

ORDINANCE NO. 4418

**AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, BY AMENDING AND ADDING PROVISIONS
RELATING TO TRANSPORTATION TA 2006-0011**

WHEREAS, the purpose of the proposed amendment to the City of Beaverton's Development Code is to clarify text within the Public Transportation Facilities application section, propose a new Sidewalk Design Modification application and process for modifications to the location and dimensions of sidewalks to accommodate constraints, clarify two Traffic Impact Analysis subsections, remove engineering standards from the Street Widths subsection that are more appropriately contained in the Engineering Design Manual, update references, and add a definition for jurisdictional wetland; and

WHEREAS, the Planning Commission conducted a public hearing on November 29, 2006, and continued the item and made a decision on December 13, 2006, recommending approval of proposed TA 2006-0011 based upon the Staff Report dated November 9, 2006, as modified by the Memorandum dated December 6, 2006; and

WHEREAS, the land use order was prepared memorializing the Planning Commission's recommendation; and

WHEREAS, the Council consented to approval and adoption of criteria applicable to this request and findings thereon in the Staff Report dated November 9, 2006, as modified by the Memorandum dated December 6, 2006, and, further, approved the Development Code amendment as set forth in Exhibit A, and incorporated herein by reference.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, Development Code, is hereby amended as set forth in Exhibit A, which is hereby incorporated therein by reference and adopted.

Section 2. Savings Clause.

A. Nothing in this Ordinance shall affect a site development permit or other permit related to the development of land issued before the effective date of this Ordinance.

B. Nothing in this Ordinance shall affect a site development permit or other permit related to the development of land issued on or after the effective date of this Ordinance, provided the City first received the application for the permit before the effective date of this Ordinance.

C. Nothing in this Ordinance shall affect the City's consideration of an application for a site development permit or other permit related to the development of land, provided the City first received the application for the permit before the effective date of this Ordinance.

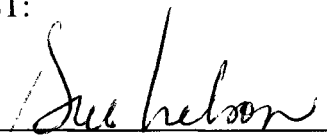
Section 3. Severability. It shall be considered that it is the legislative intent, in the adoption of this Ordinance, that if any part of the ordinance should be determined by any tribunal of competent jurisdiction, i.e., the Land Use Board of Appeals or the Land Conservation and Development Commission, to be unconstitutional or not acknowledged as in compliance with applicable statewide planning goals, the remaining parts of the ordinance shall remain in force and acknowledged unless: (1) the tribunal determines that the remaining parts are so essential and inseparably connected with and dependent upon the unconstitutional or unacknowledged part that it is apparent the remaining parts would not have been enacted without the unconstitutional or unacknowledged part; or (2) the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with legislative intent.

First reading this 8th day of January, 2007.

Passed by the Council this 22nd day of January, 2007.

Approved by the Mayor this 23rd day of January, 2007.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

Exhibit A

Strikeouts are deletions; bold underlined text are insertions.

Section 1: The Development Code section 40.57 is amended to read:

40.57. PUBLIC TRANSPORTATION FACILITY [ORD 4332; November 2004]

40.57.05 Purpose

The purpose of the Public Transportation Facility application is to ~~identify development review standards and procedures for the review of public transportation improvements that are subject to such review~~ **establish a process for review of new construction or significant expansion of major transportation facilities.**

40.57.10 Applicability

This section applies to the ~~design and construction of public transportation facilities including roadways and bridges, and transit, bicycle and pedestrian facilities within public rights of way and the areas adjacent to the rights of way where physical changes occur as a result of such design and construction.~~ Unless exempted by Section 40.57.10.2, Public Transportation Facility application approval shall be required for Collectors, Arterials, Principal Arterials, and Freeways: **and the areas adjacent to the rights of way where physical changes will occur as a result of such construction.**

- ~~2. Unless specified in the applicable thresholds for Public Transportation Facility, approval shall not be required for the following:~~
 - ~~A. Local and Neighborhood Route streets.~~
 - ~~B. Public transportation facility improvements which were required as a part of another development application.~~
 - ~~C. Maintenance, preservation, and repair of existing public roads, transportation facilities and structures within all existing rights of way and easements.~~
 - ~~D. Modifications within all existing rights of way and easements including, but not limited to striping, addition of curbs, curb extensions, or medians, sidewalks, speed humps, street lighting, signalization, reflectors, buttons, signs, flashing beacons, or other similar modifications.~~
 - ~~E. Bus turnouts within all existing rights of way.~~

- ~~F. Reconstruction or matching replacement of a public transportation facility within all existing rights-of-way, including the enlargement or removal of culverts, pilings or similar structures, provided they are not located in a floodplain, special flood hazard area, or Significant Natural Resource Area.~~
- ~~G. Contractor construction staging areas and stockpiling of materials within all public rights of way or easements.~~
- ~~H. Repairs, improvements, detours and traffic pattern changes that are made in response to an emergency.~~
- ~~I. Private Streets~~

40.57.15 Application.

There is a single Public Transportation Facility application which is subject to the following requirements.

1. Public Transportation Facility.

- A. Threshold. An application for Public Transportation Facility shall be required **for construction or modification of Collectors, Arterials, Principal Arterials, and Freeways** ~~when the applicability statements listed in Section 40.57.10.1 apply, none of the exemptions listed in Section 40.57.10.2 apply, and~~ **when** one or more of the following thresholds describe the proposal:

- 1. A new facility will be constructed where no transportation facility existed previously.**
- 2. The work includes construction activities outside a public right of way or easement, including contractor staging areas and stockpiling of materials.**
- 3. The work involves the acquisition of new right of way.**
- 4. The work includes the construction of transit shelters.**

- ~~1. New transportation facilities which:

 - ~~a. Require the acquisition of right of way, or~~
 - ~~b. Are located within existing public right-of-way where no transportation facility currently exists.~~~~
- ~~2. The extension or widening of existing transportation facilities which:

 - ~~a. Require the acquisition of right of way, or~~
 - ~~b. Are located within an existing public right-of-way.~~
 - ~~c. Increases the combined width of existing street improvements by six (6) feet or more.~~~~

3. ~~Construction activities including contractor construction staging areas and stockpiling of materials outside a public right-of-way or easement.~~
4. ~~Transit shelters.~~

Section 2: The Development Code is amended to add a new section 40.70 to read:

40.70. SIDEWALK DESIGN MODIFICATION

40.70.05 Purpose.

The purpose of the Sidewalk Design Modification application is to provide a mechanism whereby the City's street design standards relating to the locations and dimensions of sidewalks or required street landscaping can be modified to address existing conditions and constraints as a specific application. For purposes of this section, sidewalk ramps constructed with or without contiguous sidewalk panels leading to and away from the ramp shall be considered sidewalks. This section is implemented by the approval criteria listed herein.

40.70.10. Applicability.

The Sidewalk Design Modification application shall be applicable to all streets in the City.

40.70.15. Application.

There is a single Sidewalk Design Modification application which is subject to the following requirements.

A. Threshold. An application for Sidewalk Design Modification shall be required when one of the following thresholds apply:

1. The sidewalk width, planter strip width, or both minimum standards specified in the Engineering Design Manual are proposed to be modified.

2. The dimensions or locations of street tree wells specified in the Engineering Design Manual are proposed to be modified.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Sidewalk Design Modification. The decision making authority is the Director.

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

1. The proposal satisfies the threshold requirements for a Sidewalk Design Modification application.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.

3. One or more of the following criteria are satisfied:

a. That there exist local topographic conditions, which would result in any of the following:

i. A sidewalk that is located above or below the top surface of a finished curb.

ii. A situation in which construction of the Engineering Design Manual standard street cross-section would require a steep slope or retaining wall that would prevent vehicular access to the adjoining property.

b. That there exist local physical conditions such as:

i. An existing structure prevents the construction of a standard sidewalk.

ii. An existing utility device prevents the construction of a standard sidewalk.

- iii. Rock outcroppings prevent the construction of a standard sidewalk without blasting.
 - c. That there exist environmental conditions such as a Significant Natural Resource Area, Jurisdictional Wetland, Clean Water Services Water Quality Sensitive Area, Clean Water Services required Vegetative Corridor, or Significant Tree Grove.
 - d. That additional right of way is required to construct the Engineering Design Manual standard and the adjoining property is not controlled by the applicant.
- 4. The proposal complies with provisions of Section 60.55.25 Street and Bicycle and Pedestrian Connection Requirements and 60.55.30 Minimum Street Widths.
- 5. Applications and documents related to the request, which will require further City approval, have been submitted to the City in the proper sequence.
- 6. The proposed Sidewalk Design Modification provides safe and efficient pedestrian circulation in the site vicinity.
- D. Submission Requirements. An application for a Sidewalk Design Modification 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 Sidewalk Design Modification 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 Sidewalk Design Modification application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

Section 3: The Development Code section 60.55.20 is amended to read:

60.55.20 Traffic Impact Analysis.

60.55.20.4.

F. Mitigation Identification. In order to protect the public transportation system from potentially adverse impacts of the proposal, to fulfill an identified need for public services within the impacted area related to the development, or both, the Traffic Impact Analysis shall identify methods of mitigating on-site and off-site deficiencies for present and proposed phases of the development.

The analysis shall make recommendations for improvements necessary for safe and efficient traffic flow and bicycle, pedestrian, and transit movement and access **based on and roughly proportional to the identified impacts.** Buildout Year, Long-Range Forecast Year, and project phasing impacts shall be considered.

The traffic impact analysis shall discuss the estimated levels of impact, improvements, and mitigations, **and shall demonstrate how the recommended mitigations are roughly proportional to the identified impacts. . . .**

G. Recommendations. The Traffic Impact Analysis report shall clearly state the mitigation measures recommended by the analysis **and shall summarize how the recommended mitigations are roughly proportional to the identified impacts.** The recommended street and highway mitigation measures shall be shown on a scaled drawing that depicts existing and recommended improvements.

Section 4: The Development Code section 60.55.30 is amended to read:

60.55.30 Minimum Street Widths. Minimum street widths are depicted in the Engineering Design Manual. ~~and Standard Drawings. Street width includes right-of-way width, paved width, and widths of sidewalks and planter strips.~~

1. Any project specific modifications of the standards contained in the Engineering Design Manual regarding the widths of features relating to the movement of vehicles, including but not limited to rights of way, travel lanes, parking lanes, bike lanes, driveway aprons, curb radii, or other such features shall be processed in accordance with the provisions contained in the section 145 Design Modifications of the Engineering Design Manual.
2. Any project specific modifications of the standards of the Engineering Design Manual relating to the location and dimensions of required street landscaping and pedestrian features including, but not limited to, sidewalks, planter strips, street trees, street tree wells, street tree easements, or street furniture are subject to the procedures contained in Chapter 40 (Applications). The required application will depend on the scope of the proposed project and the type of application filed with the City.
- ~~1. The decision-making authority shall determine the appropriate street width. The decision shall be based on the following considerations:
 - ~~A. Street function within the existing, proposed, and future developing area and circulation networks;~~
 - ~~B. Existing and long-range forecast traffic volumes;~~
 - ~~C. The recommendations of the development impact analysis, Traffic Management Plan, and/or Traffic Impact Analysis;~~
 - ~~D. Individual property access needs;~~
 - ~~E. Topographic variations, environmental conditions, existing development, and other field conditions.~~
 - ~~1. The decision-making authority may approve reduction of the minimum widths for sidewalks and planter strips if the reduction is required to accommodate unique conditions due to topography, environmental protection requirements, or existing development and the applicant has demonstrated that the standard widths would impose an economic hardship or inmitigable loss of environmental resources. Changes may include but are~~~~

- ~~not limited to meandering or curb tight sidewalks with or without tree wells.~~
- ~~2. The recommendation shall be based on the development impact analysis, which fulfills the requirements of section 60.55.10.3.~~
 - ~~3. The recommendation shall provide for safe and efficient circulation and access per section 60.55.25.1.~~
- ~~F. Regionally significant streets designated in Metro's Regional Transportation Plan shall be designed to reflect the function of the street and the adjacent zoning.~~
- ~~2. In Station Areas, Station Communities, Town Centers, and Regional Centers, the decision-making authority may approve alternative sidewalk widths consistent with the requirements of sections 20.20.50 and 20.20.60 and may waive the requirement for planter strips.~~
 - ~~3. Infill Street Designs. A modified infill residential street design or infill cul-de-sac design may be approved for local streets to optimize the developable land on R-1, R-2, R-3.5, R-5, R-7, and R-10 residential sites subject to the following requirements. The street design is intended to provide public street access to lots created as part of an infill process. Use of the modified infill design is subject to approval by the decision-making authority through the development review process. The applicant shall provide documentation to demonstrate that use of the standard residential street cross section would result in non-conforming lot dimensions per section 20.05.50, and/or use of the standard street cross section is impractical due to physical or topographical constraints such as freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water, or the constraints of section 60.55.30.1.E.~~
 - ~~4. Half streets. The required street width may be developed in stages when development is occurring on only one side of the proposed street and where staging is essential to the reasonable development of properties. Staging may be allowed if necessary to maintain minimum depth and setbacks on adjoining lots or to match the existing alignments of abutting streets. Staging shall only be approved where future development of adjoining properties can reasonably be expected to complete the full street width. If staging is approved, the initial stage shall provide improvements to the standards of the City's Engineering Design Manual and Standard Drawings that will assure a total minimum 20-foot pavement width for vehicular travel and any additional right of way, shoulder improvements, and drainage improvements as required for the half street.~~
 - ~~5. Use of a cul-de-sac design is limited to situations where barriers prevent through streets from being constructed. Use of a cul-de-sac design may be approved by the decision-making authority based on~~

~~documentation that demonstrates that the use of a through street design is impractical and would result in non-conforming lot dimensions per section 20.05.50, is impractical due to environmental constraints on the site or on land adjacent to the site, or is impractical due to existing development on the site or on land adjacent to the site.~~

- ~~6. No more than 25 dwelling units may have access onto a closed-end street system. An exception may be approved by the decision-making authority based on documentation that demonstrates that a through street is not practical due to environmental constraints or existing development on the site or on land adjacent to the site, and exceeding the standard maximizes the developable portion of the site.~~

60.55.35 Access Standards. [ORD 4302; May 2004]

1. The development plan shall include street plans that demonstrate how safe access to and from the proposed development and the street system will be provided. The applicant shall also show how public and private access to, from, and within the proposed development will be preserved. [ORD 4103; April 2000]
2. No more than 25 dwelling units may have access onto a closed-end street system unless a greater number is authorized pursuant to Section 40.70.15.2. of this Code.

3. 2. Intersection Standards.

Section 5: The Development Code is amended to acknowledge the name change from the *Engineering Design Manual and Standard Drawings* to the *Engineering Design Manual*.

Section 6: The Development Code Section 90 is amended to add the following definition:

Jurisdictional Wetland. A wetland identified by a jurisdiction's Local Wetland Inventory or as determined by either the Oregon Division of State Lands or the United States Army Corp of Engineers. In general, it is a wetland that a government body requires to be considered or reviewed as defined under its regulations.