

ORDINANCE NO. 4388

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE, TO ADD SECTIONS 40.93 AND 60.33 AND AMEND SECTION 50.90 TO REQUIRE ANNEXATION TO THE TUALATIN PARK AND RECREATION DISTRICT FOR PROPERTIES APPLYING FOR CERTAIN PERMITS AND INCLUDING A WAIVER PROVISION; TA 2005-0009

WHEREAS, the Tualatin Hills Park and Recreation District (THPRD) is the primary parks and recreation provider for the citizens of the City of Beaverton and the City chooses to require properties that apply for a Conditional Use, Design Review, and/or Land Division to annex to THPRD in order to insure that the residents of the City have adequate park and recreation services and to comply with Statewide Planning goal 11; and

WHEREAS, pursuant to Section 50.50.1 of the Development Code, the Beaverton Planning Services Division on January 10, 2006, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on January 10, 2006; and

WHEREAS, on January 25, 2006 and February 22, 2006, the Planning Commission conducted a public hearing for TA 2005-0009; and

WHEREAS, at the conclusion of the February 22, 2006 hearing, the Planning Commission voted to recommend to the Beaverton City Council adoption of the proposed amendment to the Development Code as summarized in Planning Commission Order No. 1843; and

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2005-0009 following the issuance of Planning Commission Order No. 1843; and

WHEREAS, the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1843 dated March 14, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

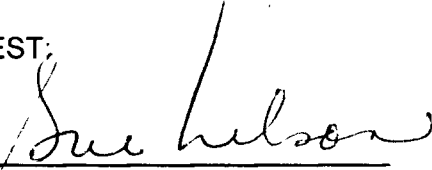
Section 1. Ordinance No. 2050, the Development Code, as amended, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

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

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

First reading this 10th day of April, 2006.
Passed by the Council this 17th day of April, 2006.
Approved by the Mayor this 18th day of APRIL, 2006.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

Additions are ***bolded and italicized*** and deletions are ~~struck through~~.

40.93. TUALATIN HILLS PARK AND RECREATION DISTRICT ANNEXATION WAIVER

40.93.05. Purpose.

The purpose of this section is to provide for the application of a Tualatin Hills Park and Recreation annexation waiver, which allows a waiver from the requirement to annex property into the Tualatin Hills Park and Recreation District as a condition of approval of any development as specified in Section 60.33 of this Code.

40.93.10. Applicability

A THPRD annexation waiver may only be requested by the property owner(s) for any development proposed outside of THPRD boundaries who wish to provide their own park and recreation facilities and services rather than annex the site to THPRD.

40.93.15. Application.

There is a single THPRD annexation waiver application which is subject to the following requirements.

1. THPRD Annexation Waiver.

A. Threshold. An application for a THPRD annexation waiver shall be required when the following threshold applies:

1. *The property proposed for development is not in the Tualatin Hills Park and Recreation District (THPRD) and the applicant wishes to provide park and recreation facilities and services for the development rather than annex the site to THPRD.*

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for a THPRD annexation waiver.

C. Approval Criteria. *In order to approve a THPRD annexation waiver application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*

1. *The proposal satisfies the threshold requirements for a THPRD annexation waiver application.*
2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*
3. *Detailed plans and documentation demonstrating compliance with Section 60.33.15. Park facilities shall be deemed similar if provided for the projected number of future residents and/or employees of the proposed development at cost, quality and services levels equal to or greater than the minimum set for the core park system in the THPRD Comprehensive Master Plan. Improvements within provided park facilities shall be deemed similar if at least two of the following are provided: a tennis court, a basketball court, a swimming pool, or a children's play structure; and at least one of the following is also provided: a baseball/softball field, a soccer field, or a community/recreation center. Recreation services shall be deemed similar if provided for future residents or employees of the proposed development at cost, quality and service levels equal to or greater than the minimum set for such services in the THPRD Comprehensive Master Plan.*
4. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

- D. Submission Requirements.** *An application for a THPRD annexation waiver shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.*
- E. Conditions of Approval.** *The decision making authority may impose conditions on the approval of a THPRD annexation waiver application to ensure compliance with the approval criteria.*
- F. Appeal of a Decision.** *Refer to Section 50.70.*
- G. Expiration of a Decision.** *Refer to Section 50.90.*

Additions are ***bolded and italicized*** and there are no deletions

50.90. Expiration of a Decision

1. Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.

A. Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.6) where phasing of the development is proposed.

B. Two (2) years from the effective date of decision:

Accessory Dwelling Unit (40.05.15.1)

Administrative Conditional Use (40.15.15.3)

Alteration of a Landmark (40.35.15.1)

Conditional Use (40.15.15.4)

Demolition of a Landmark (40.35.15.3)

Design Review Two (40.20.15.2)

Design Review Three (40.20.15.3)

Emergency Demolition of a Landmark (40.35.15.2)

Expedited Land Division (40.45.15.7)

Final Land Division (40.45.15.6)

Final Planned Unit Development (40.15.15.6) when there is no phasing to the development

Flexible Setback for Individual Lot With Endorsement (40.30.15.1)

Flexible Setback for Individual Lot Without Endorsement (40.30.15.2)

Flexible Setback for a Proposed Residential Land Division (40.30.15.3)

Flexible Setback for a Proposed Annexation (40.30.15.4)

Lot Line Adjustment (40.45.15.1)

Major Adjustment (40.10.15.3)

Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.4)

Major Modification of a Conditional Use (40.15.15.2)

Minor Adjustment (40.10.15.1)

Minor Adjustment - All Regional Center zones and South
 Tektronix Station Community Major Pedestrian
 Routes (40.10.15.2)
 Minor Modification of a Conditional Use (40.15.15.1)
 New Construction in a Historic District (40.35.15.4)
 Preliminary Fee Ownership Partition (40.45.15.4)
 Preliminary Fee Ownership Subdivision (40.45.15.5)
 Preliminary Partition (40.45.15.2)
 Preliminary Planned Unit Development (40.15.15.5)
 Preliminary Subdivision (40.45.15.3)
 Public Transportation Facility (40.57.15.1)
 Tree Plan One (40.90.15.1)
 Tree Plan Two (40.90.15.2)
 Tree Plan Three (40.90.15.3)
THPRD Annexation Waiver (40.93.15)
 Variance (40.95.15.1)
 Wireless Facility One (40.96.15.1)
 Wireless Facility Two (40.96.15.2)
 Wireless Facility Three (40.96.15.3)
 Zero Side or Zero Rear Yard Setback for a Proposed
 Residential Land Division (40.30.15.5)
 Zero Side Yard Setback for a Proposed Non-Residential
 Land Division (40.30.15.6)

C. One (1) year from the effective date of the decision:

Design Review Compliance Letter (40.20.15.1)
 Home Occupation One (Section 40.40.15.1)
 Home Occupation Two (Section 40.40.15.2)
 Loading Determination (Section 40.50.15.1)
 Parking Requirement Determination (Section 40.55.15.1)
 Shared Parking (Section 40.55.15.2)
 Signs (Section 40.60.15.1)
 Solar Access (Section 40.65.15.1)
 Use of Excess Parking (Section 40.55.15.3)

D. No expiration date:

Director's Interpretation (40.25.15.1)
 Discretionary Annexation Related Zoning Map
 Amendment (40.97.15.4).
 Legislative Zoning Map Amendment (40.97.15.2)
 Non-Discretionary Annexation Related Zoning Map
 Amendment (40.97.15.3)
 Quasi-Judicial Zoning Map Amendment (40.97.15.1)

Street Vacation (40.75.15.1)
Text Amendment (40.85.15.1)
Tree Plan Four (40.90.15.4)

[ORD 4265; September 2003] [ORD 4332; November 2004]

2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
 - A. An application for an extension is filed pursuant to Section 50.93; or
 - B. The development authorized by the decision has commenced as defined herein.
 1. The use of the subject property has changed as allowed by the approval;
 2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or
 3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
 4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

This Section is entirely new and is shown *bolded and italicized*.

60.33. PARK AND RECREATION FACILITIES AND SERVICES PROVISION

60.33.05. Purpose. *The City of Beaverton has declared Tualatin Hills Parks and Recreation District (THPRD) as the parks and recreation provider for the City (Policy 5.8.1.h. of the Comprehensive Plan). Since THPRD is the parks and recreation provider for the City, annexation to the District will generally be required by the City for all new development or redevelopment of properties that are outside THPRD boundaries. The provisions of this Section are designed to:*

- 1. Ensure that all residents of the City of Beaverton have access to high quality recreational facilities and services; and*
- 2. Require all new development to pay its fair share for the park and recreational system that serves Beaverton.*

60.33.10. Annexation to THPRD.

Except as provided in Section 60.33.15, the approval of a conditional use, design review or land division for any property located in the City of Beaverton, and not within THPRD's boundaries, shall be conditional on the submittal of a legally sufficient petition to annex the property to THPRD; issuance of building permits shall be delayed until the annexation is effective. Delay of issuance of building permits until after the annexation is effective may be waived as a condition of approval by the review authority if the applicant agrees in writing to pay the appropriate THPRD Systems Development Charge for all building permits issued prior to the effective date of annexation.

60.33.15. Waiver of Requirement.

Any proposed development that can document to the City's satisfaction that it will provide park land, recreation facilities and services at a level similar to that provided by THPRD may have the requirements of Section 60.33.10 waived by the City. See Section 40.93.15.