

DIANE PHILLIPS  
REAL ESTATE MANAGER  
PORTLAND DIVISION  
SAFEWAY INC  
16300 SE EVELYN STREET  
CLACKAMAS OR 97015-9515

YVONNE POELWIJK  
1900 SW 4<sup>TH</sup> AVE STE 5000  
PORTLAND OR 97204

LU 11-103310 CP ZC AD  
ORDER MAILED: 01-30-2012

CORRECTED 01-31-2012  
ORDER REMAILED 01-31-12

MARK WHITLOW  
PERKINS COIE LLP  
1120 NW COUCH ST 10<sup>TH</sup> FLR  
PORTLAND OR 97209

SAFEWAY INC  
1371 OAKLAND BLVD #200  
WALNUT CREEK CA 94596

DON BAACK  
6495 SW BURLINGAME PL  
PORTLAND OR 97239

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4021 SW 36<sup>TH</sup> PLACE  
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PO BOX 523  
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610 SW ALDER ST SUTIE 700  
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ERIC HOVEE  
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VANCOUVER WA 98666

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CADIGAN, KURT KRUEGER

EMAILED: CHERRIE EUDALY,  
DAWN KRANTZ, MARI MOORE,  
JONNA PAPAETHIMIOU,  
GAYLA JENNINGS, TONI  
ANDERSON



**OFFICE OF CITY AUDITOR  
CITY OF PORTLAND**

**LaVonne Griffin-Valade, City Auditor  
Council/Contracts Division**

**Mailing Address:**

1221 SW 4th, Room 140

Portland, Oregon 97204-1987

Email: [Karla.Moore-Love@portlandoregon.gov](mailto:Karla.Moore-Love@portlandoregon.gov)

Phone: (503) 823-4086 Fax: (503) 823-4571

January 31, 2012

**NOTICE OF DECISION - CORRECTED (Ordinance Passed date is JANUARY 26, 2012)**

**RE CASE FILE: LU 11- 103310 CP ZC AD**

Consider the proposal of Safeway, Inc. and the recommendation from the Hearings Officer for approval with conditions, of a Comprehensive Plan Map, Zoning Map Amendment and adjustment to replace the existing 21,665 square foot building with a new 62,925 square foot, 2-story grocery store at 8039 SW Capitol Hill Road and 8145 SW Barbur Blvd. (Hearing; LU 11-103310 CP ZC AD)

To Whom It May Concern:

On January 26, 2012, at approximately 3:00 p.m., at a regularly scheduled meeting in Council Chambers, the Council voted 5-0 and passed Ordinance No.185124.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.



OFFICE OF CITY AUDITOR  
CITY OF PORTLAND

LaVonne Griffin-Valade, City Auditor  
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January 31, 2012

Diane Phillips, Real Estate Manager, Portland Division  
Safeway Inc.  
16300 SE Evelyn Street  
Clackamas, OR 97015-9515

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Consider the proposal of Safeway, Inc. and the recommendation from the Hearings Officer for approval with conditions, of a Comprehensive Plan Map, Zoning Map Amendment and adjustment to replace the existing 21,665 square foot building with a new 62,925 square foot, 2-story grocery store at 8039 SW Capitol Hill Road and 8145 SW Barbur Blvd. (Hearing; LU 11-103310 CP ZC AD)

Dear Applicant:

On January 26, 2012, at approximately 3:00 p.m., at a regularly scheduled meeting in Council Chambers, the Council voted 5-0 and passed Ordinance No.185124.

This Ordinance must to be recorded with the Multnomah County Recorder within 10 days of receipt of this letter. **Please send a check to this office for \$66.00 payable to the Multnomah County Recorder, indicating the file number on your check.**

Yours sincerely,

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.

cc: Mark Whitlow, Perkins Coie LLP  
Safeway, Inc.

## ORDINANCE No. 185124

\*Amend the Comprehensive Plan Map designation and change zoning of two lots in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Blvd at the request of Diane Phillips of Safeway, Inc. (Ordinance; LU 11-103310 CP ZC AD)

The City of Portland ordains:

### Section 1. Council finds:

1. The Applicant seeks, in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Boulevard, the following:
  - a. Comprehensive Plan Map Amendments from Medium-Density Multi-Dwelling Residential to General Commercial for the areas identified as State ID No. 1S1E21CB 4301 and State ID No. 1S1E21CB 4302, legally described as Lot 1 and Lot 2 of Partition Plat 2003-21, a recorded plat in Multnomah County (hereinafter referred to as the "Properties"); and
  - b. Zoning Map Amendments from Residential 1,000 (R1) to General Commercial (CG) for the Properties; and
  - c. an Adjustment for the Properties and the property described as TL 4200 of Section 21 1S 1E (State ID No. 1S1E21CB 04200)(hereinafter "TL 4200") to reduce the required landscaping area (33.130.225.B) from 15 to 14.4 percent for the construction of a new full-service grocery store, per the approved plans, Exhibits C.1 through C.3 to the Recommendation of the Hearings Officer.
2. An application complying with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland seeking amendment of the Comprehensive Plan Map, Zoning Map, and Adjustment has been received with the proper fee for filing paid.
3. The Hearings Officer held a duly noticed public hearing on September 7, 2011, and a Recommendation was issued on October 21, 2011, (BDS File No. LU 11-103310 CP ZC AD). The Hearings Officer recommended approval of the requested Comprehensive Map Amendments, Zoning Map Amendments, and Adjustment, with conditions.
4. The requested Comprehensive Plan Amendments, Zoning Map Amendments, and Adjustment, based on the findings contained in the Recommendation of the Hearings Officer, are found to be in conformance with the Comprehensive Plan and relevant Title 33 approval criteria.

NOW THEREFORE, the Council directs:

- a. City Council adopts the facts, findings, conclusions and recommendations of the Hearings Officer in BDS File No. LU 11-103310 CP ZC AD.
- b. The Comprehensive Plan Map Amendments, Zoning Map Amendments, and Adjustment for the Properties legally described as Lot 1 and Lot 2 of Partition Plat 2003-21, a recorded plat in Multnomah County, are approved as follows:
  1. Comprehensive Plan Map Amendments from Medium-Density Multi-Dwelling Residential to General Commercial for the Properties.
  2. Zoning Map Amendments from Residential 1,000 (R1) to General Commercial (CG) for the Properties.
  3. the Comprehensive Plan Map and Zoning Map Amendments are subject to the conditions below. Any violation of these conditions shall be subject to the enforcement procedures in the City code but, with the exception of Condition 3.A, will not void the Comprehensive Plan Map and Zoning Map Amendments:
    - A. Prior to, or concurrent with recording a decision of approval with Multnomah County, the Applicant must execute and record a covenant which mitigates for the 20 units of lost housing potential. Per 33.703.120, prior to the City making any changes to the Comprehensive Plan Map or Zoning Map, documentation must be submitted by the Applicant that shows that both the Comprehensive Plan Map/Zoning Map amendment decision and the covenant have been recorded.
    - B. Prior to building permit issuance, the Applicant must consolidate the three lots (the Properties and TL 4200) via a Lot Consolidation Review (33.675.100) and record the decision with the County. Or the Applicant must consolidate the lots through a County Tax Account Consolidation and submit covenants for future easements and joint maintenance agreements for the private utilities that cross property lines.
    - C. As part of the building permit application submittal, the following development-related conditions (D through G) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-103310 CP ZC AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
    - D. Surveillance cameras must be installed to monitor the area located between the west property line and the loading area located at the back of the building.
    - E. The Applicant shall be required to construct the frontage improvements identified in this report under the Section titled Street Improvements (Chapter 17.88) to City standards, per the requirements of the City Engineer. As a condition of building permit approval, the Applicant shall provide all dedications necessary to provide

adequate right-of-way for these frontage improvements. The frontage improvements must be constructed under separate street job permits to current City and ODOT standards. Financial guarantees ensuring the frontage improvements shall also be conditions of building permit approval.

- F. Speed bumps and/or other traffic calming measures must be provided along the on-site delivery roadway to limit both vehicular speeds and cut-through traffic.
- G. Uses on the site are limited to a total of 450 new weekday p.m. peak hour trips. Square footage equivalencies are to be applied per Table 1 below. The Applicant must submit a written verification at time of building permit that all uses on the site, both existing and proposed, have a maximum net new weekday p.m. peak hour trip generation of 450 trips. This applies to the combined three lots identified as the site.

Table 1. Weekday PM Peak Hour Trip Rates for Trip Cap Comparison

Land Use Category	ITE Code	Building Size	ITE Trip Rate	ITE PM Peak Hour Pass-by Rate	Weekday PM Peak Hour Net New Trip Rate*
Daycare	565	1,000 sq.ft. GFA	12.46	-	12.46 trips/1,000 sq. ft.
Office	710	1,000 sq.ft. GFA	1.49	-	1.49 trips/1,000 sq. ft.
Specialty retail	814	1,000 sq.ft. GLA	2.71	34%**	1.79 trips/1,000 sq. ft.
Hardware/paint store	816	1,000 sq.ft. GFA	4.84	-	4.84 trips/1,000 sq. ft.
Nursery/garden center	817	1,000 sq.ft. GFA	3.80	-	3.80 trips/1,000 sq. ft.
Shopping center	820	1,000 sq.ft. GLA	3.73	34%	2.46 trips/1,000 sq. ft.
Supermarket	850	1,000 sq.ft. GFA	10.50	36%	6.72 trips/1,000 sq. ft.
Drive-in bank	912	1,000 sq.ft. GFA	25.82	47%	13.68 trips/1,000 sq. ft.
High-turnover sit-down restaurant	932	1,000 sq.ft. GFA	11.15	43%	6.36 trips/1,000 sq. ft.
Fast food restaurant with drive-through	934	1,000 sq.ft. GFA	33.84	50%	16.92 trips/1,000 sq. ft.

\*Based on *Trip Generation, 8<sup>th</sup> Edition*, published by the Institute of Transportation Engineers (ITE). Net new trip rate reflects ITE trip rate less pass-by trips per the *ITE Trip Generation Handbook, 2<sup>nd</sup> Edition*.

\*\* Includes an assumed 34% pass-by rate, based on ITE Shopping Center

GLA=Gross Leasable Area

GFA= Gross Floor Area

- H. The Applicant shall install a "ladder" style crosswalk pavement marking along with pedestrian crossing signs and supplemental downward arrow placards at the reconstructed SW Multnomah Boulevard pedestrian crossing. The condition is contingent upon the Applicant seeking and obtaining approval of all agencies with

jurisdiction over the roadway and crosswalk.

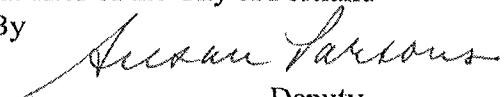
- I. Safeway trucks must use only streets that are classified as designated truck access streets in the City's Transportation Systems Plan.
4. Adjustment for the Properties and TL 4200 to reduce the required landscaping area (33.130.225.B) from 15 to 14.4 percent for the construction of a new full-service grocery store, per the approved plans, Exhibits C.1 through C.3 to the Recommendation of the Hearings Officer, subject to the following conditions:
  - A. The requested Comprehensive Plan Map and Zoning Map Amendment Approval from Medium-Density Multi-Dwelling Residential (R1) to General Commercial (CG) for the Properties must be approved and recorded.
  - B. As part of the building permit application submittal, the following development-related conditions (C and D) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 11-103310 CP ZC AD."
  - C. The plant material schedule on the landscape plan (Exhibit C.2 to the Recommendation of the Hearings Officer) must be amended to show that at least 60 percent of the plants to be installed on the site will be native, selected from the Portland Plant List.
  - D. The landscaping and related improvements including the tall wall, located near the western property line, walkways, plaza areas and trellises must be completed in substantial conformance with the approved site plan and landscape plans, Exhibits C.1 - C.3 to the Recommendation of the Hearings Officer.

Section 2. The Council declares an emergency exists because there should be no delay in the beneficial use of the above-described properties; therefore, this ordinance shall be in full force and effect from and after its passage by the Council

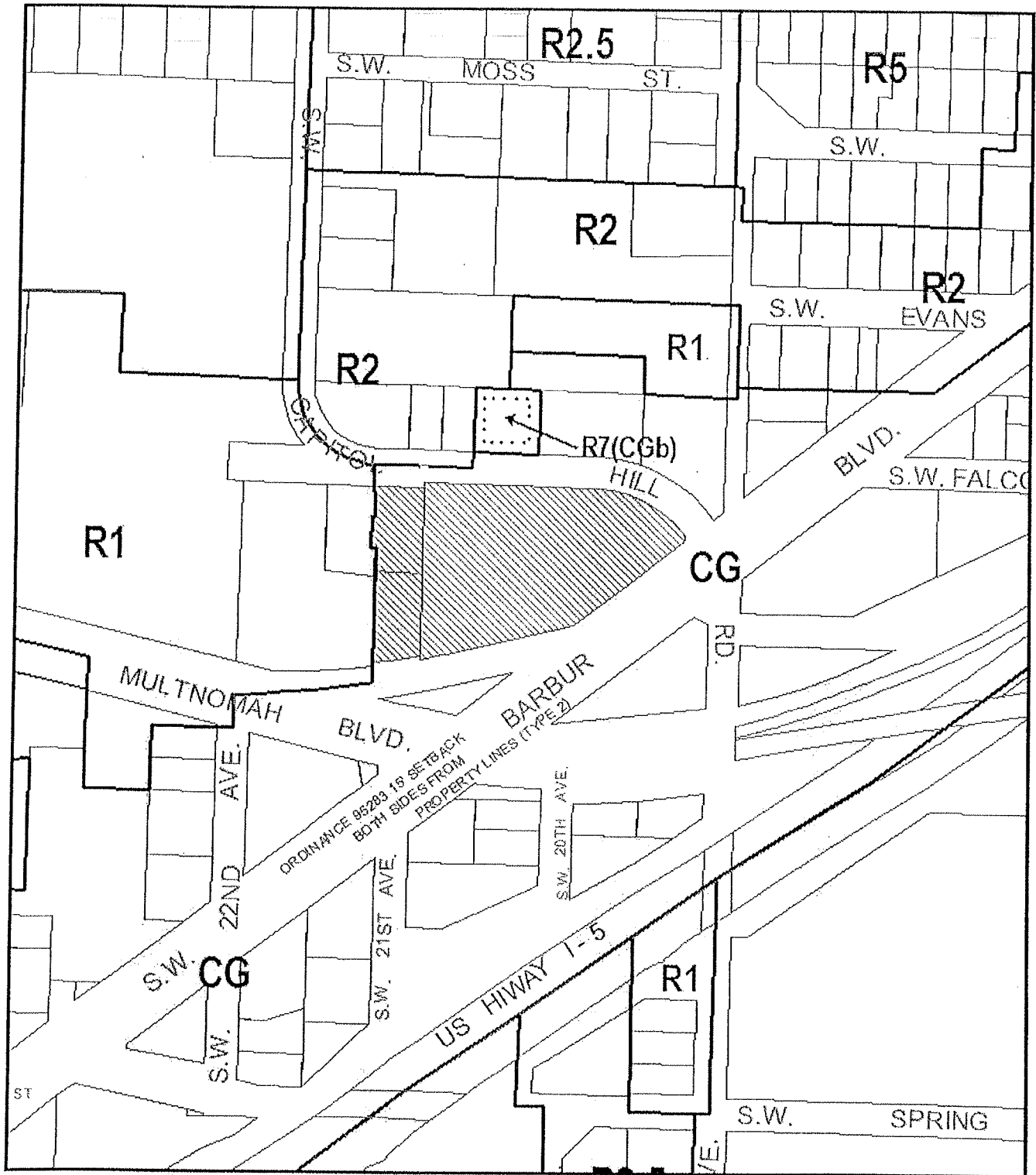
Passed by the Council: JAN 26 2012

City Auditor LaVonne Griffin-Valade  
 Prepared by: Kenneth D. Helm/rs  
 Date Prepared: November 30, 2011

**LaVonne Griffin-Valade**  
 Auditor of the City of Portland  
 By


  
 Deputy





# ZONING PROPOSED



 Site

File No.	LU 11-103310 CP,ZC AD
1/4 Section	3827
Scale	1 inch = 200 feet
State_Id	1S1E21CB 4200
Exhibit	B (Jan 13,2011)







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January 30, 2012

**NOTICE OF DECISION**

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Yours sincerely,

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.



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CITY OF PORTLAND**

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January 30, 2012

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Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.

cc: Mark Whitlow, Perkins Coie LLP

Portland, Oregon

# FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Kenneth D. Helm		2. Telephone No. 503-823-7307	3. Bureau/Office/Dept. Office of the City Auditor
4a. To be filed (date): November 30, 2011	4b. Calendar (Check One) Regular <input type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and FPD Budget Analyst:
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

**1) Legislation Title:**

\*Amend the Comprehensive Plan Map designation and change zoning of two lots in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Boulevard at the request of Diane Phillips of Safeway, Inc. (Ordinance; LU 11-103310 CP ZC AD).

**2) Purpose of the Proposed Legislation:**

\*Amend the Comprehensive Plan Map designation and change zoning of two lots in the vicinity of 8039 SW Capitol Hill Road and 8145 SW Barbur Boulevard at the request of Diane Phillips of Safeway, Inc. (Ordinance; LU 11-103310 CP ZC AD).

**3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?**

- |  |                                    |   |                                |
|--|------------------------------------|---|--------------------------------|
| <input type="checkbox"/> City-wide/Regional                | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest            | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast                 | <input type="checkbox"/> Southeast | <input checked="" type="checkbox"/> Southwest | <input type="checkbox"/> East  |
| <input type="checkbox"/> Central City                      |                                    |   |                                |
| <input type="checkbox"/> Internal City Government Services |                                    |   |                                |

**FINANCIAL IMPACT****4) Revenue:** Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

Unknown.

**5) Expense:** What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)

Unknown.

**6) Staffing Requirements:**

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

*(Complete the following section only if an amendment to the budget is proposed.)*

**7) Change in Appropriations** *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

**[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]**



**PUBLIC INVOLVEMENT**

**8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:**

☒ **YES:** Please proceed to Question #9.

☐ **NO:** Please, explain why below; and proceed to Question #10.

**9) If “YES,” please answer the following questions:**

**a) What impacts are anticipated in the community from this proposed Council item?**

See Hearings Officer’s Recommendation.

**b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**

See Hearings Officer’s Recommendation.

**c) How did public involvement shape the outcome of this Council item?**

See Hearings Officer’s Recommendation.

**d) Who designed and implemented the public involvement related to this Council item?**

See Hearings Officer’s Recommendation.

**e) Primary contact for more information on this public involvement process (name, title, phone, email):**

See Hearings Officer’s Recommendation.

**10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.**

City Council will hold a public hearing.

---

LaVonne Griffin-Valade, BUREAU DIRECTOR