

Hearing Date: July 27, 2010 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: JAPANESE INTERNATIONAL BAPTIST CHURCH ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2010-00001

**APPLICANT/
OWNER:** Japanese International Baptist Church
 Attn: Peter Ladley
 8500 SW Spruce St.
 Tigard, OR 97223

PROPOSAL: A request to annex approximately .44 acres of property, plus right-of-way on SW Spruce Street (approximately .34-acres) to the City of Tigard.

LOCATION: 8512 SW Spruce Street, east of SW Hall Boulevard; Washington County Tax Assessor's Map 1S135AD, Tax Lot 02700, plus adjoining right-of-way.

COUNTY ZONE: R15: Residential, 12 units/acre minimum density, 15 units/acre maximum density. The intent and purpose of the R15 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than fifteen (15) units per acre and no less than twelve (12) units per acre, except as otherwise specified by Section 3002 or Section 3005 of the Washington County Community Development Code.

**EQUIVALENT
CITY ZONE:** R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

**APPLICABLE
REVIEW
CRITERIA:** The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1, Goal 11.1 (Policy 4), Goal 11.3 (Policy 6), and Goal 14.2 (Policy 1-4); ORS Chapter 222; and Metro Code Chapter 3.09.

comprehensive Plan Glossary includes public safety, parks, and transportation. Each service is addressed below.

Water – Tualatin Valley Water District. Tualatin Valley Water District (TVWD) is the current service provider for the subject property and would remain the service provider upon annexation. A letter to the applicant from TVWD notes that there is adequate capacity and necessary connections and water main extensions may be required for future development.

Sewer – City of Tigard/Clean Water Services. Clean Water Services (CWS) is the service provider of sewer service utilizing shared facilities (8-inch line in SW Spruce Street). The home on the site is currently served by this line. Once the property is annexed, the City will become the provider. No known capacity issues exist.

Drainage – Clean Water Services. Clean Water Services is the current provider of stormwater services. A ditch running along the front of the property now serves the site. There is a City storm line available in Spruce Street just northwest of the site. The appropriate water drainage system will be installed in compliance with Clean Water Services and City of Tigard design standards at the time of redevelopment.

Streets – City of Tigard Engineering Division. The subject property is located south of SW Spruce Street, a County road. The site is currently accessed via Spruce Street. The proposed annexation will not affect this access. A portion of Spruce Street is within the city limits. Annexation of the remainder through the intersection with SW 85th Avenue is proposed with this application.

Police – City of Tigard Police Department. The City of Tigard Police Department was notified of the proposed annexation and according to an April 22, 2010 email to the applicant from Jim Wolf, Public Information Officer with the Tigard Police Department; Tigard Police have adequate services to serve the most intense allowed use and providing services will not significantly reduce the level of services available to other land within the City of Tigard.

Fire – Tualatin Valley Fire and Rescue (TVF&R). The subject property is in Tualatin Valley Fire and Rescue's (TVF&R's) service area. The TVF&R District currently provides services to the entire area, both inside and outside of the City of Tigard. The Fire District has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations to developed and undeveloped land within the City of Tigard.

Parks–City of Tigard/Metzger LID. According to the Tigard Urban Services Agreement, The City is designated as the provider of parks within the Urban Services Area and is a joint provider of services within the Metzger Park Local Improvement District (LID). Actual provision of services depends on annexation of territory within this service area, subject to the City's Park System Master Plan. The annexation of the subject property does not affect the Metzger Park LID.

Based upon this review, staff finds that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and have sufficient capacity to provide service to the proposed annexation territory if developed to the most intense use allowed and will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard.

2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.

The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; and Goal 14, Policy 1- 4. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

Goal 1.1: Citizen Involvement. The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on June 11, 2010: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the subject property on 8512 SW Spruce Street. The City published notice of

the hearing in *The Tigard Tualatin Sherwood Times* for two successive weeks (July 8, 2010 & July 15, 2010) prior to the July 27, 2010, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on July 7, 2010.

In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties on July 7, 2010. Staff finds that this policy is met.

Goal 11.1: Public Facilities and Services.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.

There is a ditch in front of the subject property. After annexation, the applicant intends to request a Conditional Use Permit to expand existing church facilities located on the adjacent parcel. The applicant will be required to connect with the City storm system within Spruce Street upon development of the site. Therefore, this policy is met.

Goal 11.3: Public Facilities and Services.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.

The City will bill the owner for sewer services currently billed by Clean Water Services upon annexation into the City. Therefore, this policy is met.

Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.

The applicable Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C. In addition, see Table 18.320.1 on the following page:

Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.

Capacity has been addressed above, consistent with this policy.

Policy 3. The City shall approve proposed annexations based on findings that the request:

A. can be accommodated by the City's public facilities and services; and

The availability of the City's public facilities and services has been addressed above, consistent with this policy.

B. is consistent with applicable state statute.

As reviewed below, staff finds that the provisions of ORS 222 have been met, consistent with this policy.

Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.

Pursuant to the City's annexation policy, the City invited adjacent property owners to join the annexation. No property owners responded to the City's invitation. Public services are available as determined in this report regarding service availability and capacity, above.

The proposed annexation is located on the northern boundary of the City. The proposed annexation of adjacent right-of-way (ROW) will create a small unincorporated island within the City. The reason for annexing the entire ROW between SW Hall Boulevard and SW 85th Avenue is to create a more uniform boundary.

Chapter 18.320.020.C

Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar.

All of the subject property is currently zoned R-15 (WACO). This zone is intended for residential development at no more than 15 units per acre and no less than 12 units per acre. Table 18.320.1 in the TDC summarizes the conversion of the County's plan and zoning designations to City designations which are most similar. According to this table, the City designation most similar to R-15 is R-25 zoning. Because there is no R-15 zone within the City of Tigard, R-25 is applied. This zoning permits residential development with a minimum lot size of 1,480 square feet per unit (roughly 25 units per acre). Both of these zones have Comprehensive Plan designations of Medium High density.

When determining this designation, staff also considered R-12 zoning since adjacent Tigard properties are zoned R-12. The Comprehensive Plan designation for R-12 zoning is Medium Density Residential, which is not the same designation as the current R-15 Medium High Density Residential. The zone permits residential development with a minimum lot size of 3,050 square feet per unit (roughly 12 units per acre). Further to the east, properties are zoned R-7, R-4.5 and R-5 (WACO). The R-25 zoning seems somewhat inconsistent with these lower density zones.

To annex the property at a lower density would be down zoning. This is permitted, but would require a zone change request in addition to the annexation. Due to time constraints the applicant wishes to proceed with the designation outlined in the TDC (R-25). Although there is no guarantee, the applicant does not intend to develop the site with residential units but rather to expand existing church facilities onto the annexed property.

Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020.B, which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 20 days prior to the hearing by mail and to publish notice at least 10 business days prior to the hearing; the City mailed notice on July 7, 2010, and published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (July 8, 2010 & July 15, 2010) prior to the July 27, 2010 public hearing.

Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;

The City's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal meets the existing Comprehensive Plan policies and is, therefore, in compliance with state planning goals.

2. Any federal or state statutes or regulations found applicable;

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the

hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city 45 days prior to the hearing.

The owner of the subject parcel has signed a petition for annexation to the City. The subject parcel is contiguous to the City's boundary. The City has acted on its own motion to annex the right-of-way on SW Spruce Street, which adjoins the subject property.

The City mailed notice on July 7, 2010, and published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (July 8, 2010 & July 15, 2010) prior to the July 27, 2010 public hearing and posted the hearing notice for public view on June 11, 2010 in the Tigard Library, Tigard City Hall, Tigard Permit Center, and at the proposed territory on SW Spruce Street. Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) &(e) and 3.09.050) below:

Metro 3.09.045 (d) and (e)

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;

The Urban Planning Area Agreement (UPAA – 2006) between the City and the County provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the City is the ultimate service provider of urban services within the Tigard Urban Service Area, including the Metzger/Progress Community Planning Area.

The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.”

The Tigard Urban Service Agreement (TUSA – 2004) is between the City, County, Metro, and the service Districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. These services are addressed above at the beginning of this report.

The annexation proposal is consistent with this agreement.

(B) Any applicable annexation plan adopted pursuant to ORS 195.205;

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This annexation was initiated by the property owner. The applicant has submitted a petition to annex signed by both the property owner and registered voter who lives at the home.

(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. These districts are the same within the county and city with the exception of the sewer district, which is the City of Tigard. Planning for these areas will still be considered by the same special districts upon annexation due to existing agreements set up with the City.

(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

(E) Any applicable comprehensive plan; and

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.

The site is adjacent to the City in an area already serviced by sanitary facilities and water. Fire and police protection is provided by county wide services. Other services are offered through the Tigard Urban Services Agreement. The proposed annexation will not affect the provision of public facilities and services, but will allow the applicant to develop the parcel under City regulations and expand the church facility already located on an adjacent parcel within the City of Tigard.

(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.

The property to be annexed is not outside the UGB. This criterion is not applicable.

Metro 3.09.050 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, and that includes at a minimum the following:

Note that this report is available 15 days before the hearing (July 13, 2010 for a July 27, 2010 hearing).

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

As addressed previously in this report, urban services are available to the affected territory.

(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

The proposed territory will remain within Washington County but will be required to be withdrawn from the Washington County Enhanced Sheriff's Patrol District upon completion of the annexation.

(3) The proposed effective date of the boundary change.

The public hearing will take place July 27, 2010. If the Council adopts findings to approve ZCA2010-00001, the effective date of the annexation will be 30 days later on August 26, 2010.

(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

The applicant has provided findings within a narrative that addresses the applicable criteria.

(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

(Tigard CDC 18.390.060)

4. Any applicable comprehensive plan policies; and

As demonstrated in previous sections of this report, the proposed annexation is consistent with all applicable comprehensive plan policies.

5. Any applicable provisions of the City's implementing ordinances.

Resolution 10-09 extended previously approved incentives for property owners that voluntary annex into the city limits through February 2011. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. To ensure property tax increases are properly phased, the phasing language is included in the proposed ordinance. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department Public Information Officer, Jim Wolf, and the **City of Tigard Public Works Department** both commented that there were no issues with the project.

The City of Tigard Development Review Engineer commented that annexation should be to the centerline of right-of-way of Spruce Street and that the lot to the west should be invited to annex at this time.

SECTION VIII. AGENCY COMMENTS

Qwest noted that the site was outside the Qwest service area.

Verizon reviewed the proposal and stated no objections to it.

NW Natural Gas commented on the proposal as if the right-of-way were being vacated and requested a public easement be provided to protect NW Natural facilities within the vacation area. This proposal is for annexation into the City limits only and not a vacation of the public right-of-way. Upon further discussion with NW Natural and the Private Development Review Engineer, Gus Duenas, it was determined that an easement is not necessary at this time.

SECTION IX. PUBLIC COMMENTS

The City mailed notice to surrounding property owners within 500 feet and all interested parties on July 7, 2010. One public comment was received from Mr. John Frewing via e-mail. Mr. Frewing stated there was an Intergovernmental Agreement signed by both Washington County and the City some 30 years ago that included factors to be considered when Tigard annexed areas from Metzger, one of which involved a vote

of the citizens of the Metzger area. He also noted that the notice did not list this agreement as part of the applicable approval criteria.

RESPONSE: Staff reviewed the Urban Planning Area Agreement (UPAA) previously discussed. Under the Comprehensive Planning and Development Policies section of the agreement, subsection Annexation, there is one requirement specific to the Metzger/Progress Community Planning Area that states:

The City agrees in principle to a plebiscite or other representative means for annexation in the Metzger/Progress Community Planning Area within the City Area of Interest. Not contrary to the foregoing, the City reserves all of its rights to annex and acknowledges the rights of individual property owners to annex to the City pursuant to Oregon Revised Statutes.

A vote is not required as this annexation was initiated by the property owner. Both the owner and registered voter signed the petition to annex. Agreements such as this must be addressed per Metro code 3.09, which is addressed previously in this report. This code section is cited as part of the review criteria.

Cheryl A. Caines

PREPARED BY: Cheryl Caines
Associate Planner

July 14, 2010

DATE

VICINITY MAP

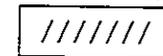
ZCA2010-00001

**JAPANESE INTERNATIONAL
BAPTIST CHURCH
ANNEXATION**

Subject Site



Right-of-Way



Information on this map is for general location only and should be verified with the Development Services Division.

Scale 1:2,500 - 1 in = 208 ft

Map printed at 12:29 PM on 10-Jun-10

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**TIGARD
MAPS**

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