the City of Oregon City by a city vote November 7, 2007 with ratification in January 2008. As development occurs on the easterly side of Beaver Creek Road, the applicant believes the proposed zoning and comprehensive plan designation (MUC-1 and MUC) will be in concert with the goals of the City. All necessary public utilities are available to the site at this time in order to allow for its development to urban densities. For this reason, this application is consistent with an orderly and efficient transition from rural to urban land use.

The City Commission finds these statements of the applicant to be correct. The comments submitted by HBC fail to demonstrate how development of this property would not provide for the orderly and efficient transition from rural to urban land use; would not be able to accommodate urban populations and employment; or would not give rise to a use of land within the City limits which is efficient.

The City Commission thus finds that Statewide Planning Goal 14 is met.



With respect to the Concept Plan, the City Commission reiterates its findings on this issue above and incorporates them by reference here.

With respect to HBC's right to participate, the City Commission finds that the notice given by the City in this matter was fully compliant with all legal requirements. The City Commission finds that, in addition, HBC was given an extra opportunity to comment on the application at a second hearing, and an additional opportunity thereafter to submit further comments in writing.

**HBC COMMENT:** "Our final concern is regarding 'Partnering'. We ask that Oregon City partner with the Hamlet of Beavercreek, as well as other Hamlets and County CPO's bordering Oregon City. Often, Oregon City plans development without regards to it's effect upon the neighboring communities which is what has happened in these two land use applications. Development on either Beavercreek Road or Highway 213 could have detrimental affects upon the citizens living in Beavercreek, as well as other outlying rural areas, which is why we have placed strong emphasis upon this development. Oregon City seems oblivious to issues facing it's neighbors, therefore how can you appropriately plan for the future? The answer is, you simply cannot. Only by Partnering with your neighbors will you be able to achieve appropriate and efficient planning for this entire section of Clackamas County. Planning into the future must change. The Hamlet of Beavercreek will be vigilant in the future as urban cities expand. We will be vigilant in protecting our rural lands, our small farms, our creeks and streams with fish and wildlife. We will protect and preserve our rural community and it's way of life. This is what the 6500 citizens of the Hamlet of Beavercreek have asked for. They want to design their future and the destiny of their community. We ask Oregon City to partner with our Hamlet on all future development and we ask that you show respect for our community and that you listen to the 6500 voices who are asking only to be heard and acknowledged.

At the October 6th, 2010 City Commission meeting, the city chose to extend an olive branch to the Beavercreek community by giving the Hamlet until 5 PM on October 13th to submit written testimony, however they are being bound, by the City, to testify only to the Staff Report and Application and have been forbidden to bring forth any new facts. We continue to feel that Oregon City has breached the requirements of state Goal 1 by choosing to ignore the 6500 people of the Hamlet. At the upcoming City Commission meeting on October 20th, 2010, the City will have the opportunity to redeem it's latest actions upon the Hamlet of Beavercreek by making the





decision to remand Land Use applications ZC 10-01 and PZ 10-01 back to the Planning Commission allowing the Hamlet of Beavercreek to **testify to any and all comments, concerns and facts**, rather than holding them hostage, stating they can only testify to the Staff Report and application.”

**FINDING:** The City Commission finds that the application was noticed as required by the Oregon City Municipal Code, including mailing to all property owners within 300 feet of the site, the City neighborhood association and CIC, posting land use notice signs on the property frontage, including Beavercreek Road, advertising the application and public hearings in the newspaper and posting the land use application on the City web site. The land use application was sent to the Clackamas County Planning Department and Transportation Department, requesting comments. The County did not submit any comments indicating any issues with the proposed application. No one was denied the right to timely participation in this case.

The City Commission finds that the noticing of the land use application was performed in compliance with the requirements of the Oregon City Municipal Code, which is also in compliance with Statewide Planning Goal 1.

### CONCLUSION

The relevant issue as to the plan amendment and zone change as a whole is not one’s opinion as to whether they are “desirable” but, rather, whether the requested plan amendment and zone change comply with the specific, relevant approval standards. For all the reasons set out in the Findings adopted by the Planning Commission and the Supplemental Findings set out here, the City Commission finds and concludes that HBC has not raised any persuasive argument that the applicant has failed to meet its burden of proof as to any of the approval standards in this case. The applicant has in fact met that burden as to each of those standards, and its application should be and is approved with conditions by the City Commission.