



**TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION**
Monday, January 12, 2009

City Council Chambers
18880 SW Martinazzi Avenue, Tualatin, Oregon

WORK SESSION begins at 5:00 p.m.

REGULAR MEETING begins at 7:00 p.m.

Mayor Lou Ogden

**Councilor Ed Truax
Councilor Chris Barhyte
Councilor Monique Beikman**

**Councilor Joelle Davis
Councilor Jay Harris
Councilor Donna Maddux**

WELCOME! By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda – Item C, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at www.ci.tualatin.or.us, at the Library located at 18878 SW Martinazzi Avenue, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011 (voice) or 503.692.0574 (TDD). Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised “live” on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org.

Your City government welcomes your interest and hopes you will attend the City of Tualatin City Council meetings often.

- SEE ATTACHED AGENDA -

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A “legislative” public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. The Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, deny, or “continue” the public hearing.

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A “quasi-judicial” public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. The Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report to the Council.
3. Public testimony is taken:
 - a) In support of the application
 - b) In opposition or neutral
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, approve with conditions or deny the application, or “continue” the public hearing.

TIME LIMITS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 10 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *ORS 192.660(2)(a)* the employment of personnel; *ORS 192.660(2)(b)* the dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



A. CALL TO ORDER

Pledge of Allegiance by Tualatin Police Honor Guard

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Recognition of Councilor Bob Boryska
2. Swearing-in of Councilors-elect Monique Beikman, Joelle Davis, and Ed Truax
3. Council President Nominations and Selection
4. TriMet WES Grand Opening Presentation – *Eric Underwood, Community Development*
5. Tualatin Youth Advisory Council Update

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

D. CONSENT AGENDA (Item Nos. 1 – 5)

Page #

The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and the Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under "Items Removed from the Consent Agenda." At that time, any member of the audience may comment on any item pulled from the Consent Agenda. The entire Consent Agenda, with the exception of items removed to be discussed under "Items Removed from the Consent Agenda," is then voted upon by roll call under one motion.

1. Approval of Minutes from the Meeting of November 24, 2008, December 8, 2008 5
and the Special Work Session of December 9, 2008
2. Resolution No. 4856-09 Establishing Regular Meetings of the City Council and32
Advisory Committees of the City and Repealing
Resolution No. 4744-08
3. Resolution No. 4857-09 Amending the City of Tualatin Fee Schedule and35
Rescinding Resolution No. 4788-08
4. Resolution No. 4858-09 Authorizing an Extension of a Revocable Permit for a43
Temporary Construction Staging Area in the Blue Lot
5. Resolution No. 4859-09 Requesting Approval for an Industrial Master Plan56
in the Manufacturing Park (MP) Planning District
at SW 124th Avenue/SW Tualatin Road/SW Leveton
Drive (IMP-08-01)

E. PUBLIC HEARINGS – Legislative or Other

None.

F. PUBLIC HEARINGS – Quasi-Judicial

None.

G. GENERAL BUSINESS

1. Ordinance No. 1274-09 Granting a Non-Exclusive Telecommunications Franchise61
Agreement to tw telecom LLC

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION

K. ADJOURNMENT

Oath of Office

CITY OF TUALATIN)

STATE OF OREGON) ss

COUNTY OF WASHINGTON)

I, EDWARD TRUAX, do solemnly swear that I will support the Constitution of the United States of America, the Constitution of the State of Oregon, and the laws thereof, and will faithfully and honorably serve in the Office of City Councilor of the City of Tualatin, to the best of my ability.



Edward Truax

Subscribed and sworn to before me this 12th day of January, 2009.

Before me: Maureen A Smith
Notary Public for Oregon

My Commission Expires: July 4, 2009



Oath of Office

CITY OF TUALATIN)

STATE OF OREGON) ss

COUNTY OF WASHINGTON)

I, MONIQUE BEIKMAN, do solemnly swear that I will support the Constitution of the United States of America, the Constitution of the State of Oregon, and the laws thereof, and will faithfully and honorably serve in the Office of City Councilor of the City of Tualatin, to the best of my ability.

Monique Beikman
Monique Beikman

Subscribed and sworn to before me this 12th day of January, 2009.

Before me: Maureen A. Smith
Notary Public for Oregon

My Commission Expires: July 4, 2009



Oath of Office

CITY OF TUALATIN)

STATE OF OREGON) ss

COUNTY OF WASHINGTON)

I, JOELLE DAVIS, do solemnly swear that I will support the Constitution of the United States of America, the Constitution of the State of Oregon, and the laws thereof, and will faithfully and honorably serve in the Office of City Councilor of the City of Tualatin, to the best of my ability.


Joelle Davis

Subscribed and sworn to before me this 12th day of January, 2009.

Before me: 
Notary Public for Oregon

My Commission Expires: July 4, 2009



CITY COUNCIL MEETING SIGN-UP SHEET

PLEASE COMPLETE TO GIVE TESTIMONY

DATE: January 12, 2009

PLEASE LIMIT TESTIMONY TO THREE MINUTES

PLEASE PRINT CLEARLY				AGENDA ITEM(S)	PROPONENT (if applicable)	OPPONENT (if applicable)
NAME	ADDRESS	REPRESENTING (if applicable)				
<u>Arinda Moholt</u>	<u>19181 SW. 55th Ct Tualatin, Or.</u>	<u>Tualatin Chamber of Commerce</u>				
XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX					
Walter Bill	20520 SW Kawanda Ct					



Approved By Tualatin City Council
Date 1-12-09
Recording Secretary W Smith

STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: January 12, 2009

SUBJECT: APPROVAL OF THE MINUTES FOR THE MEETING OF
NOVEMBER 24, 2008, DECEMBER 8, 2008 AND THE SPECIAL
WORK SESSION OF DECEMBER 9, 2008

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Meeting of November 24, 2008, December 8, 2008 and the Special Work Session of December 9, 2008.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: Minutes



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF NOVEMBER 24, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Carina Christensen, Assistant to the City Manager; Don Hudson, Finance Director; Kent Barker, Chief of Police; Doug Rux, Community Development Director; Eric Underwood, Development Coordinator; Dan Boss, Operations Director; Nancy McDonald, Human Resources Director; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 5:06 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Tualatin-Sherwood Road Fountain at Commons Park

Eric Underwood, Development Coordinator, introduced the engineering firm representative: Dave Simmons, CH2M Hill, and Carol Mayer-Reed and Ryan Carlson, Mayer-Reed, the subcontractor assisting CH2M Hill in the design of the feature.

This project consists of two parts – the maintenance strip from Kmart to the Outback Restaurant, and the water feature at Tualatin Commons Park. The budget for the project is \$1.8 million total (design and construction). The water feature is considered the primary feature; and what monies are left in the project budget after the water feature will be used for landscaping.

Ms. Lombos noted the goal for this evening is to establish the goal for the water feature; set the boundaries. Mr. Simmons said an advisory group is established for this feature. Mayor Ogden noted that this project actually is a Tualatin Development Commission project and will be discussed in the TDC Work Session this evening.

[City Council Work Session recessed to go into Development Commission Work Session discussion at 5:16 p.m.]

[City Council Work Session reconvened at 6:22 p.m.]

Utility Undergrounding Update

Mike McKillip, City Engineer, noted that last spring Council discussed undergrounding of overhead lines. At that time, Council asked that staff come up with a fee and come back to Council with a plan. Mr. McKillip said staff discussed the issue and realized that what was being discussed was a Construction Excise Tax. It was clarified that what is being talked about is a tax because it generates revenue, unless you can structure it as a fee. Discussion followed regarding the difference of a tax vs. a fee and how it could be structured to cause it to be a fee. If it could be structured as a fee, then the City could collect fees, pool the money, and start working on the pieces where utilities are not ungrounded. The feeling was to make it a City-wide fee, which would be a fee that would be paid by development (ex: when a building permit is paid for, it would be included as one of those fees). The City Attorney will do some further research and bring back a more in-depth definition of excise tax at a future work session.

Library Policies Discussion

Due to time constraints, this discussion will be held at a future Work Session.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

The Consent Agenda was reviewed by Council. Councilor Truax expressed concern regarding closing right-of-way and the revocable permit issue (Item D.5). After a brief discussion, Item D.5 was removed in its entirety and will be scheduled at a future Work Session. Councilor Harris expressed concerns regarding no parking zones (Item D.6); and asked for clarification regarding this item. It was decided, after some discussion, to remove Item D. 6 in its entirety tonight to allow time for staff to speak with Tigard/ Tualatin School District about this issue; the item will be rescheduled for a future meeting.

E. PUBLIC HEARINGS - *Legislative or Other*

Not applicable.

F. PUBLIC HEARINGS - *Quasi-Judicial*

Not applicable.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

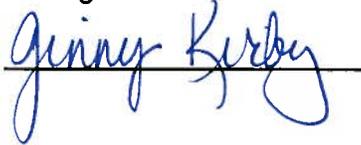
None.

K. ADJOURNMENT

Meeting adjourned at 6:49 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line. The signature is cursive and extends above and below the line.



TUALATIN CITY COUNCIL MEETING MINUTES OF NOVEMBER 24, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Don Hudson, Finance Director; Kent Barker, Chief of Police; Doug Rux, Community Development Director; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Paul Hennon, Community Services Director; Carl Switzer, Parks & Recreation Coordinator; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

*[Unless otherwise noted, **MOTION CARRIED** indicates all in favor.]*

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:08 p.m.
Councilor Harris led the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. New Employee Introduction - *Catherine Yagodinski* - Paul Hennon
Paul Hennon, Community Services Director, introduced Catherine Yagodinski. Ms. Yagodinski is the new Office Coordinator for the Community Services Department.
2. 5-Year Service Award - *Kent Barker*
Sherilyn Lombos, City Manager, awarded Chief Barker's 5-year service award. Mayor Ogden thanked Chief Barker for all he gives to our community. Councilor Maddux reiterated that Chief Barker is well known and respected across the State.
3. 30-Year Service Award - *Dan Boss*
Sherilyn Lombos, City Manager, awarded Dan Boss with a 30-year service award. Ms. Lombos noted some of Dan's activities and achievements over the years, including his involvement with the American Public Works Association and in Emergency Management for the City. Mayor Ogden thanked Dan for all his hard work and dedication to the community.
3. National League of Cities Conference Recap – *Youth Advisory Committee*
Katie Ogden and Will Downey, YAC members, gave a brief summary of the Tualatin Youth Summit that was held earlier this month at Tualatin High School. They noted that several YAC representatives attended the recent National League of

Cities/Youth Conference (NLC). Councilor Beikman stated that this was the second time she has been able to attend the NLC/Youth Conference and was very impressed with Tualatin's youth. Mayor Ogden asked that YAC members please provide their input on municipal issue items to Council in the future.

4. **Starry Nights and Holiday Lights Presentation - Carl Switzer**

Carl Switzer, Parks and Recreation Coordinator, gave a PowerPoint presentation covering Starry Nights/Holiday Lights. This event is scheduled for Friday, December 5, 2008, 6:00 p.m. - 9:00 p.m. at the Tualatin Commons. The Floating Christmas Tree will be lighted at 7:00 p.m. It is a great way for the community to welcome in the holiday season!

Mr. Switzer stated that the Tualatin Studio Tour 2008 will be on Saturday, November 29, 2008 from 10:00 a.m. – 5:00 p.m. There is detailed information available on the City's website.

5. **Get Out! Activity Guide Presentation – Carl Switzer**

Carl Switzer, Parks and Recreation Coordinator, gave a PowerPoint presentation regarding the new Get Out! Activity Guide. He noted that the City was previously lacking one central "guide" for people to refer to for a variety of activities available in the City. An updated guide will be published three times each year. This will harbor citizens to get out and learn about their community and meet neighbors. The Get Out! Guide has been mailed to all households in Tualatin. The brochure will also be available on the City's website; links are included that will lead you to detailed event information.

C. CITIZEN COMMENTS

None.

D. CONSENT AGENDA

MOTION by Councilor Barhyte, SECONDED by Councilor Maddux to adopt the Consent Agenda as read and amended:

1. Approval of Minutes for the Meeting of November 10, 2008
2. Fiscal Year 2007/2008 Water System Development Charge (SDC) Report
3. Resolution No. 4844-08 Awarding Bid for the Water Pipeline Undercrossing of I-5 at Norwood Road
4. Resolution No. 4845-08 Accepting Public Improvements for 21527 SW 99th Avenue Residential Driveway Replacement
5. Resolution No. - - - Authorizing a Revocable Permit to Allow a Fence in Tract Q in the Victoria Woods No. 3 Subdivision
[Item removed in its entirety during Work Session]

6. Resolution No. - - - Authorizing Installation of a No Parking Zone on Both Sides of SW Boones Ferry Road from SW Ibach Street To SW Norwood Road
[Item removed in its entirety during Work Session]
7. Resolution No. 4846-08 Accepting a Continuing Control Agreement for the Westside Express Service Wilsonville to Beaverton Commuter Rail Project
8. Citizen Involvement Committee Appointments

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other

1. Change of Ownership Liquor License Application – Stars Cabaret-Bridgeport

Mayor Ogden opened the public hearing.

City Manager Sherilyn Lombos gave a history of the process thus far. She stated a City Business License application had been submitted, as well as the OLCC application, which was submitted on September 23, 2008. The City Business License has been granted. The City has until December 2, 2008 to submit a recommendation to OLCC of either denial or approval of a liquor license for Stars Cabaret. OLCC has the formal authority to grant or deny liquor licenses. If a local jurisdiction gives an unfavorable recommendation, then OLCC must hold a hearing to discuss the application.

The Oregon Revised Statutes (ORS) provide grounds upon which OLCC may deny a liquor license application. Staff believes the following are grounds for denial of a liquor license for Stars Cabaret:

1. Existing establishments do not have a good record of liquor law compliance.
2. History of serious and persistent problems.
Chief Barker reviewed police activity statistics beginning with 2005 to current. He noted that the information in this PowerPoint is based on the three existing Stars establishments which are located in Salem, Bend, and Beaverton.
3. Located within 500-feet of a childcare or child-oriented recreational facilities.
Both 24-Hr Fitness Kids Club and My Gym are located within these boundaries.
4. Incomplete and inaccurate application.
Required information was missing and applicants gave an incomplete list of violations.

The history of police calls, the City's limited personnel, and the proximity to child-oriented facilities is why the City is recommending denial of the OLCC liquor license application for Stars Cabaret-Bridgeport. Ms. Lombos reiterated that if Council recommends denial, then OLCC will have a hearing. If the OLCC denies the liquor license for Stars Cabaret, there is an appeal process available.

Chief Barker gave a PowerPoint presentation that gave the statistics for Police Calls for Service and DUII from 2005 through September 30, 2008. Brief discussion followed regarding the statistics.

PROPONENTS

Mr. Gregory A. Chaimov, with Davis Wright Tremaine LLP, stated he is the legal counsel for the business and Mr. Kaiser, co-owner of Stars Cabaret.

Mayor Ogden said questions would be addressed at the end, if their schedule allowed. Mr. Chaimov stated he would answer this like the City answered them when wanting to meet; they don't have the time.

Mr. Randy Kaiser stated that he doesn't feel he was treated fairly. If the City was interested in fairness, they would have interviewed the neighbors of the three existing Stars businesses and found out that at first they were concerned, but after time, they didn't object to Stars being their neighbor.

Mr. Kaiser feels the City has violated his civil rights. He does not feel the City's report will withstand independent scrutiny. Tomorrow they are presenting OLCC with 1,000 letters in support of the Stars project. Mr. Kaiser went on to say that 24-Hr Fitness has worked with Stars for 13 years by asking that Stars feature their marketing materials for Star's patrons. He added that there were 43% more calls for service this year at 24-Hr Fitness than any Stars location.

Mr. Kaiser said he is proud of their accomplishments, which include providing jobs for people to earn a living and support themselves and their family members, given money to Veteran's memorials, and donating money to animal shelters.

OPPONENTS

Mayor Judi Hammerstad and Councilor John Tershi, City of Lake Oswego. Mayor Hammerstad stated she and Councilor Tershi are here to support the City's opposition to the liquor license application for Stars Cabaret. Mayor Hammerstad noted that the City of Lake Oswego wrote to OLCC regarding the negative impacts of establishments such as Stars. Councilor Tershi urged the Council to deny the liquor license.

Jim Beriault, SW McEwan Road. Mr. Beriault noted he is the appointed Community Representative for the community group called "Change". They are deeply concerned about the potential of increased crime in the area, the potential of increased DUII violations, and the potential use of tax dollars and resources (police) that will be used for problems that currently do not exist. Families pass through this area daily; there are no crosswalks in the area. The increased risk of intoxicated drivers is of great concern. There will be a negative impact on local business. He stated that he is submitting 336 letters tonight and thanked Mr. Kaiser for having a lively debate this evening.

Emile Bonfiglio, SW McEwan Road. Mr. Bonfiglio stated his objective tonight is to represent his neighborhood as a community. He said Mr. Kaiser stated many people support the Stars club, but if you look around and see who took the time to show up tonight, they are not Stars supporters.

Peter Klaebe, Rosewood CPO/NA, SW Tree Street, Lake Oswego. Mr. Klaebe said he is particularly afraid the increased number of drunk drivers will be a large safety concern. He noted their group has already written a letter to OLCC. He urges Council to recommend denial of the liquor license.

Don Miller, Millers Homestead Restaurant, SW McEwan Road. Mr. Miller said some people mistakenly think he is the person that owns the proposed Stars facility; he is concerned that it will have a negative effect on his business.

Linda Brown, Kelok Road, Lake Oswego. Ms. Brown distributed a copy of a letter to the OLCC, dated November 20, 2008, from Ms. Deborah Lopardo, Chairperson, Lake Oswego School Board, which stated that on September 27, 2008, the School Board unanimously moved that they recommend to OLCC that the denial of a liquor license to the Stars Cabaret club. Their great concerns lie with all the child-oriented facilities in the vicinity (24-Hr Fitness, My Gym, and Players). The Board also recommended denial due to the increased response this business would put upon both Lake Oswego and Tualatin police departments.

Jeff Kleinman, SW 6th Avenue, Portland. Mr. Kleinman is an attorney working with several folks in the immediate vicinity of the Stars site. He reiterated how important it is for the City to recommend denial or OLCC won't pursue denial. Mr. Kleinman said there needs to be as much evidence as possible presented to OLCC; there is a lot of work to be done.

Katie Webb, SW Greening Lane, Tigard. Ms. Webb noted she is here as a patron of the Little Gym. She knows that the Little Gym relies on positive word of mouth and repeat business. She feels that if the Stars facility is granted a liquor license it will have a definite adverse effect on the Little Gym.

Scott Mint, SW Choctaw Street, Tualatin. He wanted Council to know that the vast majority of the Good Neighbor Center are not in favor of the Stars facility receiving a liquor license.

Rick Miller, SW 110th Place, Tualatin. Mr. Miller asked if in the investigation performed, was the potential financial impact quantified – for calls for service. Chief Barker stated he did not look into that issue; that he was looking for elements why Council would recommend denial of the liquor license. Chief Barker said that is not an issue that OLCC considers.

Councilor Maddux asked why the difference in the 2005 Salem facility statistics. Chief Barker said he wasn't sure when in 2005 the Salem Stars opened. Councilor Harris asked about the square footage comparison on any facilities, as the larger the facility, the potential of more calls for service. This information isn't in the staff report, but could be researched.

Chief Barker stated that Tualatin has less officers on duty on the night shift than day shifts and most calls do happen at night. Discussion followed regarding police calls and the correlation to the types of businesses.

Citizen, SW Lakeview Blvd, Lake Oswego, asked if the 500-feet is a deal breaker.

Steve Longhead, SW Longfellow Avenue, Lake Oswego. Mr. Longhead stated a big sign will draw people from everywhere.

Leona, SW Dawn Street, Lake Oswego, said she is concerned about the possible prostitution.

Tom Krueger, SW 4th Place, Lake Oswego. Mr. Krueger said the manager of the 24-Hr Fitness couldn't be here this evening due to health reasons. Mr. Krueger stated he knows the manager is opposed to Stars and has collected approximately 1,000 letters opposing Stars. He noted the business hours of the Stars Cabaret are very different from the existing Out of the Blues business.

Vickie King, Lynhold Avenue. Ms. King doesn't feel Stars represents the type of life that women should live and this establishment isn't what the City should portray. She feels it reflects upon women in society.

Becky Lomax, SW Yakima Court, Tualatin. Ms. Lomax said she is speaking on behalf of her teenagers and herself, they are all members of 24-Hr Fitness. The teenagers like to use the club at very late hours; she won't be comfortable with that if the Stars Cabaret opens.

Lisa Stevens, Frost Lane, Lake Oswego. Ms. Stevens stated she is here as a Rivergrove Elementary School Advisory Member. She has concerns for patrons of Stars that may want to avoid the well-lit area of Bridgeport and turn right onto McEwan Road upon leaving Stars. This would send potential drunk drivers through the neighborhood; an area that does not have safe sidewalks throughout.

COUNCIL QUESTIONS

Brenda Braden, City Attorney, clarified for Council that it isn't enough to have a child-recreational facility within 500-feet; you have to show that the facility will be adversely impacted.

It was stated that Council was not in receipt of any petition containing 1,000 signatures.

Chief Barker said the issue of prostitution had been brought up at the September 16, 2008 public meeting. Prostitution is a very difficult crime to prosecute. He did note Motel 6 is aware of potential problems and has already met with police department representatives. Mayor Ogden asked Chief Barker if he knew why any of the Stars had liquor licenses suspended. The Chief stated fines and suspensions have been issued for several reasons, including allowing minors into a restricted area, promoting disorderly conduct, lewd entertainment, and unlicensed entertainers. Mayor Ogden asked if there were any more questions from those in attendance; there were.

Vickie King asked if sex crimes had been reported at any of the Stars. Chief Barker said yes, but you need to be aware that the "label" of sex crimes varies widely on what it can be.

Deb Tate, SW Ochoco Street, Tualatin. Ms. Tate realized that a denial can't be based on opinions of the public. She wanted to know what data would be needed to present to OLCC to show that the Little Gym was going to be adversely affected.

Jesse Fox, SW Sequoia Drive, Tualatin. Mr. Fox stated they will not send any of their five children to the Little Gym if Stars goes in.

Ron Skoletsky, Owner, The Little Gym, SW McEwan Road. Mr. Skoletsky said they collected many signatures from patrons, but no one has said to him that they won't come there any longer. He is concerned that some of his patrons are here tonight saying they will no longer come there if Stars locates where proposed.

Patty Cameron, Owner, Gallop Saddlery, SW McEwan Road. Ms. Cameron stated her business is 90% women, and she also caters to children. Ms. Cameron is very concerned that her business will be adversely affected; she has even had an employee state they would no longer work at the Saddlery if Stars goes in.

Mike, SW Nyberg Lane, Tualatin. Mike has concerns about the impact of Stars on fire calls, in addition to police calls. He feels the Fire Department would be affected if this facility is approved.

Mayor Ogden closed the public hearing.

COUNCIL DISCUSSION - None

MOTION by Councilor Barhyte; SECONDED by Councilor Beikman to recommend denial of an OLCC license for Stars Cabaret-Bridgeport.

Friendly amendment by Councilor Maddux, in addition to denial of an OLCC liquor license, submit unfavorable recommendation along with Chief's documents and its reasons for denial. Mayor Ogden asked that the Grounds for Denial be placed on the statistics and included in the documents to OLCC. Councilor Maddux stated that the supporting documents confirm the four findings.

MOTION by Councilor Barhyte; SECONDED by Councilor Beikman to recommend denial of an OLCC license for Stars Cabaret-Bridgeport and include all supporting documents with the recommendation to the OLCC.

MOTION CARRIED.

F. PUBLIC HEARINGS - Quasi-Judicial
None.

G. GENERAL BUSINESS
None.

H. ITEMS REMOVED FROM CONSENT AGENDA

None.

I. COMMUNICATIONS FROM COUNCILORS

Councilor Harris noted that Council and staff just returned from a successful retreat; he thanked everyone for their participation.

Councilor Maddux stated that today was Turkey Drop-off day for Tualatin Food Pantry; they had a great response.

J. EXECUTIVE SESSION

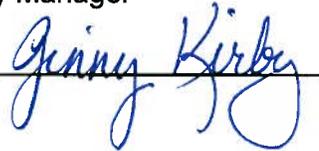
Not applicable.

K. ADJOURNMENT

The meeting adjourned at 9:09 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, reading "Ginny Kirby", is written over a horizontal line.



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF DECEMBER 8, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Councilor-elect Joelle Davis; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Don Hudson, Finance Director; Dan Boss, Operations Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager; Colin Cortes, Assistant Planner; Will Harper, Associate Planner; Eric Underwood, Development Coordinator, Clayton Reynolds, Facilities Manager; and Maureen Smith, Recording Secretary

ABSENT: None.

*[Unless otherwise noted, **MOTION CARRIED** indicates all in favor.]*

A. CALL TO ORDER

Mayor Ogden called the work session to order at 5:04 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Historic Preservation Program Review

City Manager Sherilyn Lombos gave an introduction on the historic preservation program, and Council's desire to take a more holistic review of the ordinance.

Assistant Planner Colin Cortes began with a PowerPoint presentation on the existing historic program and possible improvements that can be made to the program. Policy considerations were reviewed as to whether the City should reevaluate and modify the program, strengthen or loosen regulatory framework, and make the regulations clearer.

Council briefly reviewed the Landmark Inventory in Chapter 68.040 of the Development Code. There are 26 landmarks, 18 located in residential planning districts, five in commercial districts, and three in industrial, which are mostly located in or near the town center area. Because of the changed status of three landmarks the inventory will need to be updated. The Tualatin Historical Society (THS) has also requested that the inventory be updated and include additional inventory. A map was displayed of landmark inventory in Tualatin.

Council discussion followed on the value of preserving the historic look of Tualatin and the exterior of the buildings. Council recognized the importance of historic preservation if there is available funding, but also how to balance the rights of property owners with the economic reality. If historic preservation is to be voluntary, and if not, how to enforce, having a program that gives tax incentives to property owners to encourage maintenance of the structure, look at grant programs, and reuse of materials were mentioned. Also discussed is the need to come up with a manageable inventory. Prioritization of certain properties was also discussed.

City Manager Lombos said staff will go back and review the issues raised on options on preservation, creating incentives, and how they could work into the current or ordinance. Examine a tiered approach, and if it not workable, how can a site be memorialized, such as with a plaque. Staff will also meet with the Tualatin Historical Society, and work on a prioritization list.

Sign Design Standard Discussion

City Manager Lombos said revisiting this discussion came out of the January 28, 2008 work session where Council considered sign amortization and freeway-oriented activity signs. Council expressed interest in staff coming back at a future time with a more comprehensive look at sign standards.

Community Development Director Doug Rux and Associate Planner Will Harper presented a PowerPoint presentation outlining the history and background of the sign design proposal, current sign code, permit review process and methods, and elements of sign design. A planning district map was displayed indicating where existing freestanding conforming and non-conforming signs are located.

Council would like to encourage the use of freestanding signs that use architectural design and materials compatible with the adjoining building, such as the "Claim Jumper" restaurant sign. The current Development Code focuses on dimensions, and style, but does not get into materials, and adjacent compatibility with other signs. In researching other cities, most deal with dimensions, others encourage more interesting and inventive signs, although not required. Current signs and elements of design were reviewed, and how to get to some type of design process in the City.

Addressing signs during the architectural review (AR) process was discussed, and mentioned if AR is done on buildings why it cannot be done with signage. Currently sign review is done if it is part of the AR, and if not, it is reviewed by staff when the sign permit application is received.

The issue of whether having pole signs at all was discussed, and while not necessarily in favor of pole signs, there may be some need in various locations for them. Also dealing with existing signs, and How to deal with existing signs The allowance of monument signs only on the main thoroughfares was mentioned want AR for signs in general. Discussion followed.

Having clear and objective standards was discussed. Not having pole signs at all is one step, and having a transition timeframe was discussed. How to deal with existing signs was also mentioned and whether it is feasible to not have any pole signs ever.

City Manager Lombos said staff will come back to Council with a menu-driven approach to new signs, a program to look at how to make existing signs look better, whether with an amortization program or when it comes time for rehabilitation. Staff will also determine the total number of pole signs located in Tualatin.

Municipal Judge Discussion

Council discussed the appointment of the municipal court judge for approval on the regular agenda. The City's Charter indicates the appointment of the municipal judge is by the Mayor, with Council consent, and no term limits are associated with the position.

Staff reviewed several candidates and interviewed two. The proposed municipal judge comes highly recommended, and the second judge is also recommended as judge pro tem. Council expressed the desire to meet with the judge to communicate their philosophy of values they hold for the city of Tualatin. Brief discussion followed.

Accessway Restrictions Discussion – Postponed to a future meeting.

C. CITIZEN COMMENTS

N/A

D. CONSENT AGENDA

None.

E. PUBLIC HEARINGS – Legislative or Other

N/A

F. PUBLIC HEARINGS – Quasi-Judicial

N/A

G. GENERAL BUSINESS

N/A

H. ITEMS REMOVED FROM CONSENT AGENDA

N/A

I. COMMUNICATIONS FROM COUNCILORS

Mayor Ogden suggested in the coming new year having time available at each meeting for each councilor to give an update on the various committees, etc. they serve on. Also want to look at different ways at connecting with citizens. It was suggested and agreed upon by Council to hold a quarterly work session on general issues.

City Manager Lombos added staff will follow up on the recent retreat with a work plan in January or February for Council review.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The work session adjourned at 6:55 p.m.

Sherilyn Lombos, City Manager

Recording Secretary





TUALATIN CITY COUNCIL MINUTES OF DECEMBER 8, 2008

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Dan Boss, Operations Director; and Maureen Smith, Recording Secretary

ABSENT: None.

Mayor Ogden called the meeting to order at 7:01 p.m.

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Councilor Truax led the Pledge of Allegiance.

The Tualatin Presbyterian Church Bell Choir presented a bell rendition of Jingle Bells to start the holiday season.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Swearing-in of Police Officers – Brett Rudolph and Scott Boyll*
Police Chief Barker introduced new police officers Brett Rudolph and Scott Boyll and gave a brief background on each, and swore them in.
2. *New Employee Introduction – Darla Sheldon, Office Coordinator, Police*
Police Chief Barker introduced Darla Sheldon, the Police Department's new office coordinator.
3. *Tualatin Tomorrow Presentation – Traffic, Transportation, and Connectivity Group*
Dave Volz and Linda Moholt presented information on the "Tualatin Tomorrow" Implementation Committee and brief update on the traffic, transportation and connectivity portion of the program. The commuter rail project will begin service in February 2009. The business community is behind this project and looking for support and help from the City Council. Discussions continue on the I-5/99W connector project.

Mayor Ogden thanked all for all the work that has been done to date, and mentioned there is a special Council Work Session on December 9, 2008, with one item of discussion on the I-5/99W Connector project, Alternative #7. Councilor Beikman also thanked Mr. Volz for all his work on the "Tualatin Tomorrow" group. Mr. Volz also thanked the work that's been done by the Chamber of Commerce.

4. *Arts Advisory Committee Annual Report Presentation*

Tualatin Arts Advisory Committee Chair Buck Braden gave a PowerPoint presentation on the Arts Advisory Committee annual report. He noted that membership is the fullest it has been for some time, and has been the most productive year ever. Mr. Braden reviewed the accomplishments of 2008, such as ArtSplash, Concerts on the Commons, purchases for the City's Visual Chronicle program, and contributions to outside agencies, such as Historical Society, and Broadway Rose Theatre, current and upcoming projects.

Mayor Ogden thanked the committee for all their work, in particular, longtime member and committee chair Buck Braden.

5. *Senior Center Status Report and Update*

Community Services Director Paul Hennon gave an introduction on the Tualatin/Durham Senior Center, which is a partnership between the Loaves and Fishes (Meals on Wheels) organization and the City of Tualatin. Paula Stewart, center director, and steering committee members gave a brief PowerPoint presentation on the center's programs and activities, and assistance to various organizations in the community.

Mayor Ogden thanked the members present for their work and dedication.

C. CITIZEN COMMENTS

Chris Walson, 9765 SW Tualatin Road, Tualatin, OR, representing himself and his neighbors have serious safety concerns along Tualatin Road (on the curve across from Winona Cemetery). Speeding cars and crashes occur on a regular basis near his home and his neighbors. A petition letter was submitted to Council to give consideration to any potential safety improvements that could be done in that area. It was also asked that the Police Department provide statistics on crashes and safety problems on that stretch of road.

Tracy Victorino, 9767 SW Tualatin Road, Tualatin, OR, has lived in the area for three years and said she there have been many times she has helped with issues that happen along that portion of the road, particularly on Friday and Saturday nights. Ms. Victorino said something needs to be done for safety, such as a type of barrier to protect the homes along that stretch of road.

Molly Uselman, 17940 SW Sioux Court, Tualatin, OR, mentioned the recent problems she's had, and the accident to her home. She is also out on weekday mornings with her children and many vehicles do not stop for the school buses there.

Lorie Broyles, 9777 SW Tualatin Road, Tualatin OR, said she is concerned about the terrible crashes/accidents that have happened and would like to see something done.

Mayor Ogden noted the City Council has been advised of the concerns and directed staff to research this issue and get back to Council and the neighbors.

D. CONSENT CALENDAR

MOTION by Councilor Truax, SECONDED by Councilor Barhyte to adopt the Consent Agenda as read:

1. Fiscal Year 2007/2008 Parks System Development Charge (SDC) Annual Report
2. 2008 Annual Report of the Tualatin Arts Advisory Committee
3. Approval of New Liquor License Application for Famous Dave's Restaurant
4. Change Order No. 5 to the Contract Documents for Construction of the Library/City Offices Expansion and Remodel Project
5. Resolution No. 4846-08 Accepting Public Improvements for Tualatin Professional/Medical Office
6. Resolution No. 4847-08 Accepting Public Improvements for Sagert Ridge Office Building
7. Resolution No. 4848-08 Accepting Public Improvements for Construction of the Library/City Offices Expansion and Remodel Project
8. Resolution No. 4849-08 Accepting Public Improvements for Construction of the Ki-A-Kuts Bridge
9. Resolution No. 4850-08 Authorizing Installation of a No Parking Zone on Both Sides..... of SW Boones Ferry Road from SW Ibach Street to SW Norwood Road
10. Resolution No. 4851-08 Canvassing Results of the General Election for Council Positions Held in the City of Tualatin, Washington and Clackamas Counties, Oregon on November 4, 2008
11. Resolution No. 4852-08 Canvassing Results of the Authorization to Issue Community Center, Trails, Parks and Sports Fields General Obligation Bonds to the Voters on the General Election Held in the City of Tualatin, Washington and Clackamas Counties, Oregon on November 4, 2008

MOTION CARRIED.

E. PUBLIC HEARINGS – *Legislative or Other*

1. Resolution No. 4853-08 Exempting a Contract from the City's Purchasing Rules and Authorizing the City Manager to Sign a Contract with Integra Telecom for the Purchase and Installation of a Mitel Voice-Over Internet Protocol (VOIP) Telephone System

Mayor Ogden opened the hearing.

City Manager Lombos gave a brief presentation on the staff report outlining the City's current telephone system. Staff's recommendation to Council that the purchasing contract be exempt from the City's rules and authorize the purchase of a new

telephone system for the City. The current system is nine years old and has been experiencing many problems, most recently with the entire system crashing. It is also at capacity with no opportunity for expansion of the system. Staff is also looking for the ability to have a single system which would allow staff to transfer calls to any extension in the City, which is currently not the case.

Staff researched a number of companies before inviting four companies to present a demonstration of their product. Staff asked for a written quotation based on the same criteria and features of each to be able to make a determination on the feasibility of purchasing a system and if it could save money. All four companies estimated a substantial annual cost savings to the City, based on the current use of the existing system.

Ms. Lombos noted staff has followed the State's process of its purchasing rules, which involves obtaining three informal competitive quotes for purchases up to \$150,000, and award a contract to the company that best serves the interests of the contracting agency, taking in all other factors. Staff has performed a competitive process and believes the City could not get a better price than what has been submitted.

Staff is requesting that the City Council, acting as the Contract Review Board, allow the City to use the State's process exempting a contract from the City's purchasing rules and authorizing the City Manager to sign a contract with Integra Telecom for the purchase and installation of a new telephone system.

PROPOSERS/OPPONENTS – None.

COUNCIL DISCUSSION

Mayor Ogden closed the public hearing.

COUNCIL DELIBERATION

MOTION by Councilor Truax, SECONDED by Councilor Boryska to adopt a resolution exempting a contract from the City's purchasing rules and authorizing the City Manager to sign a contract with Integra Telcom for the purchase and installation of a Mitel Voice Over Internet Protocol (VOIP) telephone system. MOTION CARRIED.

F. PUBLIC HEARINGS – *Quasi-Judicial*

1. Industrial Master Plan Request for Mittleman Properties in the Manufacturing Park (MP) Planning District (IMP-08-01)

Mayor Ogden read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.763(5) and (6)] and opened the public hearing. No bias or ex parte contact noted by Council.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. The applicants are Group Mackenzie and Mittleman Properties. The proposal is for approval of an Industrial Master Plan (IMP) proposed 32.4 acres/ three building property development in the Manufacturing Park (MP) Planning District and alternate development standards allowing reduced building and parking setbacks, shared parking, and reduced lot sizes to allow separate ownerships within the site.

Chapter 37 of the Tualatin Development Code (TDC) outlines the process for Council review and approval of an Industrial Master Plan (IMP) for development in the MP Planning District and in the Leveton Tax Increment District (LTID). Staff reviewed the criteria for the proposed project along with parking. The analysis in the staff report was also reviewed. The property site's new building changes show an actual reduction in traffic, particularly peak hour trips. The conditions to the project were also reviewed as stated in the staff report.

Staff recommends that Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting approval with the conditions as stated in the staff report.

PROPONENTS

Kelly Niemeyer, Group Mackenzie, 1515 SW Water Avenue, Portland 97213, attorney Steve Pfeiffer, and other applicant representatives were available to answer any questions Council may have.

OPPONENTS

Scott Stoddard of Novellus, 14817 SW Bell Road, Sherwood, 97140, said he has yet to see the Group Mackenzie proposal, and wanted to be certain that Novellus' interests are represented. He asked that they take into consideration the professionalism Novellus took for their development that was done in the Leveton District. Before approval he asked to view the architectural drawings, to ensure that the project does not have a direct impact on Novellus' operations.

COUNCIL DISCUSSION

A clarification was asked and staff explained the process for this hearing and what then goes through to the Architectural Review (AR) process where the design/building components would be addressed. Staff referred to the staff report for the various proposed development standards, and explained the surrounding developments that are already there.

Ms. Niemeyer said the two office buildings on the southern portion of the site will have considerable window glazing and other exterior aesthetics, and the client is well aware and concerned about maintaining the existing campus industrial elements of the area. The staff report as presented with all the conditions is acceptable to the applicant as noted by Ms. Niemeyer.

Transportation issues were discussed; levels of service at the intersections, any additional access points onto public streets, shared access and internal circulation.

In response to a question on Attachment C, Ms. Niemeyer explained some of the storm lines, easements, setback lines, etc., and the site plan was briefly reviewed.

Mayor Ogden closed the public hearing.

COUNCIL DELIBERATION

MOTION by Councilor Barhyte, SECONDED by Councilor Boryska adopt the staff report and supporting attachments granting approval with conditions and direct staff to prepare a resolution granting approval with the conditions as recommended in Attachment F of the staff report. MOTION CARRIED. [Vote: 7-0]

G. GENERAL BUSINESS

1. Resolution No. 4854-08 Appointing Municipal Court Judge and Judge Pro Tem and an Update on Municipal Court

Finance Director Don Hudson gave an update on the expansion of Municipal Court that will include traffic violations, and the proposed appointments of the court judge and two pro tem judges. Staff interviewed two candidates that are well respected and professional; Jack Morris, municipal judge for Sherwood, and James Shartel, judge for Washington County Justice Court. The current municipal judge, Scott Morrill, is unable to take on additional duties but can serve as pro tem. Staff recommends the City Council appoint Jack Morris as presiding judge, and James Shartel and Scott Morrill as judges pro tem.

The first expanded municipal court date is scheduled for January 29, 2009, and officers have started citing individuals. The regularly scheduled court will then be held early evening on the first and third Thursdays of the month.

MOTION by Councilor Truax, SECONDED by Councilor Boryska to adopt the resolution on the appointment of a municipal court judge and judges pro tem. MOTION CARRIED.

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. EXECUTIVE SESSION

None.

J. COMMUNICATIONS FROM COUNCILORS

Councilor Maddux as Council representative to the Arts Advisory Committee, noted the presentation of the Arts Advisory Committee. An Art Studio tour event was recently held, which was the motivation of a single artist. It was a tremendous event and will be gearing up to do a bigger and better event next time.

Councilor Maddux mentioned our own Tualatin Police Department raised the highest amount in Washington County, and the *eighth* highest amount in the State for the *Special Olympics* fundraiser.

K. ADJOURNMENT

MOTION by Councilor Truax, SECONDED by Councilor Maddux to adjourn the meeting at 8:54 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary


Maureen Smith



SPECIAL TUALATIN CITY COUNCIL MEETING MINUTES OF DECEMBER 9, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax

STAFF

PRESENT: Doug Rux, Community Development Director, Aquilla Hurd-Ravich, Senior Planner, Mike McKillip, City Engineer; Paul Hennon, Community Services Director, Brenda Braden, City Attorney; Carina Christensen, Assistant to the City Manager; and Maureen Smith, Recording Secretary

OTHERS

PRESENT: Linda Moholt, Tualatin Chamber of Commerce CEO

The special work session was called to order at 4:04 p.m. at the Tualatin Heritage Center.

1. ANNOUNCEMENTS – None.

2. ITEMS DISCUSSED

A. Local Aspirations – Urban/Rural Reserves Discussion

Community Development Director Doug Rux said as Metro moves towards the next expansion of the urban growth boundary, they are looking to the local jurisdictions for their position on future growth and development, by describing what the City wants to achieve in the next 20 to 50 years. What does Tualatin want its community to look like in the future. Metro is looking to get this information from Tualatin in January. Metro Councilor Hosticka attended a Council work session in October to discuss topics for local aspirations. Councilors Barhyte and Harris attend regional meetings to keep abreast of activities.

Community Development Director Rux explained how the choices and growth options that could happen in Tualatin will affect the future of the community. A map was shown indicating the area that also includes the Stafford basin area. Deciding what direction and how much should be designated as urban reserves or rural reserves is the question. The reserves are a 50-year plan as it stands now, and some thought was mentioned that making decisions now and how the region could change in 10 - 20 years from now. The assumption is there will be build-out in five years in Tualatin.

Council did not want more density, and did not want the community to get any bigger than 30,000 to 35,000 population. Areas most likely to be designated urban reserves was discussed. Also discussed was determining what type and where there should be residential housing, how much and where, and becoming more of a unified city, instead of feeling disconnected with various pieces.

Community Development Director Rux summarized the discussion (see attachment) and will bring information back to Council before forwarding to Metro.

B. Stafford Basin Discussion

Community Development Director Rux said there has been a series of discussions with surrounding cities regarding the future of the Stafford Basin area. A Memorandum of Understanding (MOU) has been done but has not been signed by any of the cities. The City of Lake Oswego is hosting a Stafford Basin discussion with current and incoming elected leaders in Lake Oswego, West Linn, Wilsonville, Tualatin, and Clackamas County on December 11, 2008. Discussion followed on Tualatin's view of the issue and representation at the meeting.

C. Regional Transportation Plan Discussion

City Engineer Mike McKillip stated Metro is currently updating the Regional Transportation Plan (RTP). Metro's "Making the Greatest Place" involves the RTP, population/employment, trails, and urban/rural reserves. It will be important to pay attention to how these four areas fit together and put in context. The RTP strategies being evaluated by Metro are HCT, throughways, connectivity and system management.

[Councilor Boryska left at 6:03 p.m.]

Discussion was spent on how Tualatin can stay involved regionally, including counties, and neighboring cities representatives. It is important to have an elected official at the upcoming RTP meeting to see what the other issues are out there. It was mentioned having informal meetings with a few councilors from each city, on a regular basis.

D. I-5 / 99W Connector Project Update

City Engineer McKillip began review of the Alternatives Analysis (AA) and selection process on the I-5/99W Connector project, what has taken place over the spring, summer, and early fall. Alternate #7 is what the committee is currently working on, with a revised alternative concept. There are three arterial concepts broken into short term, medium term and long term. The short term package was reviewed, and how it would work in the community, but also whether it would help to any degree. The medium-term and long-term project packages were also reviewed. Staff is looking for thoughts and comments from Council to bring back to the committee.

Discussion followed. How surrounding cities may factor into the project phases was discussed. Phase 1 was reviewed again, what could be done first if needed to, and what could be done to lessen the total cost of the package. The proposed next step is to analyze the three arterial concept to confirm its effectiveness for addressing project purpose and needs, and determine the "life span" of each package for phasing. Staff plans to come back to Council at the end of January, 2009 with more information. Funding was briefly discussed and how much federal funding Oregon may end up with.

Fundraising – Tualatin Schoolhouse Food Pantry

The City Council briefly discussed getting a coordinated, comprehensive effort together on what they can do as a group to fundraise for the Food Pantry. Discussion followed on ways to reach people. It was suggested Council write a letter, send an e-mail, and do a press release etc. Discussion followed, and determined that Councilor Maddux will write a press release,

Councilor Barhyte will put together a flyer, and Mayor Ogden will contact the local newspaper. Council will follow up at the January 12, 2009 work session on progress to date, with the first weeks of February being the target.

4. ADJOURNMENT

The special work session adjourned at 7:15 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

Maurice Smith



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: January 12, 2009

SUBJECT: RESOLUTION ESTABLISHING REGULAR MEETINGS OF THE CITY COUNCIL AND ADVISORY COMMITTEES OF THE CITY AND REPEALING RESOLUTION NO. 4744-08

ISSUE BEFORE THE COUNCIL:

The issue before is to adopt a resolution establishing regular meeting dates for the City Council and the various City advisory committees.

RECOMMENDATION:

Staff recommends that the Commission adopt the attached resolution establishing regular meetings of the City Council and the various City advisory committees. Committee.

FINANCIAL IMPLICATIONS:

None.

Attachments: A. Resolution

RESOLUTION NO. 4856-09

RESOLUTION ESTABLISHING REGULAR MEETINGS OF THE
CITY COUNCIL AND ADVISORY COMMITTEES OF THE CITY
AND REPEALING RESOLUTION NO. 4744-08

WHEREAS, it is a requirement that notice of regular meetings be given by resolution.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN:

Section 1. During the calendar year 2009, the regular meeting of the City Council shall be held at 7:00 p.m. on the second and fourth Monday of each and every month. A work session of the City Council shall be held from 5:00 p.m. to 7:00 p.m. on the second and fourth Monday of each and every month.

(1) The regular meeting of the Tualatin Planning Advisory Committee (*TPAC*) shall be held at 7:00 p.m. on the second Thursday of each and every month.

(2) The meeting of the Architectural Review Board (*ARB*) shall be held, as needed, at 7:00 p.m. on the Wednesday not less than seven days nor more than 21 days after receiving a request for an ARB meeting.

(3) The regular meeting of the Tualatin Park Advisory Committee (*TPARK*) shall be held at 6:00 p.m. on the second Tuesday of each and every month.

(4) The regular meeting of the Core Area Parking District Board (*CAPDB*) shall be held as needed at 12:00 p.m. on the Wednesday following the third Monday of a month.

(5) The regular meeting of the Library Advisory Committee shall be held at 6:30 p.m. on the first Tuesday of each and every month.

(6) The regular meeting of the Tualatin Arts Advisory Committee shall be held at 6:30 p.m. on the third Tuesday of each and every month.

Section 2. Resolution No. 4744-08 is hereby repealed.

Section 3. The City Recorder be, and hereby is, instructed to post copies of this Resolution in accordance with the provisions of Section 2 of Ordinance No. 228-73.

INTRODUCED AND ADOPTED this 12th day of January, 2009.

CITY OF TUALATIN, Oregon

BY _____


Mayor

ATTEST:

BY _____


City Recorder

Approved By Tualatin City Council
Date 1-12-09
Recording Secretary W. Smith



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Donald A. Hudson, Finance Director *DAH*
Cortney Cox, Court Administrator *CC*

DATE: January 12, 2009

SUBJECT: RESOLUTION AMENDING THE CITY OF TUALATIN FEE SCHEDULE AND RESCINDING RESOLUTION NO. 4788-08.

ISSUE BEFORE THE COUNCIL:

City Council consideration of adopting a resolution to update the City of Tualatin Fee Schedule.

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

EXECUTIVE SUMMARY:

In preparation for the commencement of the new expanded Municipal Court, staff has been researching programs and fees from neighboring Courts that are part of court operations. The programs include Traffic School, Seat Belt Class, and a Vehicle Compliance Program (see attached flyer). If the Judge decides to grant a defendant the option of taking one of the above mentioned programs, the conviction would be suspended for 30 days and then dismissed when the Court receives confirmation that the program was completed.

The programs and associated proposed fees are set to encourage eligible defendants to take necessary steps in the attempt to avoid damaging their driving record, educate themselves, and at the same time, make our city roadways safer. To recoup City expenses, including administrative costs, staff recommends the fees proposed on the attached resolution.

OUTCOMES OF DECISION:

Approval of the fee schedule amendment will result in the following:

1. Fees related to the expanded Municipal Court will become effective upon approval of the Resolution.
2. All other fees will remain unchanged.
3. Resolution No. 4788-08 will be rescinded effective on the same date, in order that the existing Fee Schedule will be replaced with the new Fee Schedule.

Denial of the fee schedule amendment will result in the following:

1. There will be no change to the existing City of Tualatin Fee Schedule.
2. New fees for the court will not be established.

ALTERNATIVES TO RECOMMENDATION:

- 1 Direct staff to return to Council with an alternative resolution, including any revisions requested by City Council;
- 2 Direct staff to return to Council with additional information; or
- 3 Take no action.

FINANCIAL IMPLICATIONS:

The Traffic School, Seat Belt and Vehicle Compliance Fees (see page 3 of the attached fee schedule for the Municipal Court Fees) are set to provide a service to the residents, as well as be fairly revenue neutral. These fees are in lieu of the set fines, so were considered as part of the fine revenue that was included in the Court budget previously approved by the City Council. The Collection Fee, License Restatement Fee and the Overdue Payment Letter Fee were not included in the revenue estimates previously approved, but are intended to recoup the cost of providing these services and are consistent with other municipal courts.

- Attachments:**
- A. Resolution with Exhibit "A" (City Fee Schedule)
 - B. Vehicle Compliance Program Flyer

RESOLUTION NO. 4857-09

RESOLUTION AMENDING THE CITY OF TUALATIN FEE
SCHEDULE AND RESCINDING RESOLUTION NO. 4788-08

WHEREAS THE City Council has the authority to set fees for materials and services provided by the City; and

WHEREAS the fees listed under the Municipal Court in the City of Tualatin Fee Schedule are newly established fees; and

WHEREAS Resolution No. 4788-08, adopted May 27, 2008, which last amended the City of Tualatin Fee Schedule, must now be rescinded.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

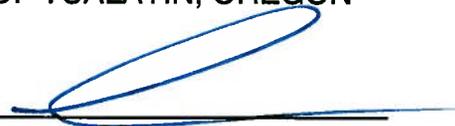
Section 1. Fees listed under the Municipal Court are established as set forth in "Exhibit A", which is attached and incorporated by reference.

Section 2. All other fees provided in the City of Tualatin Fee Schedule remain unchanged, as set forth in "Exhibit A", which is attached and incorporate by reference.

Section 3. The fees shall be effective, and Resolution No. 4788-08 is rescinded, upon adoption by the City Council.

INTRODUCED AND ADOPTED this 12th day of January, 2009.

CITY OF TUALATIN, OREGON

BY 
Mayor

ATTEST:

BY 
City Recorder

Approved as to legal form:


City Attorney

CITY OF TUALATIN FEE SCHEDULE

Exhibit A

Administration Department:

Agenda Packet	5.00
Ordinances or Portions Thereof	same as photocopy rate
Photocopies:	
One-sided	0.25
Two-sided	0.25
Color	1.00
11x17	0.50
Audio Tape/ CD/ DVD	15.00
Passport Photo	15.00

Community Development Department:

Amendment to Comprehensive Plan Map	1,795.00
Amendment to Comprehensive Plan Text/Landmark Designation/Removal of Landmark Designation	1,795.00
Annexation	1,225.00
Appeal Proceeding to Council	115.00
Appeal Expedited Process to Referee, Deposit per ORS 197.375	300.00
Architectural Review Application, Nonexpedited Process:	
Estimated Project Value:	
Under \$5,000	100.00
\$5,000 - \$24,999.99	470.00
\$25,000 - \$99,999.99	850.00
\$100,000 - 499,999.99	1,415.00
\$500,000 and greater	2,070.00
Architectural Review Application, Expedited Process:	
Estimated Project Value:	
Under \$5,000	100.00
\$5,000 - \$24,999.99	945.00
\$25,000 - \$99,999.99	1,880.00
\$100,000 - 499,999.99	2,830.00
\$500,000 and greater	4,335.00
Architectural Review, Single-family Level I (Clear & Objective)	50.00
Architectural Review, Single-family Level II (Discretionary)	700.00
Conditional Use Permit	1,225.00
Conditional Use Permit Renewal	1,225.00
Core Area Parking District Tax Appeal	115.00
Interpretation of Development Code	No Fee
Industrial Master Plans	1,565.00
Landmark Alteration/New Construction Review	50.00
Landmark Demolition Review	50.00
Landmark Relocation Review	50.00
Reinstatement of Nonconforming Use	1,225.00
Request for Council Rehearing	140.00
Sign Code Interpretation	350.00
Sign Ordinance	6.00
Sign Code Variance	580.00
Sign Permit:	

New Sign or Structural Change to Existing Sign	115.00
Temporary Sign or Each Face Change to Existing Sign	60.00
Temporary Uses, 1 - 3 days.....	40.00
4 - 180 days	\$40.00 + 1.50/day
Over 3 days.....	not to exceed a total of \$170.00
Transitional Use Permit.....	1,315.00
Tree Removal Permit, 1 tree.....	276.00
each additional tree, \$10.00 not to exceed a total of.....	300.00
Variance:	
When primary use is a single family dwelling in RL or RML.....	245.00
When primary use is not a single family dwelling in RL or RML	1,225.00
Variance, Minor:	
When primary use is a single family dwelling in RL or RML.....	245.00
When primary use is not a single family dwelling in RL or RML	905.00
All Other Actions	280.00

Engineering & Building Department:

Engineering Copies:

1987 and earlier, aerial/contour maps.....	6.00
36" x 48"	3.50
24" x 36"	2.50
18" x 24" and 11" x 17"	1.50

Geographic Information System:

Citywide aerial photo, 36" x 42"	25.00
Subdivision street map, 34" x 36".....	12.00
Street map, 22" x 22"	6.00
Planning Districts, 34" x 44"	12.00
Planning Districts, 18" x 24"	6.00
Custom Mapping	45.00/hr, plus materials

Partition,* Nonexpedited & Expedited Processes	350.00
Partition,* Nonexpedited & Expedited Exten. /Modif.	115.00
Partition,* Nonexpedited, Appeal Proceeding to Council	115.00
Partition,* Expedited, Appeal to Referee, Deposit per ORS 197.375.....	300.00
Partition,* Minor Variance included & primary use is a single family dwelling in RL or RML	Add 115.00
Partition,* Minor Variance included & primary use is not a single family dwelling & not in RL or RML	Add 175.00
Property Line Adjustm't.,* primary use is a single family dwelling in RL or RML	60.00
Property Line Adjustm't.,* Minor Variance included & primary use is a single family dwelling in RL or RML	Add 115.00
Property Line Adjustm't.,* primary use is not a single family dwelling in RL or RML	255.00
Property Line Adjustm't.,* Minor Variance included & primary use is not a single family dwelling in RL or RML	Add 115.00
Property Line Adjustm't.* Appeal Proceeding to Council	115.00
Public Works Construction Code	40.00
Subdivision,* Nonexpedited and Expedited Processes.....	2,320.00
Subdivision,* Variance included & primary use is a single family dwelling in RL or RML	Add 230.00

Subdivision,* Variance included & primary use is not a single family dwelling in RL or RML	Add 290.00
Subdivision,* Minor Variance included & primary use is a single family dwelling in RL or RML.....	Add 115.00
Subdivision,* Minor Variance included & primary use is not a single family dwelling in RL or RML.....	Add 175.00
Subdivision,* Nonexpedited, Extension/Modif. by Council	530.00
Subdivision,* Expedited, Extension/Modif. by City Engineer.....	130.00
Subdivision,* Nonexpedited, Appeal Proceeding to Council	115.00
Subdivision,* Expedited Appeal to Referee, Deposit per ORS 197.375.....	300.00
Street Name Change	115.00
Street Vacation Application Deposit.....	290.00
Zone of Benefit Application Fee.....	580.00

* Subdivision, Partition and Property Line Adjustment applicants shall contact the Finance Department for a determination of L.I.D. assessment apportionment for the property proposed to be divided or adjusted.

Finance Department:

*L.I.D. Assessment Apportionment Fee	95.00
Lien Search Fee (per tax lot)	26.00
Recovery Charge Installment Payment Plan Application Fee.....	200.00
Returned Checks (per check for processing NSF check)	32.00
Zone of Benefit Recovery Charge Administration Fee	105.00

Legal Services Department:

Development Code	55.00
Updates	0.25/page + postage
Tualatin Municipal Code	55.00

Municipal Court

Traffic School and Compliance Program Fees:

Class A.....	200.00
Class B.....	150.00
Class C.....	100.00
Class D.....	75.00
Seat Belt Class.....	55.00
Vehicle Compliance Program.....	15.00
Collection Fee.....	25% of ordered amount
License Restatement Fee.....	70.00
Overdue Payment Letter Fee.....	10.00

Operations Department:

Street Tree and Installation (Single Family Only)	175
Tree-for-a-Fee Program	45.00

Police Department:

Copies of Audio Tapes.....	11.00 per tape
Copies of Video Tapes.....	35.00 per tape

Copies of Photographs	13.00 plus 0.50 per photo
Copies of Police Reports (no charge to victims):	
1 - 10 pages	7.00
plus each page over 10	0.25
Alarm Permit, Initial Application	21.00
Alarm Permit, Annual Renewal	21.00
Alarm Permit, 1st False Alarm	No charge
Alarm Permit, 2nd False Alarm	No charge
Alarm Permit, 3rd False Alarm	79.00
Alarm Permit, 4th False Alarm	105.00
Alarm Permit, 5th False Alarm	158.00
Alarm Permit, 6 th and More False Alarms	210.00 per alarm
Release of Towed (impounded) Vehicles	100.00

**Tualatin Municipal Court
Vehicle Compliance Program**

In the City of Tualatin, we focus on making our roadway a safer place for us to drive. As such, the Municipal Court has established the Vehicle Compliance Program. This program offers you the opportunity to correct a vehicle equipment defect, prior to your court date, in exchange for a dismissal of the cited violation.

PROCEDURE:

To take advantage of this program you MUST DO ALL of the following, prior to your court date:

1. Repair or correct the Violation.
2. Complete the Defendant's section at the far right.
3. Bring the vehicle to Tualatin Police Department, 8650 SW Tualatin Rd., for a vehicle inspection.
Inspections WILL ONLY be conducted on Monday's (except holidays) between 9am and 12pm. If the violation has been corrected, a representative of the Tualatin Police Department will complete the Violator's section.
4. Take the completed form, along with your citations and a \$15.00 Administrative Fee to the Municipal Court.

Upon completion of all the steps the Tualatin Municipal Court will dismiss your violation.

CORRECTIBLE VIOLATIONS

- **803.220** Fail to Change Address/Vehicle Registration.
- **803.300** Failure to Register Vehicle
- **803.315** Failure to Pay Registration Fee
- **803.540** Fail to Display License Plate
- **803.550** Altered/Obstructed License Plate
- **806.012** Fail to Carry Proof of Insurance
- **807.010** No Driver's License (807.062 Residency Requirement)
- **807.420** Fail to Change Address/ID Card
- **807.560** Fail to Change Address/Driver's License
- **811.225** Fail to Maintain Seat Belt
- **814.485** No Bicycle Helmet
- **814.600** No Helmet/Skateboard-Roller Blades-Scooter (Under 16)
- **815.185** Improper Fenders or Mudguards
- **815.220** Obstructed Windows
- **815.222** Tinted windows (less than 35% Light Transmittance)
- **815.250** Operating Without Proper Muffler/Exhaust System
- **815.235** No Rear View Mirror
- **816.330** Defective Lighting Equipment

Defendant

Last Name _____
 First Name _____
 Citation Number _____
 Issuing Agency _____
 Court Date _____
 License Plate#/State _____
 Make/Model _____
 Type of Violation Repaired _____

Police Office

Inspection Date ____ / ____ / ____
 Inspected By _____
 DPSST# _____
 Comments _____

Municipal Court

Received By _____
 Date _____
 Receipt _____



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager 

FROM: Doug Rux, Community Development Director 
Eric Underwood, Development Coordinator 

DATE: January 12, 2009

SUBJECT: RESOLUTION AUTHORIZING AN EXTENSION OF A
REVOCABLE PERMIT FOR A TEMPORARY CONSTRUCTION
STAGING AREA IN THE BLUE LOT

ISSUE BEFORE THE COUNCIL:

Whether the Tualatin City Council should adopt a resolution authorizing an extension of a revocable permit for a temporary construction staging area in the Blue Lot for remedial construction of the Aspen Place Building.

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

EXECUTIVE SUMMARY:

- This action is not a public hearing.
- This is a request of the City Council to authorize an extension of a temporary revocable permit for Aspen Place Building remedial construction.
- The Tualatin City Council approved the initial Revocable Permit request for the construction staging area affiliated with the Aspen Place Building remedial construction on August 25, 2008.
- Mr. Sean Gores of Sean Gores Construction, Inc. is requesting an extension of the existing revocable permit for a construction staging area for a period of approximately eight weeks expiring on March 12, 2009.
- The construction staging area consists of nine four-hour spaces and two long-term spaces, totaling eleven parking spaces in the Blue Lot adjacent to the west side of the Aspen Place Building located within the Central Urban Renewal District at 18785 SW Boones Ferry Rd (Tax Lot 500, Tax Map 2S124BC).

- The staging area will be limited to the project indicated in the permit application, which consists of the following:
 - Removal of both upper level concrete decks from the Aspen Place Building.
 - Replacement of waterproofing for occupied spaces located below the upper level concrete decks.
- The contractor, Mr. Jeff Millis, will be responsible for replacing any existing improvements damaged during construction and will be required to carry insurance protecting the City.
- There are no criteria to apply to this request.

OUTCOMES OF DECISION:

Approval of the request to for a revocable permit extension for a construction staging area will result in the following:

1. The facilitation of critical repairs to the Aspen Place Building.
2. The time needed to complete the project safely and properly.
3. Prevention of having to establish the construction staging area within the public right-of-way on SW Boones Ferry Road. Staging in the public right-of-way would necessitate additional precautionary measures, as well as limit maneuverability of construction equipment and is likely to impede normal traffic flow.
4. Fewer limitations on the construction crew in accessing equipment and materials.
5. The opportunity for a positive public/private partnership.
6. A slight impact on parking in the Blue Lot due to the displacement of nine four-hour spaces and two long-term spaces as a result of construction staging for a period of approximately two and a half months.
7. A reduction in the number of four-hour spaces from nine to zero and long-term spaces from thirty-four to thirty two. Average usage of the four-hour spaces in the am hours is 4.6 and for the pm hours it is 4. Average usage for the long-term spaces in the am hours is 28.2 and for the pm hours it is 24.6. Based on these numbers, which were derived from a parking survey conducted in February 2008, there would still be approximately 29 spaces available on this lot at any time, which is more than the average usage. Additionally, there are several spaces available in the Green Lot and in the Red Lot, which are in close proximity to the Blue Lot.

Denial of the request for a revocable permit extension for a construction staging area will result in the following:

1. Another area for construction staging will have to be found.
2. The project may be prolonged due to restaging efforts.

ALTERNATIVES TO RECOMMENDATION:

Alternatives evaluated to approval of a revocable permit extension for a construction staging area are as follows:

1. Allowing a construction staging area in the public right-of-way along SW Boones Ferry Road.

FINANCIAL IMPLICATIONS:

There is no financial impact on the City. The contractor, Sean Gores Construction, Inc., will pay all necessary costs associated with the permit.

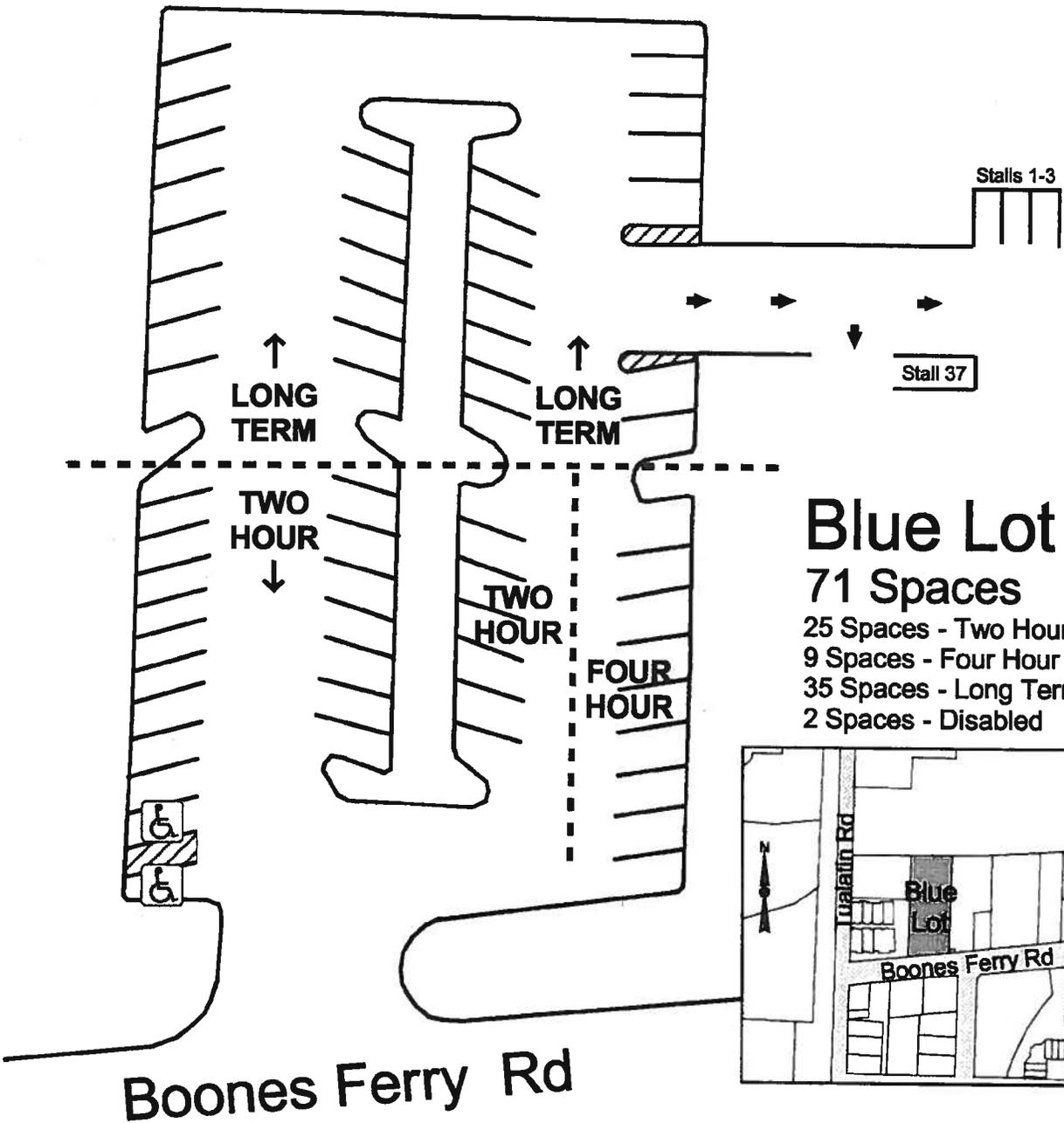
PUBLIC INVOLVEMENT:

Staff has been working with the tenants of the Tualatin Medical Plaza located to the east of the Blue Lot to address their parking needs. The Core Area Parking District Board recommended approval of the original revocable permit on August 6, 2008.

Attachments:

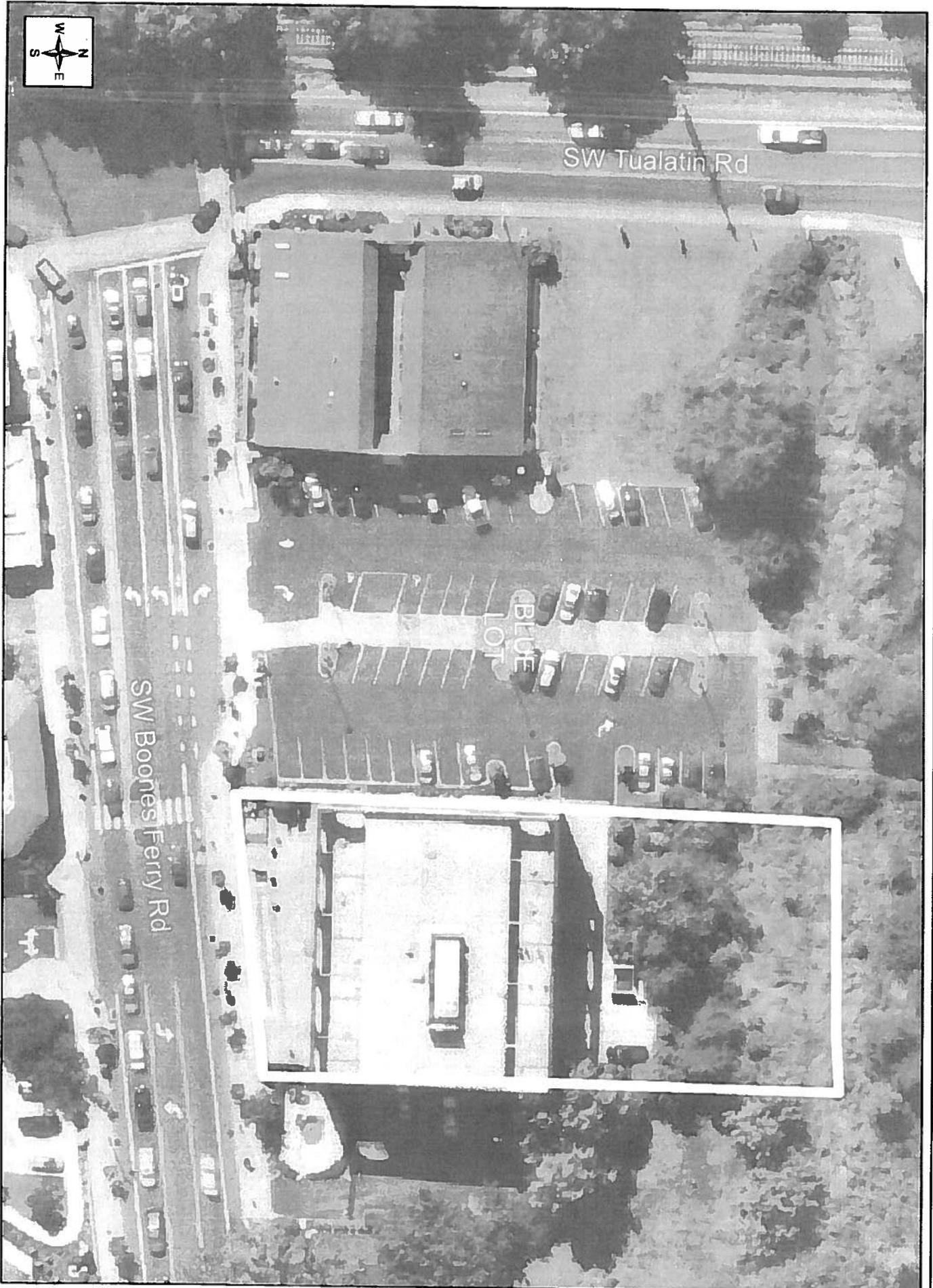
1. Map of Blue Lot
2. Aerial Map of Aspen Place Building
3. Map of Construction Fencing
4. Resolution with Exhibits

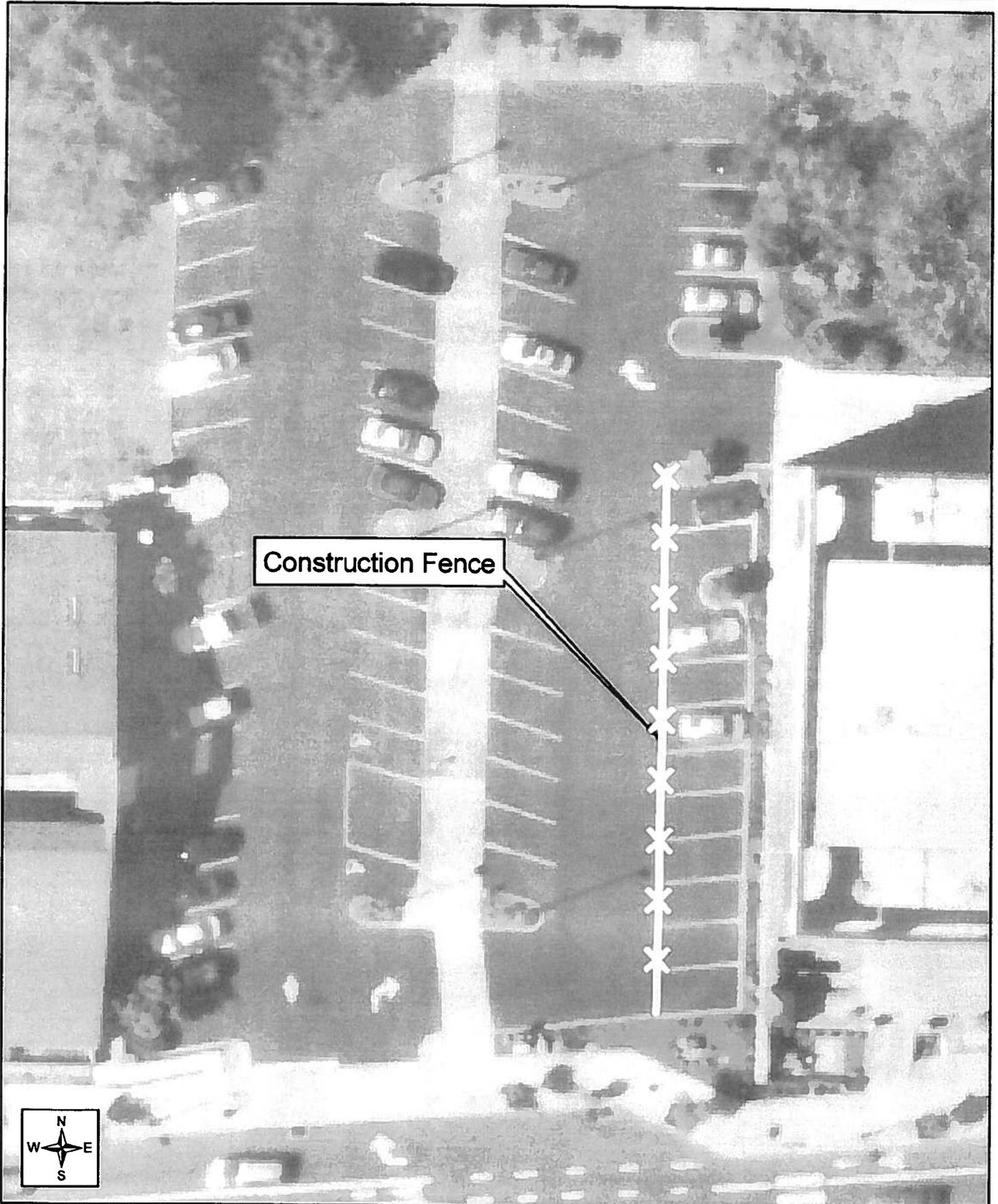
Blue Lot (Lot H)



Blue Lot 71 Spaces

- 25 Spaces - Two Hour
- 9 Spaces - Four Hour
- 35 Spaces - Long Term
- 2 Spaces - Disabled





RESOLUTION NO. 4858-09

RESOLUTION AUTHORIZING AN EXTENSION
OF A REVOCABLE PERMIT FOR A TEMPORARY
CONSTRUCTION STAGING AREA IN THE BLUE
LOT

WHEREAS Tualatin Municipal Code (TMC) 11-3-030(4)(d) establishes that the City Council shall consult the Core Area Parking District Board (CAPDB) concerning regulations of parking lots within the Core Area Parking District (CAPD) and other matters pertaining to the District; and

WHEREAS the CAPDB met on August 6, 2008, and reviewed the initial request from Sean Gores Construction, Inc. for a staging area using eleven parking spaces on the Blue Lot Parking Lot; and

WHEREAS the CAPDB concluded that the initial request is an acceptable and safe solution for the completion of remedial construction on the Aspen Place Building; and

WHEREAS the City Council adopted Resolution No. 4818-08 on August 25, 2008 authorizing the Mayor to sign a Revocable Permit, which expired on December 31, 2008; and

WHEREAS Sean Gores Construction, Inc. is requesting an eight-week extension of their existing Revocable Permit without changes to the construction staging area in order to complete construction.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Mayor is authorized to sign the Revocable Permit, Exhibit A.

INTRODUCED AND ADOPTED this 12th day of January, 2009.

CITY OF TUALATIN, Oregon

By 
Mayor

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

ATTEST:

By 
City Recorder

REVOCABLE PERMIT

KNOW ALL MEN BY THESE PRESENTS that the CITY OF TUALATIN ("Owner") grants to Sean Gores Construction, Inc. ("Permittee"), a revocable permit to use nine four-hour parking spaces and two long-term parking spaces in the Blue Lot (property) located in the City of Tualatin, Washington County, State of Oregon, for the purposes and subject to the conditions stated:

See Exhibits "A" and "B" that are attached and incorporated by this reference.

The general location of the area is shown on Exhibit "C". This permit is granted to the Permittee for the specific and limited purpose of establishing a temporary construction staging area on the west side of the Aspen Place Building in affiliation with remedial construction on property associated with Permittee.

This permit is granted subject to the following conditions:

- (1) Permittee shall not construct, place or locate or allow others to construct, place or locate any structures within the permit area described in Exhibits "A" and "B" except for improvements approved by Owner;
- (2) The construction storage area shall contain scaffolding, dumpster, and a dumpster shoot.
- (3) It shall not be permissible for construction workers associated with the Aspen Place project to park their vehicles in the Blue Lot at any time during the project period.
- (4) Permittee shall keep and maintain the areas free from all conditions that create a risk of injury or damage to those lawfully using the area, and shall indemnify and hold Owner and the Tualatin Development Commission harmless from any claims for injury, damage or loss of whatsoever nature arising out of or related to the use of the permit area.
- (5) At all times during the term of this permit, Permittee shall obtain and continue to carry public liability and property damage insurance in a responsible company with limits of not less than \$500,000.00 for injury to one person, \$1,000,000.00 for injury to two or more persons in one occurrence, and \$100,000.00 for damage to property (or, a single premium and limits policy providing the same coverages) issued by a company or companies authorized to issue such policies in Oregon and naming the Owner and the Tualatin Development Commission as an insured on said policy or policies of insurance. Certificates evidencing such insurance and bearing endorsements requiring ten (10) days written notice to Owner prior to any change or cancellation shall be furnished to Owner prior to Permittee's occupancy of the permit area.
- (6) Permittee shall fence off the portion of the Blue Lot to be used as the staging area to separate patrons from construction activity for a period not to exceed the date of March 12, 2009.

- (7) Permittee shall replace/repair any damaged property as a result of construction staging activities including but not limited to asphalt, concrete curb/sidewalk, signage, irrigation, striping and landscaping.

This Permit may be revoked by the Owner upon:

- (1) A determination of the Owner that the Permittee has violated or failed to satisfy any of the conditions of this permit, or
- (2) Upon determination by the Owner that the permit area is required for public purposes, and Owner shall provide written notice of revocation which shall be effective, without further action of either party, 30 days after the date of the notice.

If the Contractor declares a revocation of this permit under subparagraph (1), the written declaration shall be mailed to Permittee at the Permittee's address of record. The revocation shall be effective ten (10) days after the date of the written declaration. All rights and interests of the Permittee shall automatically terminate upon the effective date of the revocation.

Prior to the effective date of revocation of this permit, the Permittee, at its expense, shall cause all improvements to be removed from the permit area if so requested in the Declaration of Revocation and re-establish area to its pre-existing condition.

It is acknowledged by the Owner and Permittee that the proposed modifications must be in compliance with the City of Tualatin Architectural Review and building permit requirements.

This Permit is granted for the benefit of and the heirs and successors in interest of the Permittee who shall be bound by the conditions of this Permit.

IN WITNESS WHEREOF, the parties have executed this instrument on the date indicated below.

The City of Tualatin, Oregon

BY  1-12-09
Mayor Date

BY  AS OPERATION MNGR 12-30-08
Jeff Millis (Sean Gores Const., Inc.) Date

BY  1-12-09
City Manager Date

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

EXHIBIT "A"
Legal Description

PARCEL I:

A tract of land in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, County of Washington and State of Oregon, described as follows:

Beginning at a point which bears South 593.8 feet and East 90 feet from the Northwest corner of the Southwest one-quarter of the Northwest one-quarter of said Section 24, said point being the Southwest corner of that tract conveyed to Melinda C. Boon, by Deed recorded in Book 79, Page 157, Washington County Deed Records, said point being the center line of old Washington Street (now SW Tualatin Road, County Road No. 1063); thence South along the said center line 92.76 feet to the intersection of the North line of SW Boones Ferry Road and the center line of Washington Street; thence North 82° 54' East along the North line of SW Boones Ferry Road 115.1 feet to the true point of beginning, said point being the Southeast corner of that tract conveyed to Paul H. Hebb by Deed recorded in Book 574, Page 373, Washington County Deed Records; thence North along the East line of said Hebb Tract 92.76 feet to the Northeast corner thereof; thence North 82° 54' East 15 feet to the Southeast corner of that tract conveyed to James J. Harris, et ux, by Deed recorded July 20, 1953, in Book 347, Page 26, Washington County Deed Records; thence North along the East line of said Harris Tract, 170.03 feet to the Northeast corner thereof, being on the North line of that tract conveyed to Frank Smith, by Deed recorded December 17, 1928, in Book 140, Page 339, Washington County Deed Records; thence North 89° 04' East 110 feet to the Northeast corner of said Smith Tract, being the Northwest corner of that tract conveyed to Gottfried Frank, et ux, by Deed recorded July 5, 1955, in Book 370, Page 732, Deed Records; thence South along the West line of said Frank Tract 152.5 feet to the Southwest corner thereof; thence North 82° 54' East 15 feet to the Northwest corner of that tract conveyed to said Gottfried Frank, et ux, by Deed recorded July 5, 1955, in Book 370, Page 731, Washington County Deed Records; thence South along the West line of said last mentioned Frank Tract 100 feet to the North line of Boones Ferry Road; thence South 82° 54' West, 140 feet, more or less, to the true point of beginning.

PARCEL II:

The most Easterly 24.88 feet of the following described tract of land as cut off by a line parallel to and 24.88 feet West of the East boundary thereof, being a tract of land in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, County of Washington and State of Oregon, described as follows:

Beginning at a point which is 593.8 feet South and 90 feet East of the Northwest corner of the Southwest one-quarter of the Northwest one-quarter of said Section 24, said point is also the Northwest corner of that tract of land conveyed to Paul H. Hebb, by Deed recorded in Book 526, Page 1, Records of Washington County; thence East along the North line of said Hebb Tract 10 feet to the East line of SW Tualatin Road, also known as County Road No. 1063, and the true point of beginning; thence East along said North line and the Easterly extension thereof, 119.5 feet, more or less, to an angle corner on the West line of that tract of land conveyed to Paul H. Hebb by Deed recorded in Book 565, Page 232,

(Continued)

Exhibit "A"
Legal Description

Records of Washington County; thence North along said West line 186 feet, more or less, to the Northwest corner of the latter Hebb Tract, which point also lies on a creek; thence North 89° 40' West along the creek 115 feet, more or less, to the East line of aforementioned road; thence South along said East line 186 feet to the true point of beginning.

PARCEL III:

The most Easterly 10.08 feet of the following described tract of land as cut off by a line parallel to and 10.08 feet West of the East boundary thereof, being a tract of land in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, County of Washington and State of Oregon, described as follows:

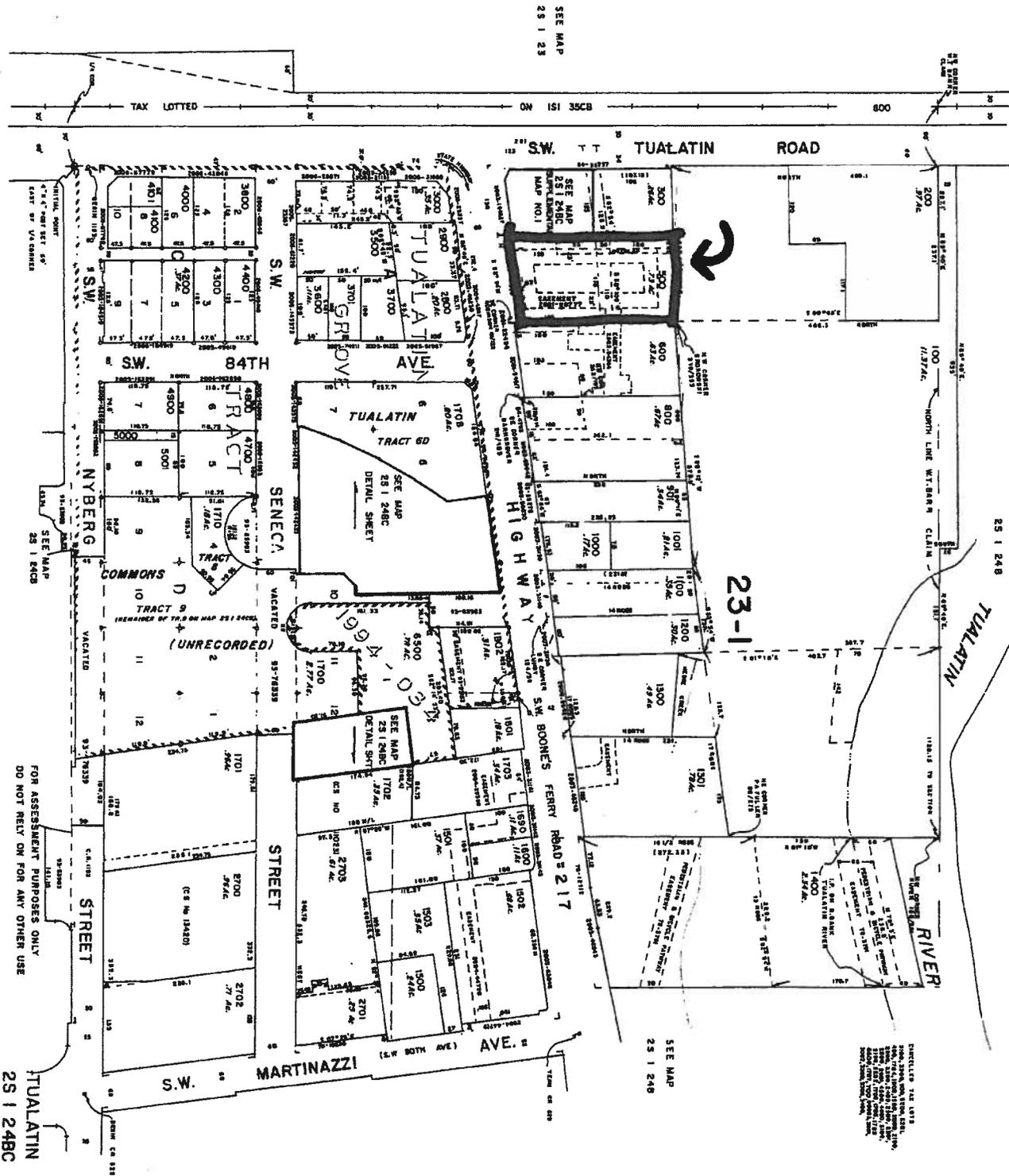
Beginning at the Southwest corner of the tract conveyed to Melinda C. Boon by Deed recorded April 29, 1908, in Book 79, Page 157, Records of Washington County, said point being in the center line of old Washington Street (now SW Tualatin Road, County Road No. 1063); thence South along the said center line 92.76 feet to the intersection of the North line of SW Boones Ferry Road and the center line of Washington Street; thence North 82° 54' East along the North line of SW Boones Ferry Road 115.1 feet to a point; thence North parallel with the East line of Washington Street 92.76 feet to a point on the South line of the aforementioned Boon Tract; thence Southwesterly along the South line to the true point of beginning.

SW 1/4 NW 1/4 SECTION 24 T2S R1W WM.

WASHINGTON COUNTY OREGON

SCALE 1" = 100'

2S | 24BC



SEE MAP
2S | 24B

23-1

SEE MAP
2S | 24B

FOR ASSESSMENT PURPOSES ONLY
DO NOT RELY ON FOR ANY OTHER USE

TUALATIN
2S | 24BC

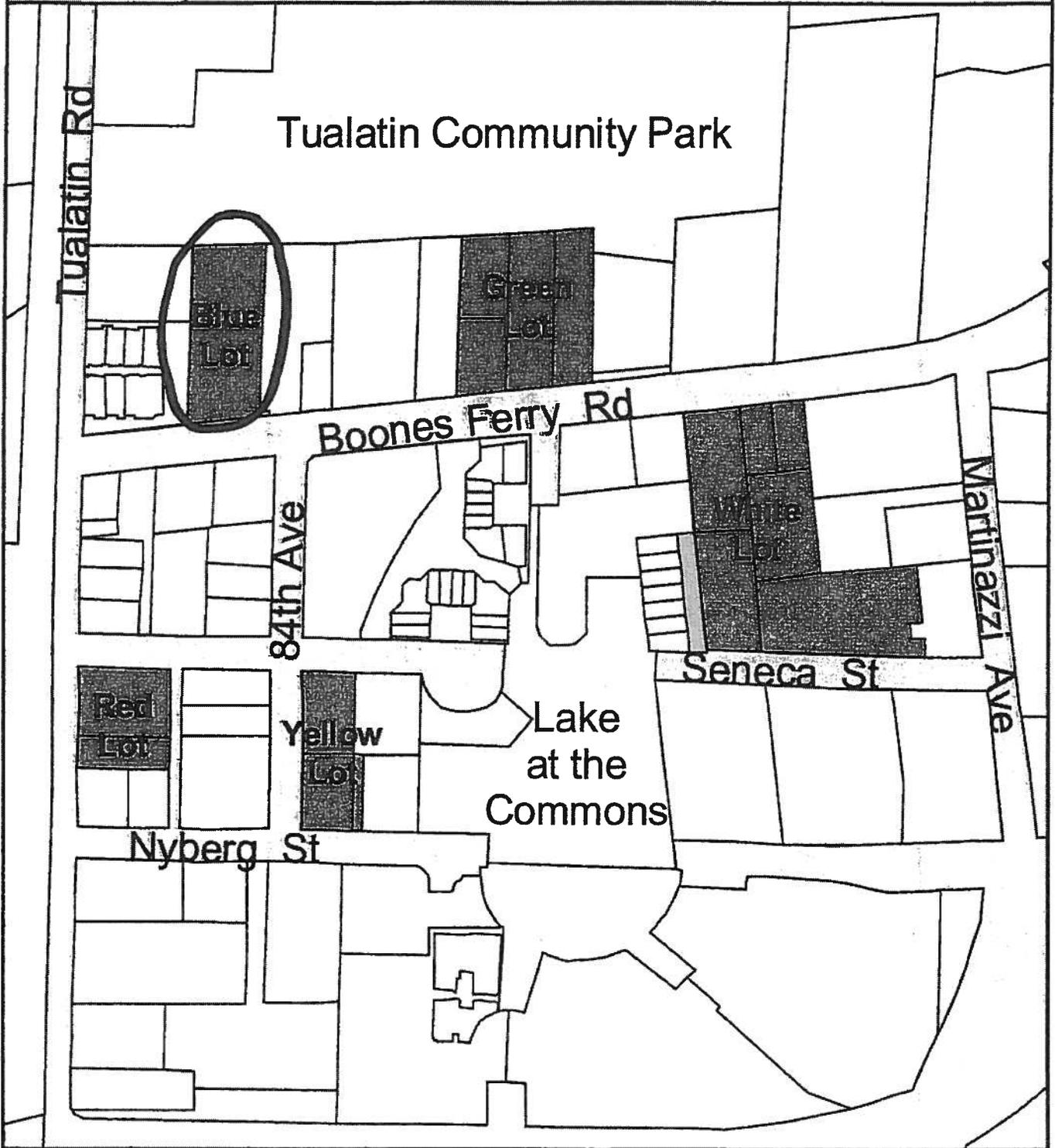
SEE MAP
2S | 23

67 1/2



This map was derived from a data set of digital sources. The City of Tualatin assumes no responsibility for the accuracy or completeness of the information. This map is provided "as is" - any changes or omissions are the responsibility of the user.

 Parking Lots





Approved By Tualatin City Council
Date 1-12-09
Recording Secretary USM

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Brenda Braden, City Attorney *BB*

DATE: January 12, 2009

SUBJECT: A RESOLUTION REQUESTING APPROVAL FOR AN INDUSTRIAL MASTER PLAN IN THE MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (IMP-08-01).

ISSUE BEFORE THE COUNCIL:

Whether the council should approve the request proposed by Mittleman Properties for an Industrial Master Plan in the Manufacturing Park (MP) Planning District.

RECOMMENDATION:

Staff recommends that the City Council approve the resolution granting IMP-08-01, subject to the conditions proposed in the Staff Report.

EXECUTIVE SUMMARY:

On December 8, 2008, the City Council held a quasi-judicial public hearing (IMP-08-01) to decide whether to approve the request proposed by Mittleman Properties for an Industrial Master Plan in the Manufacturing Park (MP) Planning District. At the close of the public hearing, Council approved the Staff Report by a vote of 7-0, and directed Staff to bring back an ordinance adopting IMP-08-01 with conditions.

FINANCIAL IMPLICATIONS:

Revenue for Industrial Master Plan applications has been budgeted for Fiscal Year 08/09.

PUBLIC INVOLVEMENT:

The applicant conducted a Neighbor/Developer meeting at the Tualatin/Durham Senior Center on August 28, 2008, to explain the Industrial Master Plan proposal to

Staff Report: IMP-08-01

January 12, 2009

Page 2 of 2

neighboring property owners and to receive comments. One nearby business/property owner representative attended the meeting. The application materials state the attendee did not indicate any objection to the IMP proposal.

Attachments:

- A. Ordinance
- B. Exhibit A – Affidavit of Mailing
- C. Exhibit B – Affidavit of Posting
- D. Exhibit C – Staff Report dated December 8, 2008

RESOLUTION NO. 4859-09

A RESOLUTION REQUESTING APPROVAL FOR AN INDUSTRIAL MASTER PLAN IN THE MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (IMP-08-01).

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on December 8, 2008, upon the application of Kelly Niemeyer of Group MacKenzie and Henry Haimsohn of Mittleman Properties, for approval of an Industrial Master Plan (IMP) in the Manufacturing Park (MP) Planning District at SW 124th Avenue/SW Tualatin Road/SW Leveton Drive, further described in the Staff Report dated December 8, 2008, and attached as Exhibit "C"; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council heard and considered the testimony and evidence presented on behalf of the applicant, the City staff, and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application with conditions, [Vote 7-0] with all Council members present; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff report, dated December 8, 2008, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all the criteria listed in TDC 37.030 relative to the development have been satisfied.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

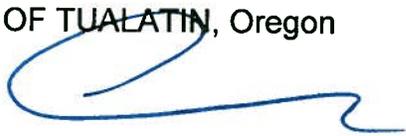
Section 1. Mittleman Properties' request for an Industrial Master Plan in the Manufacturing Park (MP) Planning District at SW 124th Avenue/SW Tualatin Road/ SW Leveton Drive (Tax Map 2S123DC, Tax Lot 100) is approved.

Section 2. The Industrial Master Plan referred to in Section 1 is approved subject to the conditions set forth below:

- a) To ensure the adequate provision of facilities between the two parcels allowed by the IMP, shared parking, circulation, common access and common facility shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared parking and circulation easements, access easements and common facility agreements and easements shall be established.
- b) To ensure compliance with the IMP, all parcels created in a partition of the Mittleman Properties IMP site shall have a minimum lot size of 15 acres and meet the lot dimension requirements of TDC 37.020(4) and TDC 62.050. The applicant shall submit a partition application to the City to partition the site into the proposed two individual parcels.
- c) To ensure compliance with the TDC, when building or site improvements to the Mittleman Properties site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-08-01.
- d) If modifications to the alternative standards approved in IMP-08-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-08-01 are to be exceeded, a new IMP application shall be submitted for review.
- e) To ensure the materials and design of buildings B, C & D meet the requirements of TDC 37.030(2), an Architectural Review application shall be presented for approval showing building design and materials based on the palette of materials identified in the Industrial Master Plan.

INTRODUCED AND ADOPTED this 12th day of January, 2009.

CITY OF TUALATIN, Oregon

By  _____
Mayor

ATTEST:

By  _____
City Recorder

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

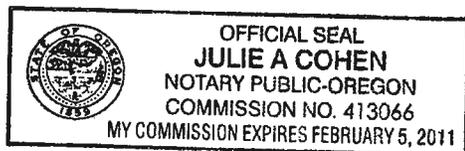
I, Stacy Crawford, being first duly sworn, depose and say:

That on the 18th day of November, 2008, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of a Notice of Hearing marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail at Tualatin, Oregon, with postage fully prepared thereon.

Stacy Crawford
Stacy Crawford

SUBSCRIBED AND SWORN to before me this 19th day of Nov., 2008.

Julie A. Cohen
Notary Public for Oregon
My commission expires: 2-5-11



RE: IMP-08-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (TAX MAP 2S123DC, TAX LOT 100)

EXHIBIT A

Exhibit "A"

Sherilyn Lombos
City Manager

Brenda Braden
City Attorney

John Stelzenmueller
Building Official

Mike McKillip
City Engineer

Ed Truax

Bob Boryska

Monique Beikman

Chris Barythe

Donna Maddux

Kelly Niemeyer
Group MacKenzie
PO Box 141310
Portland, OR 97214

Mittleman Properties
621 SW Morrison Avenue
Portland, OR 97205

Lou Odgen
City Mayor

Novellus Systems, Inc.
Attn: Scott Stoddard
11155 SW Leveton Drive
Tualatin, OR 97062

JAE Oregon, Inc.
PO Box 1106
Tualatin, OR 97062

Fujimi Corporation
11200 SW Leveton Drive
Tualatin, OR 97062

Exhibit "A"

2S115C001700 R523400
RIVERCREST ACQUISITION LLC
BY UNICO INVESTMENT GROUP LLC
1215 4TH AVE STE 600
SEATTLE, WA 95161

2S122B000200 R2120301
GENERAL ELECTRIC CAPITAL CORP
PO BOX 3649
DANBURY, CT 06813

2S121A003600 R2141831
TLG INVESTMENTS LLC
#102
14997 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

2S121A003300 R2132922
MARLOW FAMILY LLC
17668 WOODHURST PL
LAKE OSWEGO, OR 97034

2S122B000900 R2054128
DISTRIBUTION PLUS INC
BY EUROBEST FOOD INDUSTRIES
INC
12360 SW LEVETON DR
TUALATIN, OR 97062

CITY OF TUALATIN
ATTENTION: KAAREN HOFFMAN
18880 SW MARTINAZZI AVE
TUALATIN, OR

2S115CC00200 R523543
WOODRIDGE LTD PARTNERSHIP
2164 SW PARK PL
PORTLAND, OR 97205

2S122B000500 R2035253
MITTLEMAN PROPERTIES
BY DELAP WHITE CALDWELL &
CROY LLP
4500 SW KRUSE WAY STE 200
LAKE OSWEGO, OR 97035

2S121A003400 R2132923
A & R HOLDINGS LLC
12401 SW LEVETON DR
TUALATIN, OR 97062

2S121A003200 R2132921
REECE LAWRENCE L TRUST
BY LAWRENCE L REECE TR
1720 BUCKTHORN CT
MINDEN, NV 89423

2S121A003500 R2132924
TUALATIN CITY OF
18880 SW MARTINAZZI AVE
TUALATIN, OR 97062

2S122BB00100 R2112837
BIRTCHER TUALATIN 99 LLC
BLDG 2 STE #220
5335 MEADOWS RD #430
LAKE OSWEGO, OR 97035

2S122BB00200 R2035252
HENRIKSEN JANE E TRUST
BY JANE E/LYNN S HENRIKSEN TRS
PO BOX 230639
TIGARD, OR 97281

2S1220000300 R2035452
PHIGHT LLC
ONE BOWERMAN DR
BEAVERTON, OR 97005

2S122B001000 R2054129
IDM-OREGON LLC
STE #150
1498 SE TECH CENTER PL
VANCOUVER, WA 98683

CITY OF TUALATIN
ATTENTION: DOUG RUX
18880 SW MARTINAZZI AVE
TUALATIN, OR



City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Monday, December 8, 2008**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

IMP-08-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (TAX MAP 2S123DC, TAX LOT 100)

Before approving the Industrial Master Plan proposed for Mittleman Properties, the City Council must find that:

- (1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.
- (2) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity;
- (3) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 unless otherwise approved through the Industrial Master Plan.

All citizens are invited to attend and be heard upon the application. Failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals (LUBA) based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing.

Copies of the applications, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the City Library and Planning Division at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper, Associate Planner, at (503) 691-3027.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

file: IMP-08-01

Mailed: 11/18/2008

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

I, Stacy Crawford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted two copies of the Notice of Hearing on the 18th day of November, 2008, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:

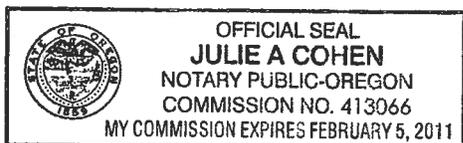
1. U.S. Post Office - Tualatin Branch
2. City of Tualatin City Center Building

Dated this 18th day of November, 2008.



Stacy Crawford

Subscribed and sworn to before me this 19th day of November, 2008.





Notary Public for Oregon
My Commission expires: 2-5-11

RE: IMP-08-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (TAX MAP 2S123DC, TAX LOT 100)

EXHIBIT B



City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING CITY OF TUALATIN, OREGON

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IMP-08-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT SW 124TH AVENUE/SW TUALATIN ROAD/SW LEVETON DRIVE (TAX MAP 2S123DC, TAX LOT 100)

Before approving the Industrial Master Plan proposed for Mittleman Properties, the City Council must find that:

- (1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.
- (2) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity;
- (3) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 unless otherwise approved through the Industrial Master Plan.

All citizens are invited to attend and be heard upon the application. Failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals (LUBA) based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing.

Copies of the applications, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the City Library and Planning Division at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper, Associate Planner, at (503) 691-3027.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

file: IMP-08-01

Mailed: 11/18/2008



Approved By Tualatin City Council

Date 12-8-08

Recording Secretary [Signature]

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager [Signature]

FROM: Doug Rux, Community Development Director [Signature]
William Harper, Associate Planner [Signature]

DATE: December 8, 2008

SUBJECT: INDUSTRIAL MASTER PLAN REQUEST FOR MITTLEMAN
PROPERTIES IN THE MANUFACTURING PARK (MP) PLANNING
DISTRICT (IMP-08-01)

ISSUE BEFORE THE CITY COUNCIL:

A request for approval of an Industrial Master Plan (IMP) proposed by Mittleman Properties for an existing 32.4 acre/3 building development in the Manufacturing Park (MP) Planning District at SW 124th Avenue/SW Tualatin Road/SW Leveton Drive (Assessors Map 2S122B Tax Lot 500). The application proposes a site plan with three new (future) buildings and alternate development standards allowing reduced building and parking setbacks to the development's interior lot lines and the adjoining SW 124th Avenue and SW Leveton Drive public streets, shared parking, loading & circulation, and reduced minimum lot sizes to allow separate ownerships within the subject site.

RECOMMENDATION:

Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting approval with the conditions recommended by staff in Attachment F.

EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- This matter is a request for approval of an Industrial Master Plan.
- The applicants are Kelly Niemeyer of Group MacKenzie and Henry Haimsohn of Mittleman Properties. Mittleman Properties developed and owns the 32.4 acre-3 building property currently occupied by GE Security, Partners on Demand and VWR located at 12100 & 12350 SW Tualatin Road and 12345 SW Leveton Drive (2S1 22B, Tax Lot 500) in the MP (Manufacturing Park) Planning District. A Vicinity Map, a Tax Map and the proposed IMP Site Plan are included as Attachments A, B & C respectively. The applicant's materials are included as Attachment D.

EXHIBIT C

- Chapter 37 of the Tualatin Development Code establishes the process for Council review and approval of an Industrial Master Plan (IMP) for development in the MP Planning District and in the Leveton Tax Increment District (LTID). Approval of an IMP allows a MP Planning District property owner to plan and develop the property with certain alternate development standards. An IMP proposal is subject to meeting the IMP approval criteria in TDC 37.030 for adequate supporting public facilities, compatible building design, and suitable site design, improvements and dimensions in accordance with MP Planning District standards. As provided in TDC 37.020(4), an IMP can specify alternate standards for:
 - Setbacks for buildings, loading, parking that are more or less than allowed in the MP Planning District;
 - Building heights and building placement in respect to property boundaries;
 - Building location and orientation;
 - Lot dimensions subject to a 15 acre minimum north of SW Leveton (40 acres in MP) and 5 acre minimum south of Leveton (15 acres in MP);
 - Minimum landscaping coverage reduced to 20% (25% in MP)
 - Number of off-street parking spaces and loading docks;
 - Allow shared parking, loading, and access improvements.
- The Mittleman Properties site is currently improved with the three leased buildings (GE Security 138,824 sq. ft./ Partners on Demand 59,690 sq. ft./ VWR 56,400 sq. ft.), landscaping, shared accesses onto SW Tualatin Road and SW Leveton Drive and 789 shared parking spaces. Mittleman Properties is in the process of seeking new tenants for the buildings, planning new buildings for light industrial/flex office on the site and considering the sale of a building to an existing tenant. An IMP is not required for Mittleman Properties to continue developing the property. Development of the property can occur under the requirements of the MP Planning District and the Architectural Review Process.
- The IMP proposes a plan for three (3) new single and two-level buildings on undeveloped portions of the site with additional shared parking spaces and loading areas, shared access and circulation, additional landscaping improvements, reduced building setbacks to property lines and public streets and reducing the minimum parcel size from 40 acres to 15 acres to allow dividing the property into two parcels. If approved, the IMP would allow the possible sale of one of the two lots and to further develop the property with three new buildings (1-story Bldg. B 42,800 sq. ft.; 2- story Bldg. C 20,000 sq. ft.; 2- story Bldg. D 20,000 sq. ft.) with supporting parking (approximately 329 new spaces and a total of 1,118 spaces for two parcels) and landscaping improvements. No change to the maximum building height standard, the minimum 25% landscape standard or other MP Planning District development standards are proposed. (Attachment D, Site Plan and Narrative pp. 1-15)
- If modifications to the alternative standards approved in IMP-08-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-08-01 are to be exceeded, a condition of approval requires a new IMP application be submitted for review.

STAFF REPORT: IMP-08-01—Mittleman Properties

December 8, 2008

Page 3 of 5

- The Applicant has prepared a narrative that describes the Mittleman Properties development and proposed IMP and addresses the IMP approval criteria (Attachment D). Attachment E is the Background Information and staff has reviewed the Applicant's material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F).
- The Engineering Division reviewed the Applicant's submitted traffic information that showed the proposed IMP will result in a decrease in the Mittleman Properties site's developable area, from 463,400 s.f. down to 369,300 s.f. This is due to partition of the property into two parcels with minimal change to the 50 and 100 ft. building setback standards required in the MP Planning District. The decrease in the site's developable area under the IMP reduces the potential building floor area the site can support and reduces resultant "worst case" traffic generation. The TIA estimates a reduction of 1,213 Average Daily Trips. The Engineering Division agreed that the IMP will not result in an increase in the Level of Service (LOS) for SW 124 Avenue, SW Tualatin Road and SW Leveton Drive intersections. The Oregon Department of Transportation agreed there will be no significant impacts on State Highway facilities (Hwy 99W). The table below shows the Trip Generation Summary presented in the Mittleman Properties IMP November 24, 2008 Letter:

MITTLEMAN REASONABLE WORST CASE TRIP GENERATION					
Land Use (ITE Code)	Scenario	Potential Development (Square Feet)	ADT	Weekday PM Peak Hour	
				Enter	Exit
Business Park - 770	Current MP	463,400	5,913	137	460
	Proposed IMP	368,300	4,700	109	366
Difference		95,100	1,213	28	94

- The Council approved an IMP for Novellus Systems in 2000. The Novellus IMP (IMP-00-01) allowed Novellus to partition their site into 3 parcels, master plan long-term development of the site with four phases, identify the current and future infrastructure improvement needs and establish the basis for a long-term development of a manufacturing campus. The Novellus IMP reduced minimum lot size from the 40 acre minimum required in TDC 62.050(1) to 15 acres (Partition PAR-00-04), reduced building, parking and circulation setbacks, determined methods for shared parking, circulation, site access and truck loading, and modified parking area standards.

- The applicable policies and regulations that apply to the proposed Mittleman Properties IMP for property in the MP Planning District include: TDC 7.040 Manufacturing Planning District Objectives; TDC Chapter 37-Industrial Master Plan; TDC Chapter 62- MP Planning District; and TDC Chapter 73-Community Design. The Analysis and Findings (Attachment F) considers the applicable policies and regulations.
- Before granting the proposed IMP, the City Council must find that the criteria listed in TDC 37.030 are met: The Analysis and Findings (Attachment F) examines the application in respect to the criteria for granting IMP approval and recommends conditions of approval necessary to meet the criteria.

OUTCOMES OF DECISION:

Approval of the Mittleman Properties Industrial Master Plan request will result in the following:

1. Allows the applicant to partition the property into two parcels with a minimum 15 acre size and proceed with further development of the property consistent with the IMP considering a proposed layout for three existing and three new buildings, additional landscaping, shared access, circulation parking and loading facilities and alternative building and parking setbacks.
2. Other development standards for the MP Planning District will not be changed and continue to apply.

Denial of the Industrial Master Plan request will result in the following:

1. The applicant will not be allowed to partition the property from its existing 32.5 acre size. No alternative development standards will be allowed.

ALTERNATIVES TO RECOMMENDATION:

The alternatives to the staff recommendation for the Council are:

- Approve the proposed Industrial Master Plan with conditions the Council deems necessary to protect the best interests of the surrounding property, or neighborhood or the City as a whole.
- Deny the request for the proposed IMP.
- Continue the discussion of the proposed IMP and return to the matter at a later date.

FINANCIAL IMPLICATIONS:

Revenue for Industrial Master Plan applications has been budgeted for Fiscal Year 08/09.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting at the Tualatin/Durham Senior Center on August 28, 2008, to explain the Industrial Master Plan proposal to neighboring property owners and to receive comments. One nearby business/property owner representative attended the meeting. The application materials state the attendee did not indicate any objection to the IMP proposal.

- Attachments:**
- A. Vicinity Map
 - B. Plat Map of Site
 - C. IMP Site Plan showing 2 Parcels with existing and proposed improvements
 - D. Applicant's Materials and Supporting Information including Group MacKenzie Traffic Information
 - E. Background Information
 - F. Analysis and Findings
 - G. Engineering Division Memorandum

APPLICATION FOR INDUSTRIAL MASTER PLAN

Community Development Department
Planning Division (503-691-3026)
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

Case No. MP-08-01
Fee Rec'd 1565 =
Receipt No 41093
By [Signature]

PLEASE PRINT IN INK OR TYPE

Code Section 37 - Industrial Master Plan Planning District MP

Owner's Name Mittleman Properties Phone _____

Owner's Address 621 S.W. Morrison Port. Ora. 97205
(street) (city) (state) (zip)

Owner recognition of application: [Signature]

Signature of Owner(s)

Applicant's Name Kelly Niemeyer

Applicant's Address 1515 SE Water Ave Portland OR 97293
(street) (city) (state) (zip)

Applicant is: Owner _____ Contract Purchaser _____ Developer _____ Agent _____
Other Representative

Contact Person's Name Kelly Niemeyer

Contact Person's Address 1515 SE Water Ave Portland OR 97293
(street) (city) (state) (zip)

Assessor's Map Number T25 RLW 22B Tax Lot Number(s) 500

Address of property 12350 SW Tualatin Road Lot area 32.48 acres

Existing Buildings (Number and Type) 3 manufacturing office / Industrial Buildings

Current use Manufacturing and office

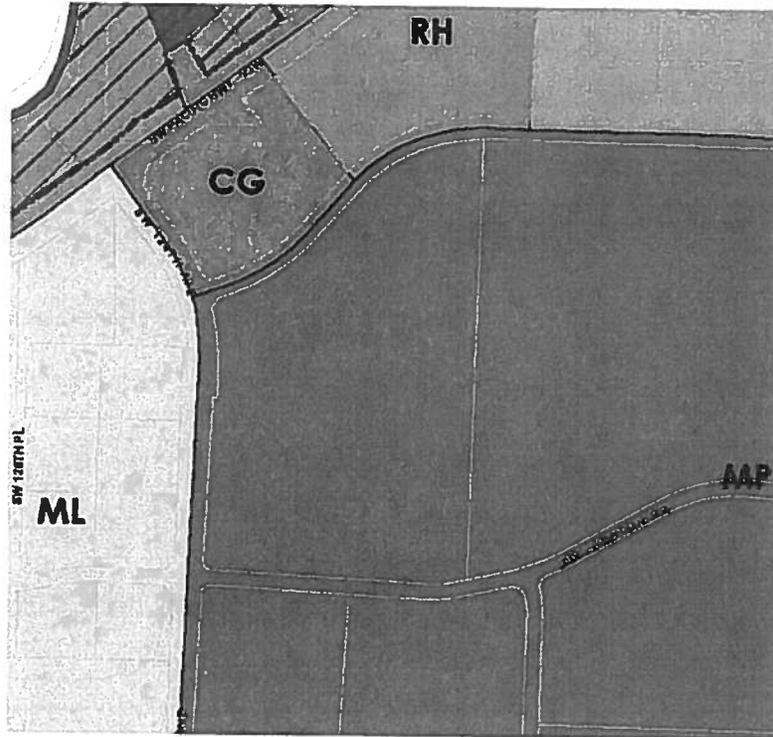
As the person responsible for this application, I, the undersigned hereby acknowledge that I have read the above application and its attachments, understand the requirements described herein, and state that the information supplied is as complete and detailed as is currently possible, to the best of my knowledge.

Name Kelly Niemeyer Date 9/21/08 Phone 503-224-9560 x380

Address 1515 SE Water Ave Portland OR 97293

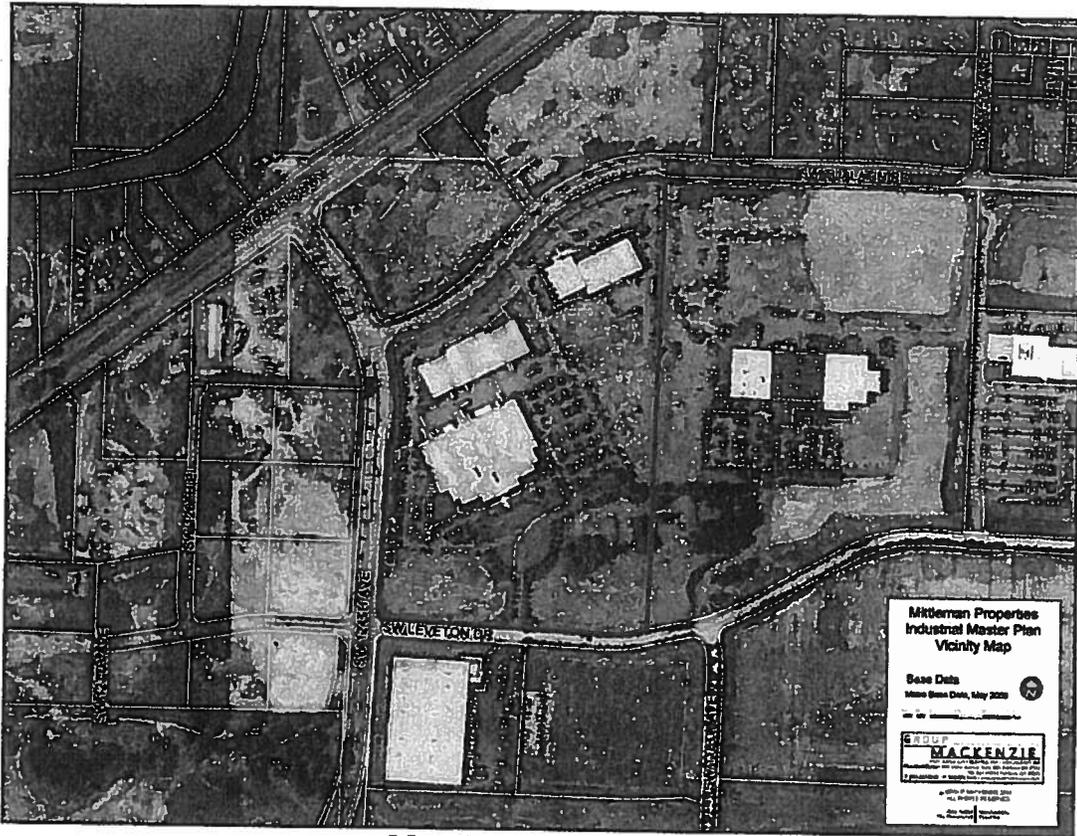
I. INTRODUCTION

This narrative supports the application for an Industrial Master Plan on a 32.48-acre site located at 12345 SW Leveton Drive. Per City of Tualatin Plan District Map (Map 1), the site is identified as Manufacturing Park. The site, owned by Mittleman Properties, Inc., is located north of Leveton Drive, south of Tualatin Road, and east of SW 124th Avenue (see Map 2) and is currently one legal lot of record (2S 1W Sec 22B Tax Lot 500).



Map 1: City of Tualatin Community Plan Map 9.1 Planning Districts

The site is currently developed with three buildings. As shown on Attachment B, the Sentrol Building is 138,824 SF, the SMMS Building is 59,690 SF, and Building A is 56,400 SF. Access points are located along SW Tualatin Road, SW 124th Avenue and SW Leveton Road. The remainder of the southern half of this site comprises landscaped and vacant areas. The vacant areas include fields with mixed coniferous and deciduous trees. The southern portion of the site and vacant pad to the east are mostly open grassy field with sparse trees. Generally the entire site has rolling topography increasing in elevation from south to north, with a significant 35-foot increase in elevation at the south.



Map 2: Vicinity Map

The subject property is generally located in an area dominated by commercial and industrial uses, with the exception of a RH district to the north and across Tualatin Road. The specific vicinity of the subject property is described as follows:

- North: CG (General Commercial), RH (Residential High-Density); newly developed four-story office building, newly-developed multi-family housing.
- East: MP (Manufacturing Park; JAE Oregon facility).
- South: MP (Manufacturing Park); food distribution facility.
- West: ML (Light Manufacturing); Leveton Commons industrial subdivision.

All of the adjacent properties feature existing development, and the vicinity is generally of a character similar to that of the proposed development.

II. PROJECT DESCRIPTION

The attached site plan shows the planned future full site build-out. As shown on the site plan, the IMP includes:

Building	Use	Footprint (SF)	Parking Stalls	Parking Ratio (per 1000 SF)
Sentrol Building	Existing Manufacturing	138,824	417	3.00
SMMS Building	Existing Manufacturing	59,690	189	3.16
Building A	Existing flex-industrial	56,400	166	2.94
Building B	Future flex-industrial	42,800	100	2.33
Building C	Future Office	20,000	100	5.00
Building D	Future Office	20,000	83	4.15
Total		337,714	1,055	3.13

Overall Landscape Area	490,085 SF (11.25 acres)
Overall Landscape Percentage	34.6%
Overall Impervious Area	924,843 SF (21.23 acres)
Overall Pavement Area	587,129 SF (13.48 acres)
Required Parking Lot Landscape	27,950 SF (25 SF/Space)

The IMP will not result in an increased development density beyond what the MP District already allows. The three additional buildings proposed on the site plan are consistent with the MP District as well. The IMP is being requested with the ultimate goal of a site partition and modifications to setback requirements which will create a unified and aesthetically pleasing Business Park.

As such, under separate application, a minor partition will be requested. The goal of the minor partition will be to locate the Sentrol building on a lot separate from the other five buildings. The proposed lot configuration, while somewhat irregular, is a consequence of the need to provide sufficient lot area and parking. As such, the site is proposed to be divided into two parcels with the following building area and parking stalls:

Parcel	Area	Building Area	Parking Stalls
Parcel 1	15.03 acres	138,824 SF	421
Parcel 2	17.45 acres	198,890 SF	638
Total	32.48 acres	337,714 SF	1,059

The partition will include access and utility easements that will be presented with the partition application. Partitioning the subject property will not undermine the campus atmosphere or the function of shared circulation patterns and accesses. Regardless of the location of the lot lines, the site plan is intended to convey a unified design theme and provide shared parking and circulation areas. Access points are located along SW Tualatin Road, SW 124th Avenue, and SW Leveton Road. These access points are proposed to be retained and to serve additional parking areas in the site's southern portion. Significant site landscaping has already been installed, and additional landscaping will be provided for all future buildings.

Surface parking areas will be situated on the perimeter of the building areas. With a larger parking area located within the center of the site. The site's overall parking ratio is approximately 3.32 spaces per 1,000 SF. Consequently, some 1,059 parking spaces will be provided throughout the subject property and will serve the existing and future development.

III. INDUSTRIAL MASTER PLAN (CHAPTER 37)

As indicated above, Mittleman Properties is requesting approval of a site Industrial Master Plan (IMP). An IMP is intended to “achieve a campus-like setting within an Industrial Master Plan Area, while allowing development to occur on a number of smaller parcels within the area.” The following excerpts from Chapter 37 indicate that the project proposal meets the intent of Chapter 37, meets the technical requirements for application submittal and also meets the criteria for City Council approval. Furthermore, the IMP process is intended to address the broader conceptual issues, including modification of setbacks, related to large lot development prior to applying for Architectural Review. By applying for the Industrial Master Plan approval, the minimum lot size may be partitioned to no less than 15 acres rather than the standard 40-acre minimum lot size in the Manufacturing Park Planning District.

37.010 Purpose

The Tualatin City Council may approve an Industrial Master Plan within the Manufacturing Park Planning District that sets particular standards for development within the Industrial Master Plan Area defined by such plan, in accordance with the Tualatin Community Plan and the Leveton Tax Increment Plan. Such approved plans are intended to achieve a campus-like setting within an Industrial Master Plan Area, while allowing development to occur independently on a number of smaller parcels within that area. It is the intent of this chapter to provide procedures and criteria for the submission and review of such Industrial Master Plan applications.

Response: The proposed site layout shows the expansion of an existing business park campus. The site is currently developed with three manufacturing buildings. As shown on the site plan, three additional buildings are proposed – one for flex industrial use and two for office use. Each new building will be consistent with the existing development and efficient for both the site and the type of uses proposed. Two parcels are shown within this Industrial Master Plan, creating parcels of not less than 15 acres in order to comply with the minimum lot size requirements of TDC 62.050. These proposed lots are configured to provide a sufficient number of parking stalls for each building and their constituent use(s), while also maintaining the continuity of the physical site layout. The partition request will be submitted subsequent to the IMP application submittal.

The main site entrance is located off SW Leveton Drive and includes design features intended to emphasize that entrance. Three other access points are located off of SW Tualatin Road. The proposed internal vehicle circulation area is designed to allow any one of these entrances to provide access to the entirety of the site. Exterior views of parking areas are deemphasized by locating such areas around and behind building. Loading areas are separated from vehicle parking areas so that any potential conflicts between trucks and passenger vehicles are minimized. The existing pedestrian walkway system will be enhanced to provide full site access for those walking from the public sidewalks or between buildings. A unified landscaping theme will be maintained throughout. Given the nature and degree of site design unification and shared pedestrian and vehicle facilities, the proposed IMP clearly meets the intent cited above.

37.020 Application Requirements

- (1) *A request for an Industrial Master Plan... shall be initiated by the owner or owners of all properties within the Industrial Master Plan area... The applicant shall discuss the proposed use and site plans with the Planning Director and City Engineer in a pre-application conference prior to submitting an application. Prior to the submittal of an application, an applicant shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference, the applicant may submit a written application addressing applicable review criteria...*

Response: A pre-application conference was held with the City of Tualatin on August 6, 2008. The preliminary site plan and code requirements for this project were discussed. Also, a neighborhood meeting was held on September 4, 2008. Neighborhood meeting materials are included as Attachment H.

- (2) *An Industrial Master Plan...shall be conditioned on creation of the proposed parcels through the subdivision or partition process or may be the subject of a concurrent land division application....*

Response: A partition application will be submitted subsequent to the submittal of this Industrial Master Plan. The partition application will request the creation of two parcels (15.03 and 17.45 acres). We request that the proposed IMP be reviewed and approved on that basis.

- (3) *In addition... the following information shall be included in the application or on accompanying drawings:*

Response: All of the specific site plan requirements identified in Chapter 37 and within the IMP application packet have been shown on the site plans and/or included within the application packet.

- (4) *An Industrial Master Plan may specify, for the entire Industrial Master Plan Area as a whole or for each individual parcel therein, the following alternate development standards which shall supersede conflicting provisions otherwise applicable:*

- (a) *Setbacks from each lot line to buildings, parking areas and circulation areas. Required setbacks may be exact, or minimum and maximum ranges may be specified. Required setbacks may be greater than or less than those required under TDC 62.060.*

Response: Pursuant to TDC 62.060, setbacks may be determined through the IMP process. Where such a process is not proposed, the setbacks specified in TDC 62.060(2)-(5) apply. In this case, we are proposing setbacks specifically designed to accommodate the existing development and the undeveloped portion of the site. Setbacks between the proposed parking area and abutting street all exceed the 100-foot minimum of the MP base zone with the exception of Building D, for which a 50-foot street setback to Leveton Drive and SW 124th Avenue is proposed due to topographical constraints and building locations. Where existing Building A is adjacent to a nearby lot line between proposed parcels 1 and 2, the proposed setback is 43 feet. Similarly, the proposed setback between the south line of Parcel 1 and future Building D is 28 feet. Site aesthetics will be maintained as the yard setback is occurring internal to the site and sufficient landscaping will maintain the site's external aesthetic. Additionally, both of these setbacks are necessary so that the minimum lot size of 15 acres for Parcel 1 can be maintained, and in that context are justifiable pursuant to TDC 62.060(1).

Existing and proposed setbacks between the parking area and adjacent property to the east are a minimum of 25 feet and a maximum of 120 feet. Nearly all required parking has already been constructed. Where new parking adjacent to rights of way is proposed, the only instance where it exceeds 25 feet is where a stormwater quality/detention swale is planned along the south end of the subject property.

In summary, very generous landscaped setback areas are provided to ensure adequate separation between buildings, parking areas, and streets. The proposal is consistent with this provision.

(b) *Locations of shared parking and circulation areas and access improvement, including truck maneuvering and loading areas and common public or private infrastructure improvements.*

Response: The configuration of surface parking areas is shown on the enclosed plans. Parking areas are disbursed around buildings and also located within the center of subject property. Loading areas are located between buildings and are thereby screened from external view. In general, the existing and proposed elements of the IMP are consistent with the parking design standards set forth in TDC 73.370.

(c) *Building heights and placement and massing of buildings with respect to parcel boundaries.*

Response: The style of existing and proposed buildings is generally similar to the surrounding business park environment. The massing and placement of these buildings will accommodate the existing topography, while also de-emphasizing the proposed parking areas by centrally locating on-site parking. Generous setbacks will be used to ensure that the site has ample site landscaping, consistent with the industrial park concept.

(d) *Location and orientation of building elements such as pedestrian ways or accesses, main entrances and off-street parking or truck loading facilities, including the number of off-street parking spaces and loading docks required.*

Response: Complete pedestrian and vehicle circulations systems are proposed to allow reasonably safe and direct access for multiple transportation modes.

(e) *Lot dimensions and area provided that no individual parcel shall be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive unless otherwise provided under TDC 62.050(1).*

Response: A partition of the subject property into two lots of 15.03 and 17.45 acres, as shown on the enclosed plans, will be requested subsequent to IMP application submittal. The proposed configuration is consistent with the lot size parameters cited above.

(f) *Location of required building and parking facility landscaped areas.*

Response: Attachment B shows the proposed site plan for the buildings and parking facilities. The proposed project overall, and each future partition lot, will exceed the 20% landscape requirement.

37.030 Criteria for Review

The City Council shall approve an Industrial Master Plan, after a hearing conducted pursuant to TDC 32.040, provided that the applicant demonstrates that the following criteria are met:

(1) *Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.*

Response: The entire site is serviced by existing public facilities. Three boundary streets, Leveton Road, 124th Avenue and Tualatin Road, abut the exterior of the subject property. Four separate driveways provide access to these streets. Note that all of these access points already exist, and no new street accesses are proposed. The attached traffic letter (Attachment G) reviews the potential transportation implications of the proposed IMP and finds that, since the IMP is not creating an increase in the site's development potential, it will not result in additional trips over what the MP District already allows. As such, the implications of this application request do not warrant further traffic analysis. Further analysis will occur during the Architecture Review phase of future development.

Transit service is available on 99W near its intersection with SW 124th Avenue, and is designated Route 12. These north/south bound stops are both within 1/4 mile of the subject property. Other public utilities to serve the subject property are shown in the enclosed site plan and are summarized below:

Facility	Size	Location
Water Lines	12"	Leveton Road
	16"	124 th Avenue
Sanitary Sewer Lines	8"	Within Leveton Road, stubbed to southeast corner of property
Storm Sewer	24"	Runs to south along 124 th Avenue from 99W, continues south past Leveton Road

For sanitary sewer, the existing parcel is served by the Public Sanitary Sewer Main within Leveton Road. With the construction of the first building, a sanitary sewer main was constructed to public standards to be dedicated to the City of Tualatin at a future date. This line will undergo various proscribed tests, and some rerouting will occur to allow for future Building C. Following any necessary repairs, the line will be dedicated to the City of Tualatin with a 15-foot public sanitary sewer easement.

All storm drainage generated on the subject property will be accommodated by onsite facilities, including major storm water quality/detention swales located along 124th Avenue and Leveton Road. These will include LID type BMPs to help filter and sequester stormwater, while also allowing integration of these facilities into the overall landscaping design.

As all necessary public facilities are available to the subject property and will be extended to serve future buildings at the time of development, this criterion is met.

- (2) *The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity.*

Response: The proposed project has been designed to be compatible with existing surrounding development. The subject site is surrounded on three sides (south, east and west) by existing industrial developments and vacant industrially zoned land. This existing industrial development is characterized by large-scale manufacturing buildings with associated buildings and parking areas and are generally similar in nature to the proposed project. The location and sizes of the buildings are all shown on Attachment B.

Over 55 feet of landscaping between the nearest residential area to the north (separated by a street) and the northerly parking area has been provided, which will provide ample buffering between residential and employment activities. The only reduced street setbacks are located between Building D and its frontage roads, SW 124th Avenue and Leveton Road. The proposed 50-foot setback is necessary to accommodate the topography of the subject property and the overall grading plan (this portion of the site is significantly lower than the northerly section). Given that this reduced setback is adjacent to a roadway and not other buildings, it presents no potential adverse impacts and attractive landscaping shall be provided along Leveton consistent with the overall vision for that corridor. There are also two instances where side or rear yard setbacks do not meet the 50-foot minimum MP standard. Where existing Building A is adjacent to a nearby lot line between proposed parcels 1 and 2, the proposed setback is 43 feet. Similarly, the proposed setback between the south line of Parcel 1 and future Building D is 28 feet. These proposed setback

adjustments are not adjacent to lots outside of the subject property and the site will continue to function efficiently and effectively.

Additionally, no parking will be located between this building and the street, further mitigating any drawbacks to a reduced setback in this area. With the exception of Building D, all other structures and parking areas meet applicable minimum setbacks.

The buildings will have different orientations depending on the nearest access, parking and loading areas, and their locations on the lot. The two highly visible proposed office buildings will feature considerable window glazing and will be multi-story. None of the proposed buildings will exceed the maximum permitted height of 70 feet. Materials will include brick and other varieties of masonry, with selective use of parapet walls, belt coursing, and vertical articulation. Building will be designed to emphasize their entrances by providing a vertical emphasis of those areas. In summary, the proposed buildings will project considerable visual interest through the use of detailing, articulation, and window glazing. Except along portions used as loading areas, blank masonry walls will not be used.

As the proposed development will substantially conform to the character of surrounding properties while providing buffers from incompatible uses (such as residences), this criterion is met.

- (3) *The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size and access are in accordance with TDC Chapter 62 unless otherwise approved through the Industrial Master Plan process.*

Response: The future elements of the IMP generally meet the provisions of TDC Ch. 62. Both proposed lots exceed the minimum required lot area and exceed the minimum street frontage of 250 feet. Access considerations do not apply in this case as all access points have already been established and are not proposed to be changed.

Buildings will have different orientations depending on the nearest access, parking and loading areas, and their locations on the lot. Although the buildings are considered industrial (and are thus not specifically encouraged to be oriented towards pedestrian circulation), a complete pedestrian circulation system will be provided which connects buildings, streets, and parking areas. This is an expansion on an existing circulation system that utilizes 5-foot-wide walkways; for this reason, future walkways are also proposed to be 5 feet. Raised and/or visually distinct crosswalks will be provided where walkways cross drive aisles or parking areas.

Setbacks are generally consistent with standard code requirements except in the case of Building D, which must have a reduced setback due to the topography and existing layout of the subject property, and two instances where side or rear yard setbacks do not meet a 50-foot minimum standard. Where existing Building A is adjacent to a nearby lot line between proposed parcels 1 and 2, the proposed setback is 43 feet. The lot line is proposed between two existing buildings and will not impact their functionality. Similarly, the proposed setback between the south line of Parcel 1 and future Building D is 28 feet. Both of these setbacks are internal and will not impact surrounding lots. The reduced setbacks will not deduct from the site's aesthetic quality and will actually enhance the corner of 124th and Leveton because an attractive office building versus parking area will be displayed.

Parking areas are consistent with the common requirements of TDC 73.370-390, as shown on the enclosed site plan, and the proposed partition will result in sufficient parking dedicated to the uses on both lots. In addition to the pedestrian circulation system, a complete internal vehicle circulation plan is designed to allow any one of these entrances to provide access to the entirety of the site. Exterior views of parking areas are deemphasized by locating such areas around and behind buildings. Loading areas are separated from vehicle parking areas so that any potential conflicts between trucks and passenger vehicles are minimized.

In summary, the proposed IMP has demonstrated consistency with nearly every design standard implemented by TDC Chapter 63, and where deviations from specific standards are requested, the proposed development respects the intent and objectives of those standards. Therefore, this criterion is met.

IV. MANUFACTURING PARK PLANNING DISTRICT (CHAPTER 62)

The subject site is located within the Manufacturing Park Planning District (MP) which is outlined in Chapter 62 of Tualatin's Development Code. The intent of the MP District is to allow for larger scale industrial development and promoting planned developments specifically for modern and/or specialized manufacturing. This project, as presented, promotes that goal as discussed in detail below.

62.010 Purpose

The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses shall not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. It also is to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. It also is intended to provide for a limited amount of commercial uses designed exclusively for the employees of the primary uses and is intended to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the building area used for such retail selling is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.

Response: The existing business park is currently utilized by several industrial manufacturing businesses whose uses are consistent with the MP District's purpose. Although specific future tenants have not yet been determined, the uses of the future buildings will be consistent with the uses permitted in the MP zone and will be compatible with the manufacturing park itself. The existing and proposed elements of the IMP combine to create an attractive and inviting employment space for users and passersby alike, with liberal use of landscaping, integration of stormwater facilities into landscaping, and site circulation plans. As detailed on the enclosed plans and described herein, this proposal is entirely consistent with the purpose of the MP district.

62.020 Permitted Uses.

Uses permitted in the MP zone are listed in the zoning code and are not reproduced here. Please refer to section 62.020 for a complete list.

Response: No uses shall be proposed other than those which are determined by the Director to be permitted within the MP district. Separate from this application, a use confirmation will be requested and used to better define permitted uses. The activities of any future tenants will be consistent with the outcome of any official interpretations or confirmation. This standard can be met by the proposal.

62.050 Lot Size.

(1) *North of SW Leveton Drive (including its westerly extension to the western edge of the Planning District) the minimum lot area shall be 40 acres, except the minimum lot area may be reduced to 15 acres pursuant to an approved industrial master plan as provided under TDC Chapter 37...*

Response: Two separate lots are proposed, consisting of 15.03 and 17.45 acres respectively. This standard is met.

(2) *The average lot width shall be 250 feet.*

Response: As shown on the enclosed site plan(s), the proposal far exceeds the minimum average lot width of 250 feet. This standard is met.

(3) *The minimum lot width at the street shall be 250 feet.*

Response: The minimum lot width at the street is nearly 600 feet for Parcel 1 and over 1,000 feet for Parcel 2. This standard is met.

(4) *For flag lots...*

Response: Not applicable.

(5) *The minimum lot width at the street shall be 50 feet on a cul-de-sac bulb.*

Response: As a cul-de-sac bulb is not proposed, this standard is not applicable.

(6) *Lots or remnant areas created by the location of public streets...*

Response: Not applicable.

(7) *No minimum lot size, width or frontage requirement shall apply to wetland conservation lots.*

Response: Not applicable.

62.060 Setback Requirements.

(1) *Industrial Planned Development Properties subject to an Industrial Master Plan approved by the Tualatin City Council in accordance with the Leveton Tax Increment Plan, as amended, shall be subject to setback requirements as contained in the Industrial master Plan. Where no setback requirement is specified in an Industrial Master Plan, TDC 62.060(2)(3) shall apply.*

Response: The proposed building and parking area setbacks are shown on the site plan(s). As previously discussed, and discussed below, a street setback modification is requested for Building D and two internal yard setback modifications are requested. Please see below for further detail. The proposal is consistent with this provision.

(2) *Yards adjacent to Streets or Alleys.*

Response: All proposed setbacks between buildings and streets are consistent with the requirements of 62.060, with the exception of Building D. In this case a lesser setback of 50 feet from 100 feet is proposed to accommodate site topography. Per City Staff, no additional right-of-way is required for Leveton Drive or SW 124th Avenue. This setback reduction is consistent with the IMP provisions.

(3) *Side and Rear Yards Not Adjacent to Streets or Alleys.*

(a) *... The minimum setback for parcels north of Leveton Drive is 50 feet.*

Response: There are two instances where side or rear yard setbacks fail to meet this standard. Where Building A is adjacent to a nearby lot line between proposed Parcels 1 and 2, the proposed setback is 43 feet. Similarly, the proposed setback between the south line of Parcel 1 and future Building D is 28 feet. Both of these setbacks are internal and will not impact surrounding development. The site will continue in its function and aesthetic quality and in this context, the setbacks are justifiable pursuant to TDC 62.060(1).

(b) *Except as otherwise provided in TDC Chapter 37, all parking and circulation areas shall be set back a minimum of 5 to 25 feet from the property line, as determined through the Architectural Review process. However no setback is required from lot lines lying within ingress and egress areas shared by two or more abutting properties in accordance with TDC 73.400(2).*

Response: As shown on the attached plans, parking and circulation areas will meet the setback requirements of the MP Planning District or shared easements will be provided.

(c) *No spur rail track shall be permitted within 200 feet of an adjacent residential district.*

Response: As no rail service is available or proposed, this standard does not apply.

- (d) *No setbacks are required at points where side or rear property lines abut a railroad right-of-way or track.*

Response: No railroad tracks or rights-of-way abut the subject property. This standard does not apply.

- (4) *No fence shall be constructed within 50 feet of a public right-of-way.*

Response: No additional fencing is proposed on-site.

- (5) *Setbacks for a wireless communication facility shall be established...*

Response: Not applicable.

62.080 Structure height

- (1) *Except as provided in TDC 62.080(2) or (3), no structure shall exceed a height of 70 feet, except for flagpoles . . .*

Response: No portion of any structure is proposed to exceed 70 feet in height.

- (2) *Height Adjacent to a Residential District. Except as otherwise provided in TDC Chapter 37, where a property line, street or alley separates MP land from land within a residential district, a building, . . . shall not be greater than 28 feet in height at the required 50 foot or 100 foot setback line. No building or structure, including flagpoles, shall extend above a plane beginning at 28 feet in height at the required 50 foot or 100 foot setback line and extending away from and above the setback line at a slope of 45 degrees, subject always to the maximum height limitation in TDC 62.080(1)*

Response: A residential district is lies to the easternmost 530 feet of, and across Tualatin Road from, the north lot line of future Parcel 2. The nearest existing building is located more than 200 feet south of this lot line. Based on the calculation set forth above, a maximum height of 70 feet can be reached with a setback of approximately 140 feet. As no existing or proposed buildings exceed the maximum height, this standard is met.

- (3) *Wireless Communication Support Structure.*

Response: Not applicable.

62.090 Access.

Except as otherwise provided in TDC Chapter 37 and as provided below, no lot shall be created without provision for access to the public right-of-way in accordance with TDC 73.400 and TDC Chapter 75. Such access may be provided by lot frontage on a public street, or via permanent access easement over one or more adjoining properties, creating uninterrupted vehicle and pedestrian access between the subject lot and the public right of way . . .

Response: No new existing access points are proposed as part of this IMP. This standard does not apply.

62.100 Off-street parking and loading.

Except as otherwise provided under TDC Chapter 37, refer to Chapter 73.

Response: The proposed overall parking ratio is approximately 3 spaces per 1,000 SF for Parcel 1. The ratio for the buildings to be located on Parcel 2 is 3.2 spaces per 1,000 SF. Consequently, approximately 1,059 parking spaces will be provided throughout the subject property. Among the uses permitted in the MP zone, "general office" requires the highest minimum parking rate, at 2.7 spaces per 1000. The proposed number of parking spaces is therefore sufficient to accommodate the broadest range of potential uses that might be established within the proposed development. As demonstrated on the enclosed site plan(s), the parking lot designs are consistent with applicable standards related to passenger

vehicle parking/circulation and freight loading. The proposal is consistent with all standards and provisions related to off-street parking and loading.

62.110 Environmental Standards

Except as otherwise provided under TDC Chapter 37, refer to Chapter 63.

Response: Noise and air quality will meet the Oregon Department of Environmental Quality standards as applicable. The proposed uses are conducted indoors with the exception of loading and unloading activity. No activity on-site will exceed standards for noise, air quality or vibration. The site layout will ensure that all exterior loading activities will be separated from public rights of way by buildings. Additionally, as the attached Traffic Impact Letter illustrates, the IMP will not create additional traffic above what is allowed per the MP district.

62.120 Community Design Standards

Except as otherwise provided under TDC Chapter 37, refer to Chapter 73.

Response: Structure design, landscaping and parking will all comply with the Community Design Standards of Chapter 73 and will be specifically addressed during the Architectural Review process.

62.130 Landscape Standards.

Except as otherwise provided under TDC Chapter 37, refer to Chapter 73.

Response: While the current development meets landscape standards, all proposed landscaping for the over all site and for the future 2 lot configuration, will meet the 20% landscape requirement for approved Industrial Master Plan. Furthermore, landscaping will meet or exceed the requirements of 73.230 – 73.310, 73.320, 73.340, and 73.360 – 73.410. Landscaping will be designed around the perimeters of future buildings at a minimum of feet in depth (except where loading areas are proposed) and around the perimeter of future parking areas and circulation areas at a depth of at least 25 feet. Landscaped areas within parking lots will meet the minimum 25 SF per parking stall and will be dispersed throughout the parking areas. Entrances to parking areas will be landscaped and overall landscaping will exceed the minimum requirements for the entire site with landscape emphasis at the centralized entrance and along the property lines with specific emphasis on the northern and southern property lines.

V. SUMMARY

In summary, the Industrial Master Plan application for the development of an industrial campus for Mittleman Properties meets the applicable review criteria and merits approval as presented.

GROUP
MACKENZIE

September 29, 2008

City of Tualatin
Attention: Doug Rux – Community Development Director
18876 SW Martinazzi Avenue
Tualatin, OR 97062

Re: **Mittleman IMP**
Transportation Impact Letter
Project Number 2080267.02

Dear Mr. Rux:

This letter accompanies the Industrial Master Plan (IMP) application for 12345 SW Leveton Drive. The purpose of this letter is to satisfy City of Tualatin Development Code Chapter 37.030(1) by evaluating potential transportation impacts associated with the modifications proposed by the IMP. As this letter will show, the IMP does not increase development area. Rather the IMP allows for a reduction in the Manufacturing Park (MP) Planning District minimum lot size and modifies minimum setback requirements in specific areas.

According to Staff, the City of Tualatin treats the IMP process much like a Zone Change. If the proposed modifications (minimum lot size, specific setback locations) to the MP Planning District would increase the amount of development potential, then an evaluation of Tualatin Transportation System Plan (TSP) and Plan Year transportation infrastructure would be required for all intersections significantly affected by the IMP. If the proposed modifications decrease development potential and allowed land uses in the MP Planning District remain unchanged, then no additional analysis is necessary because the IMP will not affect existing or planned transportation facilities.

Specifically, this letter addresses the following issues in this review:

1. Tualatin Development Code Requirements
2. Existing and Proposed Conditions
3. Developable Area
4. Conclusions

TUALATIN DEVELOPMENT CODE

This letter addresses the City of Tualatin Development Code (TDC) Chapter 37 – Industrial Master Plan (IMP) and Chapter 62 – Manufacturing Park Planning District (MP). The current MP zoning has a minimum lot size of 40 acres north of SW Leveton Drive. However, through the IMP process, the lot size can be reduced to 15 acres (TDC Sec. 62.050). A preliminary partition plan application will be submitted concurrently with the IMP application. The purpose of the IMP and partition request is to allow site partition, which will place the existing Sentrol building on a separate lot.

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San Francisco, California

City of Tualatin
Mittleman IMP
Project Number 2080267.02
September 29, 2008
Page 2

The IMP approval criteria for transportation are found in TDC 37.030(1): "*Public facilities and services, including transportation, existing or planned for the area affected by the use are capable of supporting the proposed development or will be made capable by the time of development is completed.*" The June 2001 City of Tualatin TSP provided the necessary transportation analysis for the 2020 planning horizon. To meet the requirements of the statewide Transportation Planning Rule (TPR) (OAR 660-012-0015) the TSP was required to "*Establish a system of transportation facilities and services to meet identified local needs that are consistent with adopted elements of regional and state TSPs.*" Therefore, the public transportation facilities (existing or planned) have been designed (or planned) to accommodate anticipated growth based on existing land uses. So, it can be concluded if the proposed IMP conceptual development is consistent with (or less than) the current land uses allowed in the MP zone (i.e., land use assumptions made for the TSP), then the approval criteria of TDC 37.030(1) are met.

EXISTING AND PROPOSED CONDITIONS

Existing Conditions

The 32.48-acre site is located in the corner formed by Tualatin Road, SW 124th Avenue, and SW Leveton Road. The property is zoned City of Tualatin MP. There are three buildings on the site totalling 254,914 SF of manufacturing uses with associated parking.

There are three existing driveways to Tualatin Road and one existing driveway to SW Leveton Road. There is no access directly to SW 124th Street. No new access points are proposed with the IMP.

Proposed Master Plan

The proposed IMP will create two separate lots: Lot 1 (15.03 acres) and Lot 2 (17.45 acres). Lot 1 will encompass the existing 138,824 SF Sentrol building and associated parking. Lot 2 will encompass the existing 59,690 SF Simms building, the existing 56,400 SF flex manufacturing building, and three proposed new buildings: two 20,000 SF office buildings and one 42,800 SF flex manufacturing building.

All proposed uses are permitted outright within the existing MP planning district (TDC 62.020). The resulting lot coverage for Lots 1 and 2 are 21.2% and 26.2%, respectfully.

DEVELOPABLE AREA

Minimum building setback from the street for parcels north of Leveton Road is 100 feet (TDC 62.060). However, a setback reduction can be established via an IMP. The setback reduction, in and of itself, does not alter the trip potential of a given building. The IMP proposes a street setback reduction for the 20,000 SF Building 'D' only, as shown on the preliminary site plan layout. The setback modification is being requested to minimize grade issues and improve

City of Tualatin
Mittleman IMP
Project Number 2080267.02
September 29, 2008
Page 3

aesthetics at the SW 124th Avenue/SW Leveton Road intersection. The minimum parking area setback from SW Leveton Drive is 50 feet. The setback reduction allows the building, instead of parking area to sit closer to the SW 124th Avenue/SW Leveton Drive intersection. The parking area is then tucked behind and further out of view from the road. This setback modification applies to the south and west side of Building 'D' only.

The MP Planning District minimum building setback from lot lines not adjacent to a street is 50 feet. The IMP proposed land partition of the site into two lots creates a new property line with a new building setback. The new property line is approximately 3,500 feet long; a new building setback area is created. This new building setback area is greater than the reduced setback request for the proposed Building 'D'.

Therefore, based on the above identified modifications, the proposed IMP will not have a significant affect on transportation facilities and no additional analysis is necessary.

It is important to note this IMP does not allow land use approval for future development. The development of conceptual Buildings B, C, and D require City of Tualatin Architectural Review and will be required to address transportation impacts as part of the application process. Any identified off-site impacts identified through the Architecture Review process will be address at that time.

CONCLUSIONS

The modifications proposed by the IMP will not significantly impact the surrounding transportation infrastructure. As this letter details, no changes to the allowed uses in the MP zone are proposed; no new access points are proposed; and through the creation of a new lot line, potential development area is decreased. As a result, the proposed IMP has less development potential than existing conditions, and therefore, has no significant affect on existing or planned transportation facilities.

We trust this satisfies the Chapter 37.030(1) code criterion. Should you have any questions, please do not hesitate to call me or Kelly Niemeyer.

Sincerely,



Sean Morrison, P.E., Transportation Engineer
Associate

Enclosures: Preliminary Site Plan (August 20, 2008)

GROUP MACKENZIE

November 24, 2008

City of Tualatin
Attention: Will Harper – Associate Planner
18880 SW Martinazzi Avenue
Tualatin, OR 97062-7092

Re: **Mittleman Properties IMP – 08-01**
Transportation Completeness Letter
Project Number 2080267.02

Dear Mr. Harper:

Thank you for your initial completeness comments (dated October 14, 2008) and for meeting with us October 31, 2008 regarding the transportation information submitted in support of the Mittleman Properties Industrial Master Plan (Mittleman IMP). This letter clarifies the September 29, 2008 Group Mackenzie transportation impact letter, addresses staff concerns, and addresses the City of Tualatin Development Code Chapter 37.030(1) approval criteria. As discussed in our October 31st meeting, specifically, this letter describes the proposed IMP and its reduced trip generation potential.

Mittleman IMP Modifications

Per City of Tualatin Development Code, an IMP is intended to “achieve a campus-like setting within an Industrial Master Plan Area, while allowing development to occur independently on a number of smaller parcels within that area.” The IMP does not permit land use approval for development. This is accomplished at the Architecture Review phase. The IMP request allows modifications to the setback and lot size development standards but does not allow additional development density or a change in uses that the MP District permits. As such, if the site development’s trip generation potential is less with the proposed IMP scenario than under the existing allowed development scenario, then the approval criterion is addressed.

The City of Tualatin’s Development Code (TDC) Chapter 37.030(1) states:

The City Council shall approve an Industrial Master Plan, after a hearing conducted pursuant to TDC 32.040, provided that the applicant demonstrates that the following criteria are met:

(1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.

Group Mackenzie has had various email and telephone exchanges with City staff. Subsequent to your August 28, 2008 email to Kelly Niemeier, and at your suggestion, I spoke with Tony Doran regarding the specifics of the Mittleman IMP traffic analysis. Tony and I discussed the specific nature of the proposed IMP and the lot partition it allows. We discussed the IMP modifications; specifically the Mittleman IMP requests:

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City of Tualatin
Mittleman Properties IMP – 08-01
Project Number 2080267.02
November 24, 2008
Page 2

- A reduction in the MP District's minimum lot size.
- A reduction to the minimum setback in specific, identified locations.

Tony and I concluded that if initial analysis showed the proposed Mittleman IMP, its modifications, and subsequent partition did not increase potential development, then a Transportation Impact Analysis (TIA) would not be necessary. An example similar to this IMP application would be a zone change application. Where the traffic impacts of a proposed zone designation's development potential are shown to be equal to or less than the existing zone designation's development potential, the resultant finding is "no significant effect" on the transportation system.

Mittleman IMP Trip Generation Potential

In an email dated September 18, 2008, Mr. Doran raised two issues during a preliminary review of transportation findings.

1. Reasonable worst-case traffic based on ITE is needed.
2. Additional information for LOS and streets is needed based on an increase in traffic.

An evaluation of site generated "reasonable worst-case" traffic with and without the IMP based on ITE Trip Generation rates follows. The subject site is 32.48 acres and, under MP District standards, is not large enough in area to allow a division. However, with an IMP, the minimum lot size is reduced to 15 acres. Accordingly, the Mittleman IMP application proposes a reduction to the minimum lot size in order to allow a future partition which will create two lots. Therefore, the proposed IMP will actually *decrease* the total site development area by creating a new internal property line setback (as shown in the enclosed Figure 1). The net decrease in area is as follows:

- The existing overall site area is 32.48 acres.
- With street and side yard setbacks the existing net developable area is 23.64 acres.
- The Mittleman IMP creates a new internal lot line and setbacks resulting in a new net developable area of 18.79 acres, a difference of 4.85 acres.

For the purposes of quantifying the "reasonable worst-case" traffic generation, the following table presents potential trip generation with and without the proposed Mittleman IMP. To determine potential traffic, a total building to developable area ratio of 45% and the ITE Land Use Category "Business Park" were assumed. Potential development is the product of net developable area and the building to developable area ratio (0.45).

City of Tualatin
 Mittleman Properties IMP – 08-01
 Project Number 2080267.02
 November 24, 2008
 Page 3

MITTLEMAN REASONABLE WORST CASE TRIP GENERATION					
Land Use (ITE Code)	Scenario	Potential Development (Square Feet)	ADT	Weekday PM Peak Hour	
				Enter	Exit
Business Park - 770	Current MP	463,400	5,913	137	460
	Proposed IMP	368,300	4,700	109	366
Difference		95,100	1,213	28	94

As shown in the above table, the IMP reduces potential trip generation by 1,213 daily and 122 PM peak hour trips. Therefore, because total site development area and the reasonable worst-case traffic decreases, additional LOS information for specific intersections is not necessary.

The Mittleman IMP proposed modifications reduce “reasonable worst-case” trip generation and do not affect public transportation facilities. Therefore, the approval criteria of TDC 32.040 (1) are met. Should you have any questions, please do not hesitate to call me or Kelly Niemeyer.

Sincerely,



Sean Morrison, P.E., Transportation Engineer
 Associate

Enclosures: Figure 1 – Preliminary Partition Plan

- C: Tony Doran – City of Tualatin
- Kelly Niemeyer, Tom Wright – Group Mackenzie
- Henry Haimsohn – Mittleman Properties
- Stephen Pfeiffer – Perkins Coie LLP

ATTACHMENT E

IMP-08-01: BACKGROUND INFORMATION

Pertinent background information obtained from the submitted application for IMP-08-01 and other supporting documents is summarized in this section.

The applicants are Kelly Niemeyer of Group MacKenzie and Henry Haimsohn of Mittleman Properties. Mittleman Properties developed and owns the 32.4 acre-3 building property currently occupied by GE Security, Partners on Demand and VWR located at 12100 & 12350 SW Tualatin Road and 12345 SW Leveton Drive (2S1 22B, Tax Lot 500) in the Manufacturing Park (MP) Planning District. A Vicinity Map, a Tax Map and a Site Plan are included as Attachments A, B & C respectively. The applicant's materials including an Industrial Master Plan (IMP) site plan are included as Attachment D.

Chapter 37 of the Tualatin Development Code establishes the process for Council review and approval of an IMP for development in the Manufacturing Park (MP) Planning District and in the Leveton Tax Increment District (LTID). Approval of an IMP allows a MP Planning District property owner to plan and develop the property with certain alternate development standards subject to meeting IMP criteria for adequate supporting public facilities, compatible building design, and suitable site design, improvements and dimensions in accordance with MP Planning District standards.

As explained in TDC 62.010, the MP Planning District is intended to "...provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities." In the MP Planning District, development standards for larger lot sizes, taller buildings, greater setbacks for building, parking & loading, a 25% minimum landscape area result in larger, campus-style site development and facilities. The MP District includes existing industrial business facilities such as Fujimi Corporation, Novellus Systems Inc., JAE Oregon, DPI Northwest and the future "Phight Campus" development. Also in the MP Planning District is the existing 3-building complex owned by Mittleman Properties occupied by GE Security, Partners on Demand and VWR.

The IMP process was created in 1999 (PTA-99-07) at the request of Oki Semiconductor to facilitate the marketing and sale of the 58 acre Oki property following the plant's closure. The Council approved IMP-00-01 for Novellus on the former Oki Campus. The IMP process allows Council to approve alternate development standards for a particular MP Planning District property that allows development to occur independently on smaller parcels within the master plan area. An IMP can specify alternate standards for:

- Setbacks for buildings, loading, parking that are more or less than allowed in the MP Planning District;
- Building heights and building placement in respect to property boundaries;
- Building location and orientation;
- Lot dimensions subject to a 15 acre minimum north of SW Leveton (40 acres in MP) and 5 acre minimum south of Leveton (15 acres in MP);
- Minimum landscaping coverage reduced to 20% (25% in MP)
- Number of off-street parking spaces and loading docks;
- Allow shared parking, loading, and access improvements.

Approving an IMP does not allow more intensive development on a property. The list of allowed uses in the MP Planning District is not altered in the IMP process and the minimum 25% landscape requirement and the 70 ft. maximum building height are fixed. New development proposed under an IMP remains subject to Architectural Review with all other MP Planning District and TDC standards applying, including accounting for traffic impacts and providing adequate on-site parking based on use and building size.

The applicants of IMP-08-01 seek approval of an Industrial Master Plan that proposes a site plan with three future buildings with reduced building and parking setbacks to an adjoining public street or interior lot line, shared parking, loading & circulation, and reduced minimum lot sizes to allow separate ownerships within the subject site.

ATTACHMENT F

IMP-08-01: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 37.030 must be met if approval of the proposed Mittleman Properties Industrial Master Plan (IMP) is to be granted. The Applicants prepared a narrative that explains the proposed IMP and addresses the IMP criteria (Attachment D). Staff has reviewed the Applicants' material and included pertinent excerpts below.

ALTERNATIVE DEVELOPMENT STANDARDS

TDC 37.020(4) states "An Industrial Master Plan may specify, for the Industrial Master Plan Area as a whole or for each individual parcel therein, the following alternate development standards which shall supersede conflicting provisions otherwise applicable:"

The following analysis addresses alternative development standards requested:

TDC 37.020(4)(a) Setbacks from each property lot line to buildings, parking areas and circulation areas. Required setbacks may be exact, or minimum and maximum ranges may be specified. Required setbacks may be greater than or less than those required under TDC 62.060.

TDC 62.060 Setback Requirements. States in pertinent part: (1) The setbacks set forth in an Industrial Master Plan approved in accordance with TDC Chapter 37 apply. Where setbacks are not specified in an Industrial Master Plan, TDC 62.060(2) - (5) apply.

The applicant has provided a narrative and drawings addressing setback issues. The base setback in TDC 62.060 is 100 feet for a building to a public street and 50 feet for parking and circulation areas to a public street. The setback to an interior yard for parcels north of SW Leveton Drive is 50 feet for a building and 5-25 ft. for parking and circulation as approved in the AR process. Alternative setbacks have been requested in the Mittleman Properties IMP application based on the location of the proposed buildings and parking areas on the site and a proposal to divide the property into two parcels. The minimum building setbacks proposed are:

- IMP Building D to SW Leveton Drive - 50 feet (versus 100 ft.)
- IMP Building D to SW 124th Avenue - 50 feet (versus 100 ft.)
- IMP Interior side yard building setbacks are proposed from 28 feet to greater than 50 feet depending on the location of proposed buildings and lot lines (versus 50 ft.).

Parking and circulation setbacks are proposed as follows:

Existing Parking area to East Property Line - 25 feet. (as approved in prior ARs)
(5-25 ft. as determined in AR)

The applicant explains and justifies the alternative building and parking setbacks on pp. 5 -7 of the narrative (Attachment D). The applicant states "In this case we are proposing setbacks specifically designed to accommodate the existing development and the undeveloped portion of the site." The proposed alternative building setbacks are a result of the varied topography of the Mittleman Properties site, the location of existing and proposed buildings, trees and other physical features and the configuration of the lot lines of the two parcels proposed in the IMP. Interior parking and circulation lot line setbacks range from zero feet to 5 ft. or more. This is due to the industrial campus site design approach to development on multiple parcels and as proposed in the IMP. Proposed parking and circulation setbacks establish potential shared arrangements for parking and circulation between the two proposed parcels and a 25 ft. setback to the common property line with JAE on the east.

Upon review, staff agrees with the applicant's setback modifications.

TDC 37.020(4)(b) Locations of shared parking and circulation areas and access improvement, including truck maneuvering and loading areas and common public or private infrastructure improvements.

In conjunction with approval of the IMP, Mittleman Properties may apply to partition the 32.4 acres into two lots. A partition will create the need for shared parking and crossing circulation easements. "Shared parking" in the TDC is generally defined as one parcel having excess parking and another parcel being deficient in parking. The existing 789 surface parking spaces are for the existing three buildings located on one parcel. Because of the IMP layout, the development phasing could require shared parking be established between the two lots; Parcel 1 with the GE Security Building and Parcel two with the Partners on Demand Building and Buildings A-D.

The IMP shows site ingress/egress access shared between the proposed 2 parcels via the three existing site accesses to SW Tualatin Road and SW Leveton Drive. Cross use and circulation between the two parcels is proposed that allows circulation between the access drives, the buildings and shared parking and loading areas.

Private infrastructure including sewer, water and storm drainage are identified on the IMP Plans. The existing private stormwater detention and treatment facilities on the site are common to the three buildings and site improvements. With IMP approval and a subsequent partition, the common public and private infrastructure improvements may be shared or cross the two parcels. Because of the IMP layout, a partition and proposed improvements on the Mittleman Properties site will require shared parking and circulation, access, loading areas and common public and private infrastructure. To ensure the adequate provision of facilities between the two parcels allowed by the IMP,

shared parking, circulation, common access and common facility shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared parking and circulation easements, access easements and common facility agreements and easements shall be established.

No alternative public infrastructure development methods are proposed in the Mittleman Properties IMP submittal.

TDC 37.020(4)(c) Building heights and placement and massing of buildings with respect to parcel boundaries.

Building heights are limited to 70 feet under the base MP Planning District standards (TDC 62.80) with a variable height of 28 ft.-70 ft. allowed beginning at the building setback where an MP Planning District development property line is adjacent to a residential district. The existing Mittleman Properties development meets the TDC 62.080 standards.

Reduced building setbacks are requested for Building D to the SW Leveton Drive and SW 124th Avenue public streets and for Partners on Demand and Buildings C & D to the site's interior property lines created in a two lot configuration that were addressed previously on pg. 1. The future one and two story buildings (B, C & D) proposed in the Mittleman Properties IMP do not adjoin a residential district and also meet the 62.080 standards for height and placement. No IMP alternative standard to TDC 32.020(4) is proposed.

TDC 37.020(4)(d) Location and orientation of building elements such as pedestrian ways or access, main entrances and off-street parking or truck loading facilities, including the number of off-street parking spaces and loading docks required.

The existing three buildings and site improvements including pedestrian connections, off-street parking and truck loading facilities on the Mittleman Properties site were approved in Architectural Reviews. The proposed IMP does not propose alternative methods of locating and orienting pedestrian ways or access, main entrances and off street parking for the existing buildings, the proposed Buildings B, C & D or for the two proposed lots. The IMP proposes providing 1,118 parking stalls to serve 6 buildings with up to 337,714 gross sq. ft. of floor area for a mix of manufacturing, "flex industrial" and office uses which would exceed the minimum off-street parking requirement of 646 spaces for the proposed mix of uses [TDC 73.370(2) 386 spaces for manufacturing/260 spaces for office]. Each lot will have shared or building-specific loading docks that meet TDC 73.390. The existing loading and truck maneuvering area between the GE Security Building on the IMP proposed Parcel 1 and Building A on proposed Parcel 2 will be shared as addressed under TDC 37.020(4)(b).

TDC 37.020(4)(e) Lot dimensions and area provided that no individual parcel shall be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive unless otherwise provided under TDC 62.050(1).

Mittleman Properties IMP proposes dividing the existing 32.4 acre parcel into 2 lots as follows (Attachment 4, pp. 3, 5-7, IMP Site Plan Tab #3):

Parcel 1	15.03 acres	GE Capital Bldg.
Parcel 2	17.45 acres	Partners On Demand and Buildings A, B, C & D

The average lot widths of IMP Parcels 1 & 2 exceed the 250-foot requirement of TDC 62.050(2). The minimum lot widths at the street exceed the 250-foot requirement of TDC 62.050(3). There are no flag lots or cul-de-sac streets proposed, no remnant areas created by the location of public streets and no wetlands on the site.

The two proposed Mittleman IMP parcels would meet the minimum lot size required under 37.020(4)(e) as part of the IMP review process. To ensure compliance with the IMP, all parcels created in a partition of the Mittleman Properties IMP site shall have a minimum lot size of 15 acres and meet the lot dimension requirements of TDC 37.020(4) and TDC 62.050. The applicant shall submit a partition application to the City to partition the site into the proposed two individual parcels.

TDC 37.020(4)(f) Location of required building and parking facility landscape areas.

The proposed IMP does not propose alternative methods of locating required building and parking facility landscaping. The application narrative states that each partition lot will exceed the minimum 20% landscape requirement and will meet or exceed the landscape requirements of 73.230-73.210, 73.320, 73.340 and 73.360-410 (Attachment 4, pp. 7, 14, IMP Site Plan Tab #3). In a review of the IMP plan, staff concurs that the landscaping associated with the buildings and parking areas with the two parcels and proposed Buildings B, C and D will meet the required landscaping standards.

TDC 37.020(5) Except as specifically provided in subsection (4) above, all other provisions of this Code shall apply within an Industrial Master Plan Area.

The proposed IMP does not propose alternative methods beyond those identified and discussed in this report. The applicant has not identified any future need to amend an IMP approval. To ensure compliance with the TDC, when building or site improvements to the Mittleton Properties site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-08-01.

If modifications to the alternative standards approved in IMP-08-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-08-01 are to be exceeded, a new IMP application shall be submitted for review.

INDUSTRIAL MASTER PLAN CRITERIA

37.030(1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.

Transportation

The Engineering Division reviewed the Applicant's submitted traffic information that showed the proposed IMP will result in a decrease in the Mittleman Properties site's developable area, from 464,400 s.f. down to 368,300. (Attachment G, pp 1-2) This is due to partition of the property into two parcels with minimal change to the 50 and 100 ft. building setback standards required in the MP Planning District. The decrease in the site's developable area under the IMP reduces the potential building floor area the site can support and reduces resultant "worst case" traffic generation. The TIA estimates a reduction of 1,213 Average Daily Trips. The table below shows the Trip Generation Summary presented in the Mittleman Properties IMP November 24, 2008 Letter:

MITTLEMAN REASONABLE WORST CASE TRIP GENERATION					
Land Use (ITE Code)	Scenario	Potential Development (Square Feet)	ADT	Weekday PM Peak Hour	
				Enter	Exit
Business Park - 770	Current MP	463,400	5,913	137	460
	Proposed IMP	368,300	4,700	109	366
Difference		95,100	1,213	28	94

The Engineering Memo (Attachment G, pp 1-3) concludes:

"Due to the decrease in developable area, the proposed IMP will not necessitate changes to the standards implementing the functional classification system."

"As the current TSP was based on acceptable LOS, a decrease in traffic generation potential will not increase LOS for this development, therefore will not significantly affect any transportation facilities in the area, reduce performance of streets as planned in the TSP, or necessitate changes to the standards implementing the functional classification system."

In summary, this IMP is consistent with the City of Tualatin transportation plan and meets TDC Section 1.032 Burden of Proof (8).

The applicant's narrative states "The entire site is served by existing public facilities." As all necessary public facilities are available to the subject property and will be extended to serve future building at the time of development, this criterion is met." (Attachment D, pp 7-8)

The Engineering Division Memo states: "As developable area is proposed to be decreased, the potential impact on all public utilities decreases. Public sanitary sewer, stormwater, and water lines exist in surrounding public right-of-way in accordance with Master Plans that accommodated existing developable area. As such, public utility capacity for a reduction in developable area exists." (Attachment G, pp 1-3)

The Engineering Memo (Attachment G, pp 1-3) concludes:

Water

An existing water line on site connects to the public line in SW Leveton Drive. The determination of appropriate easements and meters will be determined in a Partition or Architectural Review process.

Sanitary Sewer

An existing private sanitary sewer line on site connects to the public line in SW Leveton Drive. This private line was designed and inspected in 1994 to public standards in anticipation of a potential future partition that would necessitate a public line to cross private lots. In order to change the private line to public, the line will require an inspection, improvement to current public standards (as needed), maintenance bond, and dedication of the line and 15-foot public sanitary sewer & access easement.

Storm Drainage

Stormwater and water quality facilities are able to be shared among lots with appropriate private easements & agreements. Access to public right-of-way can be provided across lots with appropriate private shared access easements. A future partition along the lines shown in this IMP will require a shared stormwater easement & agreement and shared access agreement.

TDC 37.030(2) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity.

The general vicinity identified for this review is the Manufacturing Park (MP) Planning District and the Light Manufacturing (ML) District located to the west of the Mittleman Properties site along SW 124th Avenue. Across SW Tualatin Road to the north is the newly completed Birtcher Office Building (In CG-General Commercial) and the Woodridge Apartments (in RH-High Density Residential). Within the vicinity industrial developments and the Birtcher Office development have located buildings to meet required setbacks, and orienting building entrances and office components towards SW Leveton Drive, SW Tualatin Road or SW 124th Avenue. The Woodridge Apartments are

2-story wood-frame apartments with frontage on SW Tualatin Road and SW Pacific Hwy.

The typical industrial buildings in the vicinity of the Mittleman Properties site are generally 1-3 stories in height with an overall height of 22' to 46' and have flat roofs. Office components of the buildings are typically 1-2 stories and manufacturing buildings are 1-3 stories. Windows in manufacturing areas are generally associated with the office components. The exceptions to the above described character of the vicinity include the 4-story Novellus Systems Technical Services Building and 3-story Novellus Engineering/R&D Building that have a height of 68 ft., and the approved 3-story Phight Campus Computer Graphic (CG) Building that has a height of 56 ft. The two Novellus buildings located near SW Leveton Drive and the Phight CG building are multi-story buildings that have the appearance of Class A office buildings with strong masonry or architectural metal exterior features and extensive ribbon windows on each floor.

Parking areas and loading docks are typically oriented or buffered to reduce visibility from public rights-of-way and to residential areas located north of the vicinity in accordance with TDC Chapter 73.

Because the proposed Mittleman Properties IMP requests alternative methods for lot size and building setbacks for Buildings C & D (Attachment D, pp 1-15), the location of the buildings on the site is altered respective to public streets and to other developments in the vicinity. Building B is proposed as a single story "flex"/Light Industrial building located interior to the site and Buildings C & D are two story "office" style buildings located at the southeast and south west corners of the property will be oriented to SW Leveton Drive with multi-level windows on the street side elevations.

Building sizes vary based on parcel size and stage of overall development. The following Table gives a breakdown of existing (and anticipated) development from Architectural Review files or projections for anticipated building coverage:

Manufacturing Park Planning District

Business	Acres	Existing s.f. Building	Future expansion s.f.	Anticipated Total s.f.	FAR
Fujimi	12	161,120			.28
DPI	7.36			137,715	.43
DPI #II	7.2	181800			.46
Mittelman Properties (GE Security, Partners on Demand, VWR)	32.48	254,784		337,714	.24
JAE	40	114,150	170,850	285,000	.16
Phight Campus Phase I	29.6	0		240,000	.19

Business	Acres	Existing s.f. Building	Future expansion s.f.	Anticipated Total s.f.	FAR
Novellus Phase I Property	23.1 acres Develop	373,875			.33
Novellus/Oki Mfg. Parcel III Property	19.56 acres	74,000			.09

The existing and proposed Mittleman Properties buildings have the following estimated sizes identified:

- Existing GE Security – 138,824 s.f.
- Existing Partners On Demand – 59,560 s.f.
- Existing VWR – 56,400 s.f.
- Building B - 42,800 s.f.
- Building C Offices – 20,000 s.f.
- Building D Offices – 20,000 s.f.
- Total – 337,714 s.f.

The three existing and three proposed Mittleman Properties buildings are one- and two story structures that have building floor areas and Floor Area Ratios (FAR) (Total site is .28 at IMP build-out)(Parcel 1 FAR .21)(Parcel 2 FAR .26) that favorably compare to the other campus-style development in the MP Planning District.

The palette of building materials on the three existing Mittleman Properties Buildings and other buildings in the vicinity include:

- Brick or masonry veneer
- Finished concrete tilt panels
- Architectural Metal treatments on exterior walls
- Extensive metal frame window treatments.
- Earth tone colors

The palette of materials proposed for the three new buildings in the Mittleman Properties IMP are described as : "Materials will include brick and other varieties of masonry, with selective use of parapet walls, belt coursing, and vertical articulation. Buildings will be designed to emphasize their entrances by providing vertical emphasis of those areas. Except along portions used as loading areas, blank masonry walls will not be used." (Attachment 4, pp. 8-9) Use of multi-level buildings with masonry treatments on the visible exteriors, multi-level bands of windows, and an office appearance rather than a plain "warehouse box" appearance is consistent with the materials and design of other developments in the MP Planning District vicinity.

The materials and design of the existing and proposed Mittleman Properties development is similar to other development within the vicinity as described previously. To ensure the materials and design of buildings B, C & D meet the requirements of TDC

37.030(2), an Architectural Review application shall be presented for approval showing building design and materials based on the palette of materials identified in the Industrial Master Plan.

With the condition requiring building design and materials to be consistent with the approved Mittleman Properties IMP, the location, design, size, color, and materials of the proposed Buildings B, C and D are compatible with other development within the identified vicinity.

TDC 37.030(3) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 unless other wise approved through the Industrial Master Plan.

Internal circulation for the 32.4 acre Mittlemen Properties IMP development concept is provided by 3 existing access points that will be shared between the two parcels and six buildings. The one existing access on SW Leveton Drive and the two accesses off SW Tualatin Road will remain. These access locations connect to a network of shared internal drive aisles serving existing and proposed buildings, parking areas and loading areas on the site. The access and circulation standards proposed in the IMP is consistent with TDC standards.

The proposed Building B is internal to the site and not oriented to the public streets. The locations of proposed Buildings C and D are near the SW Leveton Drive frontage on the south while the building entries are oriented to the adjacent parking areas on the north and east respectively. The IMP proposes a 49 ft. setback for Building D to SW 124th Avenue and 50 ft. to SW Leveton Drive that is compensated by an office building design and substantial landscaping in the street frontage yards. The proposed Building D location with the alternative setback standard proposed in the IMP and the existing or proposed location and orientation of the other five Mittleman Properties buildings are in conformance with TDC Chapter 62.

The street frontage for the two proposed lots meets the minimum requirements required in TDC 62.050 for width, and street frontage.

The Mittleman Properties IMP proposes a total of 1,118 parking spaces as surface parking. The number of spaces proposed in the Master Plan concept exceeds the minimum requirement of 646 total spaces based on the concept of 337,800 square feet of building space with a mix of manufacturing, "flex space" and industrial office tenants. Parcel #1 (GE Security Bldg.) will have 417 spaces (222 required) and Parcel #2 (Buildings A-D & Partners on Demand Bldg.) will have 701 spaces at build out (424 required).

The Mittleman Properties IMP does not propose an alternative building height. The building height maximum is 70 feet allowed by TDC 62.080(1) except for the Partners on Demand Building located on Parcel #2 adjoining SW Tualatin Road across from the RH residential Planning District where a maximum 28 ft. building height is in effect at the 100 ft. setback line (extending up to the maximum 70 ft. at a 1:1 rate) [TDC 68.020(2)]. Existing building heights range from 22 feet to 46 feet. The height of Buildings B, C and D is not provided. Rooftop mechanical units do not apply to building height limitations based in the TDC definitions. Mechanical units and screening create an additional 6 -8 feet of height and are acceptable.

The proposed street frontage setbacks for Building D are a deviation from the base setbacks contained in TDC 62.060. This deviation is allowed through the IMP process. The proposed setbacks as previously analyzed and with recommended conditions are acceptable.

Lot sizes are proposed at 15.03 acres and 17.48 based on IMP approval. This is allowed through the IMP process and meets the requirements of TDC 62.62.050.

Site accesses, as previously discussed, are located off of SW Leveton Drive and SW Tualatin Road. The existing locations meet the requirements of TDC 62.090. No alternate locations are proposed.

RECOMMENDED CONDITIONS

The proposed Mittleman Properties IMP-08-01 will satisfy the IMP approval criteria of TDC 37.030 with the following recommended conditions:

1. To ensure the adequate provision of facilities between the two parcels allowed by the IMP, shared parking, circulation, common access and common facility shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared parking and circulation easements, access easements and common facility agreements and easements shall be established.
2. To ensure compliance with the IMP, all parcels created in a partition of the Mittleman Properties IMP site shall have a minimum lot size of 15 acres and meet the lot dimension requirements of TDC 37.020(4) and TDC 62.050. The applicant shall submit a partition application to the City to partition the site into the proposed two individual parcels.
3. To ensure compliance with the TDC, when building or site improvements to the Mittleton Properties site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-08-01.

4. If modifications to the alternative standards approved in IMP-08-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-08-01 are to be exceeded, a new IMP application shall be submitted for review.
5. To ensure the materials and design of buildings B, C & D meet the requirements of TDC 37.030(2), an Architectural Review application shall be presented for approval showing building design and materials based on the palette of materials identified in the Industrial Master Plan.



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MEMORANDUM

DATE: November 19, 2008

TO: Will Harper, AICP
Associate Planner

FROM: Tony Doran, EIT
Engineering Associate

SUBJECT: **IMP 08-01, Mittleman Properties**

Will,

On October 1, 2008 the engineering department received Industrial Master Plan Notice IMP 08-01 for a property designated Manufacturing Park Planning District (MP). This IMP would allow reduced lot sizes and setbacks in order to partition the existing Sentrol Building from the other existing structures as well as three future structures.

TRANSPORTATION

The applicant submitted a Traffic Impact Letter and Transportation Completeness Letter from Group Mackenzie dated September 29, 2008 and November 12, 2008, respectively. These letters provide the following key points:

- The current developable area is 23.64 acres (360,415 square feet)
- The IMP proposed lot lines and setbacks decrease developable area by 5.34 acres (81,413 square feet) to 18.30 acres (279,002 square feet)
- The decrease in developable area reduces traffic generation:
 - ADT by 946 from 4,596 to 3,650
 - Weekday PM Peak Hour by 105 from 467 to 357
- As the current TSP was based on acceptable LOS, a decrease in traffic generation potential will not increase LOS for this development

Comments have been submitted by ODOT indicating a determination of no significant impacts. Additional ODOT review and response will occur with future Architectural Reviews and associated submitted traffic analysis.



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OAR 660-012-0060 (1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

(a) Change the functional classification of an existing or planned transportation facility

(b) Change standards implementing a functional classification system

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan

TDC Section 1.032 Burden of Proof: (8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Near the subject area is SW Pacific Highway, an ODOT facility, and adjacent to the subject area is SW 124th Avenue, SW Tualatin Road, & SW Leveton Drive, all City of Tualatin facilities. SW Pacific Highway is classified by ODOT as a Statewide Urban highway. Due to the decrease in developable area, the proposed IMP does not change the functional classifications of SW Pacific Highway for ODOT.

The City of Tualatin classifies SW Pacific Highway & SW 124th Avenue as Major Arterials, SW Tualatin Road as a Major Collector, and SW Leveton Drive as a Minor Collector. Due to the decrease in developable area, the proposed IMP does not change the functional classifications of SW Pacific Highway, SW 124th Avenue, SW Tualatin Road, or SW Leveton Drive for the City of Tualatin.

Due to the decrease in developable area, the proposed IMP will not necessitate changes to the standards implementing the functional classification system.

As the current TSP was based on acceptable LOS, a decrease in traffic generation potential will not increase LOS for this development, therefore will not significantly affect any transportation facilities in the area, reduce performance of streets as planned in the TSP, or necessitate changes to the standards implementing the functional classification system.

In summary, this IMP is consistent with the City of Tualatin transportation plan and meets TDC Section 1.032 Burden of Proof (8).



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PUBLIC UTILITIES AND ACCESS

TDC 37.030 Criteria for Review

The City Council shall approve an Industrial Master Plan, after a hearing conducted pursuant to TDC 32.040, provided that the applicant demonstrates that the following criteria are met:

- (1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.**

As developable area is proposed to be decreased, the potential impact on all public utilities decreases. Public sanitary sewer, stormwater, and water lines exist in surrounding public right-of-way in accordance with Master Plans that accommodated existing developable area. As such, public utility capacity for a reduction in developable area exists.

An existing private sanitary sewer line on site connects to the public line in SW Leveton Drive. This private line was designed and inspected in 1994 to public standards in anticipation of a potential future partition that would necessitate a public line to cross private lots. In order to change the private line to public, the line will require an inspection, improvement to current public standards (as needed), maintenance bond, and dedication of the line and 15-foot public sanitary sewer & access easement.

An existing water line on site connects to the public line in SW Leveton Drive. The determination of appropriate easements and meters will be determined after submittal of a land use application.

Stormwater and water quality facilities are able to be shared among lots with appropriate private easements & agreements. Access to public right-of-way can be provided across lots with appropriate private shared access easements. A future partition along the lines shown in this IMP will require a shared stormwater easement & agreement and shared access agreement.

Specific requirements for public infrastructure and private easements & agreements will be determined in Partition and Architectural Review decisions.



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Brenda Braden, City Attorney *BB*

DATE: January 12, 2009

SUBJECT: AN ORDINANCE GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE AGREEMENT TO TW TELECOM LLC.

ISSUE BEFORE THE COUNCIL:

City Council will consider whether to grant a telecommunications franchise to tw telecom, llc.

RECOMMENDATION:

Staff recommends that the City Council approve the attached ordinance, granting the franchise.

EXECUTIVE SUMMARY:

The company, tw telecom llc, is seeking a telecommunications franchise with the City of Tualatin. The key terms and conditions are as follows:

- The franchise is non-exclusive.
- The franchise would be for a term of ten years.
- The franchisee would have to comply with TMC chapter 10-1 that regulates the use of the City's rights-of-way. That chapter has provisions to cover termination, abandonment, and removal of the system, as well as requirements for working in the rights-of-way.
- The franchise imposes a franchise fee of 5% of gross revenues, with a minimum semi-annual fee of \$2500.

STAFF REPORT – AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE
TO TW TELECOM LLC.

Page 2 of 2

- The company would be required to carry specific amounts of various types of insurance coverage, with no cancellation or non-renewal without 30 days prior notice to the City Attorney.

These provisions are substantially similar to those Tualatin has with other telecommunications companies.

OUTCOMES OF DECISION:

If the Council approves the franchise, the City would collect a minimum of an additional \$5000 in franchise fees and additional telecommunications services would be available in Tualatin.

If the Council does not approve the franchise, the company could not operate in Tualatin.

FINANCIAL IMPLICATIONS:

The franchise would result in the City collecting a minimum of \$5000 in franchise fees.

Attachment: A. Ordinance

ORDINANCE NO. 1274-09

AN ORDINANCE GRANTING A NON-EXCLUSIVE
TELECOMMUNICATIONS FRANCHISE TO TW TELECOM OF
OREGON LLC.

WHEREAS tw telecom of oregon llc, ("Franchisee") wishes to enter into a franchise with the City of Tualatin ("the City") for purposes of offering telecommunications services; and

WHEREAS the City has jurisdiction and regulatory management over its public rights-of-way; and

WHEREAS the City is willing to exercise its authority and enter into a franchise agreement with Franchisee.

Now therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Grant of authority. The City grants the Franchisee a non-exclusive franchise to occupy City rights-of-way and appropriate utility easements for the construction, use, operation and maintenance of a telecommunications system for a period of ten years from the effective date of this agreement (the "term") except as set forth below.

Section 2. Authority not exclusive. The City reserves the right to grant rights to others to use its rights-of-way during the franchise term. The City may do any work on, over or under any street, alley, utility easement or other right-of-way. The Franchisee shall respect the rights and property of the City and other authorized users of easements and rights-of-way. This agreement does not confer any right, title, or interest in any public right-of-way on Franchisee beyond that expressly conferred in this agreement. Except as otherwise required by law, disputes between Franchisee and parties other than the City over use of the easements and rights-of-way under this agreement shall be submitted to the City for resolution. The City's decision may be appealed to any judicial or administrative body having appropriate jurisdiction. Both the City and the Franchisee expressly reserve all rights they may have under law to the maximum extent possible; neither the City nor the Franchisee shall be deemed to have waived any federal or state constitutional or statutory rights they may now have or may acquire in the future by entering into this agreement.

Section 3. Performance. During the term of this agreement, the Franchisee agrees to meet all the terms and conditions of Chapter 10-1 of the

Tualatin Municipal Code, which is incorporated into this agreement by this reference, except as follows:

- (a) City agrees that it will not remove Franchisee's equipment under TMC 10-1.150 until the City and Franchisee negotiate a solution for relocation or retrofitting so long as Franchisee does not unreasonably delay entering negotiations for such solution.

- (b) City acknowledges that as Franchisee is building its system and securing customers, it may have telecommunications equipment in the right-of-way that is not activated within one year but is not abandoned as contemplated by TMC 10-1.230 and 10-1.380. Therefore, City agrees that at such time as Franchisee intends to discontinue using or to remove any telecommunications network facility or facilities within the City, including actions pursuant to a City termination order, Franchisee shall submit a specific plan for such discontinuance or removal to the City Engineer for the City Engineer's approval. The City Engineer may allow Franchisee to abandon in place any facility, may require the Franchisee to remove or modify the facilities within the public rights-of-way or other public place or property, may cause the facilities to be removed at the Franchisee's expense, or may take any combination of these actions. Franchisee shall complete such removal or modifications in accordance with a schedule reasonably set by the City Engineer. Until such time that Franchisee's property is completely removed and all restorations to the public rights-of-way or other public places or property have been completed, Franchisee shall be responsible for all necessary repairs, relocations, and maintenance of the facilities in the same manner and degree as if the facilities were in active use, and Franchisee shall retain all liability for such facilities.

- (c) Franchisee does not require the City's consent to transfer, assign, lease, merge, or consolidate with any entity, firm or corporation which Franchisee controls, is controlled by or is under common control with or a third party except that such Affiliate or third party shall not succeed to Franchisee's rights hereunder unless that Affiliate or third party agrees to abide by the provisions of this franchise agreement.

- (d) Franchisee reserves the right to challenge any of the terms and conditions of TMC Chapter 10-1 under present or future applicable federal and state law.

Section 4. Change of law; amendment of franchise agreement. This agreement may be amended from time to time to conform to any changes in the controlling federal or state law or other changes material to this agreement. Each party agrees to bargain in good faith with the other party concerning such proposed amendments. This agreement may be amended or terminated by the mutual consent of the parties and their successors in interest.

Section 5. Franchise fees. As compensation for the benefits and privileges under its franchise and in consideration of permission to use the right-of-way of the City, the Franchisee shall pay a semi-annual franchise fee to the City during the duration of its franchise as follows:

- (a) The minimum semi-annual franchise fee shall be two thousand five hundred dollars (\$2500).
- (b) The franchise fee shall equal 5% of the Franchisee's gross revenues derived from Franchisee's provision of telecommunications facilities to retain customers and on all other gross revenues derived from Franchisee's provision of telecommunications services and telecommunications facilities to wholesale customers, including other telecommunications carriers. "Gross revenues" means gross revenue derived by tw telecom for the provision of telecom services originating or terminating in Tualatin and charged to a circuit location in Tualatin, regardless of where the circuit is billed or paid.
- (c) The annual franchise fee collectable from a telecommunications utility shall not exceed the maximum amount allowed under Oregon law. The City shall accept from a telecommunications utility, in full payment of the franchise fee, the maximum amount allowed under Oregon law. On request, the telecommunications utility must provide documentation to support its calculation.
- (d) Payment shall be made by January 30 and July 30 for the previous six-month period.
- (e) After the date this agreement becomes effective, if Oregon laws or regulations change the maximum franchise fee amount to be collected on telecommunications providers, the City may reopen Section 5 (b) of this agreement only for the purposes of raising the franchise fee in accordance with the revised law and Franchisee may reopen Section 5(b) of this agreement only for the purposes of reducing the franchise fee in accordance with the revised law.

Section 6. Reports. Within thirty days of receipt, Franchisee shall submit copies of all decisions, correspondences, and actions by any federal, state and local courts, regulatory agencies and other government bodies substantially and materially affecting its telecommunications obligations under this agreement. Upon advance written notice of at least thirty days, Franchisee shall make available to City such other nonproprietary information or reports pertinent to enforcing the Franchise in reasonable form and at such reasonable times as the City may request.

Section 7. Taxes. Nothing contained in this Agreement shall be construed to exempt the Franchisee from any license, occupation, or excise tax or assessment that is or may be lawfully imposed on all entities in the same business as the Franchisee.

Section 8. Insurance. Franchisee attaches and incorporates the Certificate of insurance consistent with the requirements of TMC 10-1.500, modified as:

Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the City, and its elected and appointed officers, officials, agents and employees as coinsured:

- (1) Comprehensive general liability insurance with limits not less than
 - (a) \$3,000,000 for bodily injury or death to each person;
 - (b) \$3,000,000 for property damage resulting from any one accident;
 - (c) \$3,000,000 for all other types of liability relevant to Grantee's Operations; and
 - d) Limits required herein may be satisfied through Grantee's Umbrella Liability Policy.
- (2) Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident. Limits required herein may be satisfied through Grantee's Umbrella Liability Policy.
- (3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.
- (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$3,000,000.
- (5) The grantee shall maintain liability insurance policies required by this Section throughout the term of the telecommunications franchise, and such other period of time during which the grantee is operating without a franchise, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall provide that contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 30 days after receipt by the City, by registered mail, of a written notice addressed to the Tualatin City Attorney of such intent to cancel or not to renew."

(6) Within 60 days after receipt by the City of said notice, and in no event later than 30 days prior to cancellation, the grantee shall obtain and furnish evidence to the City that the grantee meets the requirements of this Section.

(7) As an alternative to the insurance requirements listed above, a grantee may provide evidence of self-insurance subject to review and acceptance by the City.

(8) Grantees shall either provide insurance coverage as described above for their contractors and subcontractors or require that the contractors and subcontractors provide evidence of such insurance coverage as is required of contractors and subcontractors by Grantee before beginning work in the public rights of way.

Section 9. Severability clause. If any clause, sentence, or any other portion of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law. If any material portion of the Agreement becomes illegal, null or void so that the intent of the Agreement is frustrated, the parties agree to negotiate replacement provisions to fulfill the intent of the Agreement consistent with applicable law.

Section 10. Remedies.

(a) If Franchisee fails to comply with a material provision of this Agreement or violates its terms, Franchisee will forfeit all rights and privileges granted by this Agreement. That forfeiture will not occur until after:

(A) City notifies Franchisee clearly and in detail, in writing, of the failure or violation; and

(B) Franchisee has ninety days after notice from City to comply with the provisions of this Agreement; or if the provision cannot be satisfied within the ninety-day period, to commence and diligently pursue compliance. If the failure or violation continues beyond the ninety-day period, or, if the cure cannot be made within ninety days, Franchisee fails to commence and diligently pursue compliance as required in this subparagraph, City, at its sole discretion, has the right to determine that the franchise is forfeited. Forfeiture of the franchise shall not relieve Franchisee from complying with the Tualatin Municipal Code on telecommunications.

(C) If Franchisee corrects the violation or commences and diligently pursues compliance within the ninety-day period, then no damages or other remedy shall be imposed.

(b) Notwithstanding the above, failure, default or violation by Franchisee shall not constitute grounds for the forfeiture of this franchise if due materially, substantially and reasonably to an act of God, fire, flood, storm or element

or casualty, theft, war, disaster, strike, lock-out, boycott, prevailing war or war preparation, or bona fide legal proceedings beyond the control of Franchisee.

- (c) All remedies and penalties under this Agreement, including termination of the franchise, are cumulative and not exclusive. The recovery or enforcement by one available remedy or imposition of a penalty is not a bar to recovery or enforcement by other remedy or imposition of other penalty. City reserves the right to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon Franchisee under this Agreement. A specific waiver of a particular breach of a term, condition or obligation imposed on Franchisee under this Agreement shall not be a waiver of any other or subsequent breach of the same or other term, condition or obligation.
- (d) City preserves the right to adopt such additional regulations as it finds necessary in the exercise of its police power, provided that such regulations or ordinances are reasonable and not in conflict with the rights granted in this Agreement. At all times during the term of this Agreement, Franchisee shall be subject to all lawful exercise of the police power by the City, and to such reasonable regulations that the City may subsequently provide by resolution or ordinance. With regard to this franchise, City reserves the right to exercise all authority now or hereafter granted to the City by state statute or City charter, except where such authority may be modified or superseded by the Constitutions of the United States or the State of Oregon. Franchisee reserves the right to challenge any of the terms and conditions of such additional regulations and ordinances under present or future applicable federal and state law.
- (e) In the event of a suit, arbitration or other proceeding of any nature whatsoever, including without limitation, a proceeding under the U.S. Bankruptcy Code, is instituted to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover from the losing Party, to the extent allowed by applicable law, its reasonable attorneys, paralegal, accountants and other expert fees, and all other fees, costs, and expenses actually incurred and reasonably necessary in connection with such proceedings, as determined by the judge or arbitrator at trial or arbitration, or on appeal or review, in addition to all other amounts provided by law. To the extent allowed by applicable law, this provision shall cover costs and attorneys' fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

Section 11. Assignment. All rights and privileges granted and duties imposed by this Agreement upon Franchisee shall extend to and be binding

upon Franchisee's successors, legal representatives and assigns. Franchisee shall notify City of any sale or transfer of its plant or system, or a majority control of its plant or system, within sixty days after such transfer occurs.

Section 12. Notice. Unless otherwise specifically provided, all notices shall be mailed by US certified mail, return receipt requested, postage prepaid, to the following address:

If to Franchisee: Tina Davis
Sr. VP & Deputy General Counsel
tw telecom inc.
10475 Park Meadows Drive
Littleton, CO 80124

With a copy to: Lyndall Nipps
VP-Regulatory
tw telecom inc.
845 Camino Sur
Palm Springs, CA 92262-4157

If to City: City of Tualatin
Attention: City Attorney
18880 SW Martinazzi
Tualatin, OR 97062

Section 13. Governing Law. The laws of the State of Oregon govern this Agreement and its interpretation, performance, and enforcement.

Section 14. Effective Date. This ordinance shall take effect 30 days after it is adopted and approved by the City Council and is effective for ten years.

INTRODUCED AND ADOPTED THIS 12th DAY OF January, 2009.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN

BY 
Mayor

ATTEST:

BY 
City Recorder