



**TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION
TUESDAY, May 26, 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

**Council President Chris Barhyte
Councilor Monique Beikman
Councilor Joelle Davis**

**Councilor Jay Harris
Councilor Donna Maddux
Councilor Ed Truax**

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 FOR PUBLIC HEARINGS

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 5 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

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Proclamation
2. New Employee Introduction - *Brian Miller, Police Officer*
3. Science and Technology Scholarship Recipients Presentation

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 – 4)

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 the Minutes for the Work Session and Meeting of May 11, 2009
2. Resolution No. 4884-09 Amending the City of Tualatin Fee Schedule and
Rescinding Resolution No. 4877-09
3. Resolution No. 4885-09 Awarding the Bid for the Indian Woods and Indian Meadows
Subdivisions Watermain Replacement Project
4. Resolution No. 4886-09 Authorizing Renewal of a Lease for a Portion of the Brown's.....
Ferry Community Center to the Wetlands Conservancy

E. PUBLIC HEARINGS – Legislative or Other

None.

F. PUBLIC HEARINGS – Quasi-Judicial

1. Industrial Master Plan Request for JAE Oregon, Inc. Property in the
Manufacturing Park (MP) Planning District (IMP-09-01)

(F. PUBLIC HEARINGS – Quasi-Judicial cont.)

- 2. Conditional Use Permit for the Stafford Hills Racquet & Fitness Club (SHR&F Club) as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax Lot 900) (CUP-09-01)

Resolution No. - - - Granting a Conditional Use Permit for the Stafford Hills Racquet & Fitness Club as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane
(Tax Map 21E19C, Tax Lot 900) (CUP-09-01)

[Continued from April 27, 2009]

[Final Amended Resolution to Council June 8, 2009]

G. GENERAL BUSINESS

None.

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



CITY COUNCIL SIGN-UP SHEET

DATE: May 26, 2009 - pg. 1

PLEASE COMPLETE TO GIVE TESTIMONY

LIMIT TESTIMONY TO THREE MINUTES

	(PLEASE PRINT CLEARLY) Name	Address	E-mail	Representing	Agenda Item(s) or Citizen Comments
1.	JOE LIPSCOMB Stephen Ricker	8770 SW TUCKER RD #205 9345 SW OCHOA CT.		JANITA POLTZ CENTER FOX HILL RESIDENTS	
2.	MARAJEN O'NEIL	19095 SW MOBILE PL		JAE	Public News #1 - JAGIMP
3.	Kelly Niemeyer	15155 SW Park Ave Portland		Fox Hill	
4.	Beverly Lambert	19678 SW 57th Ave		Orchard Hill next to Fox East	
5.	Nancy Falconer	4525 SW Nathiez Ct		SEE	
6.	Joe Arkin	4580 SW CHUNNUT			CUB
7.	Bob & Janice Dove	19135 SW Mobile Pl.			
8.	Stephen Ricker	9345 SW OCHOA CT.		JANITA POLTZ CENTER	CITIZ. Comm.

Proclamation

Proclamation Proclaiming Al Turner as "Mr. Patriot" in the City of Tualatin

WHEREAS Al Turner, Post Advocate for the Veterans of Foreign War Post 3452, was inducted into the Oregon Military Hall of Fame on April 18, 2009; and

WHEREAS Al Turner was 22 and a U.S. Army medic on June 6, 1944, when he took part in D-Day, the invasion of Normandy that was key to Allied victory in World War II; and

WHEREAS Al made his way inland with a group of soldiers, but they were taken prisoner by German soldiers who spared their lives because they were medics; and

WHEREAS Al Turner was a prisoner of war until August 1944; and

WHEREAS in 2004 Al Turner received the Jubilee of Liberty Medal from the French government for his D-Day service and, in 2005, was named Oregon's "Mr. VFW;" and

WHEREAS Al Turner, now 87, is known to his VFW friends as "Mr. Patriot."

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

Al Turner shall be known as "Mr. Patriot" in the City of Tualatin from this day forward.

INTRODUCED AND ADOPTED this 26th day of May, 2009.



CITY OF TUALATIN, OREGON

BY

A handwritten signature in blue ink, appearing to be "G. J. ...", written over a horizontal line.

Mayor

ATTEST:

BY

A handwritten signature in blue ink, appearing to be "Sherilyn Lombos", written over a horizontal line.

City Recorder



Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary J. Kerby

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: May 26, 2009

SUBJECT: APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETING OF MAY 11, 2009

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the Work Session and Meeting of May 11, 2009.

RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: Minutes



City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary g. Kerby

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF MAY 11, 2009

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax, Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Dan Boss, Operations Director; Kent Barker, Police Chief; Don Hudson, Finance Director; Carina Christensen, Assistant to the City Manager; Paul Hennon, Community Services Director; Abigail Elder, Library Manager; Aquilla Hurd-Ravich, Senior Planner; Eric Underwood, Development Coordinator; 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 6:35 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. City Fee Schedule Update

Community Development Director Doug Rux and Senior Planner Aquilla Hurd-Ravich presented a proposed fee schedule update. Mr. Rux explained how the fees are examined and broken into three groups. Staff looked at eight other cities' fees and found each city does it differently. One noticeable difference is six of the cities charge for pre-applications meetings which Tualatin does not.

Council consideration is whether fees should be updated at all, and if so, which methodology to use, whether to charge for pre-applications, and recouping long range planning. It was asked and answered what percentage of pre-applications follow through with an application and Mr. Rux said about 80%. Staff is recovering approximately 10 – 15% of the actual costs.

Discussion followed. Council questioned whether it was the right time to go through the process, given not enough data and the state of the economy. At some point, there will be a need to look at the Planning Division's functions tied to development.

[Councilor Truax left the meeting at 8:52 p.m.]

The meeting recessed at 7:02 p.m. and reconvened at 9:01 p.m.

The discussion reopened as to whether the fee schedule should be updated this year. How to be able to recover actual staff costs was discussed, and the difficulty of staff accounting for their time to the degree that would be needed for work done on a project. Mr. Rux suggested by the time staff comes back to Council at the next budget season, will have a better idea development with the given economy. How to approach long-range planning was also discussed.

Council present agreed to increase for inflation and small increment increase. Council also wanted to be certain to revisit this discussion next budget season, particularly long range planning.

City Manager Lombos noted there was a previous Council discussion on a "dog park" and staff has additional information available and will be sending it to Council on basic costs. Mayor Ogden reiterated while he's in favor of this type of project, he is not in favor of spending any money this year.

C. CITIZEN COMMENTS

N/A

D. CONSENT AGENDA

Council reviewed the Consent Agenda with no changes.

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 – None.****I. COMMUNICATIONS FROM COUNCILORS – None.****J. EXECUTIVE SESSION – None.****K. ADJOURNMENT**

Mayor Ogden recessed the work session at 7:02 p.m. and reconvened the work session at 9:01 p.m.

The work session adjourned at 9:22 p.m.

Sherilyn Lombos, City Manager

Recording Secretary





City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council
Date May 26, 2009
Recording Secretary J. Kirby

TUALATIN CITY COUNCIL MEETING MINUTES OF MAY 11, 2009

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

ABSENT: None.

Mayor Ogden called the meeting to order at 7:07 p.m.

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

A. CALL TO ORDER

Councilor Barhyte led the Pledge of Allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Tualatin Youth Advisory Council Presentation

Members of the Youth Advisory Council (YAC) gave an update on upcoming activities and reported on the success of the Project F.R.I.E.N.D.S, and distributed a bracelet to Council that was part of the program. The YAC also presented a plaque to Councilor Beikman for her work on the Project F.R.I.E.N.D.S program.

2. Presentation of the "Commitment to Youth" Award to Mayor Lou Ogden

City Manager Sherilyn Lombos noted the Chamber held their "Celebrate Tualatin" event and four awards were given, and Mayor Ogden received a Commitment to Youth award. The nomination quoted Mayor Ogden's work and commitment to youth over the years.

3. Proclamation Declaring May 11 – 15, 2009 National Police Week in the City of Tualatin

Councilor Donna Maddux read the proclamation declaring May 11 – 15 *National Police Week* in the City of Tualatin.

Mayor Ogden also noted the prestigious "Paul Nagy" Award that was presented at the previous Council meeting to Police Chief Kent Barker by the Oregon Chiefs of Police Association, and personally thanked Chief Barker.

4. *Proclamation Proclaiming May 17- 23, 2009 "Public Works Week" in the City of Tualatin*
Councilor Beikman read the proclamation proclaiming May 17 – 23, 2009 *Public Works Week* in the City of Tualatin. A PowerPoint was displayed of various work and projects being done by Operations staff. Councilor Beikman also thanked and said she was thankful for all the work that is done by City staff. Operations Director Dan Boss added there is a Public Works Week barbecue on May 22, 2009 at Community Park and invited Council to attend.

5. *Proclamation Designating the Week of May 17 – 23, 2009 as "Emergency Medical Services Week" in the City of Tualatin*
Representative Megan Tatum from MetroWest Ambulance presented a plaque on behalf of all Emergency medical Services (EMS) workers in Tualatin for the continued support of all EMS personnel. MetroWest has been providing service since 1953.

Councilor Davis read the proclamation designating the week of May 17 – 23, 2009 as *Emergency Medical Services Week* in the City of Tualatin.

6. *Update on the City's Efforts Regarding a Whistle-Free Quiet Zone*
City Manager Sherilyn Lombos gave an update on the City's efforts on a whistle-free quiet zone. Federal funding has been requested and additional information requested has been provided. Staff has been responsive and excited about moving forward in the federal budget process. TriMet has released a proposal for a consultant on the process and implementation of a quiet zone and should have someone on board this month. TriMet is also exploring options around the Brown's Transfer crossing including closing it. Tonquin and Brown's Transfer crossings are in Washington County, of which the County has also stepped up to address issues at those crossings. This will only pertain to commuter rail, not freight trains.

Ms. Lombos also said a five-year waiver may be granted by the Federal Railroad Administration (FRA) and cautioned it won't solve problem but will provide some relief. There is some urgency to spend the stimulus dollars and the consultants looking at an 18-24 month process. A work session will be scheduled in June, and updates will be given at the first Council meeting of each month.

7. *Regional Transportation Plan Update by Mayor Ogden (added to Agenda Under Presentations)*
Mayor Ogden gave an update on the I-5 / 99W Connector Project. Alternatives were presented and the Project Steering Committee (PSC) decision was not *unanimous* in its decision recommending that Alternative 7 be included in Metro's Regional Transportation Plan (RTP), which therefore does not advance the project.

There has been discussion of making updates to the RTP to include components of the project. The next step is the Washington County Coordinating Committee (WCCC) with the objective to advance the notion of the 124th extension, Boones Ferry to I-5 as Tualatin's recommended change to the RTP. The next step after the WCCC is the Metro's Joint Policy Advisory Committee on Transportation (JPACT) which requires every major city to agree on funding options, etc. The 124th Avenue portion is the only component part that Tualatin is promoting.

C. CITIZEN COMMENTS

Kathy Newcomb, 17515 SW Cheyenne Way, Tualatin, expressed her concerns about the I-5 Connector project process. She asked that more notification be given, particularly when there will be open houses held, etc. and information placed in the City's newsletter. Ms. Newcomb said this will come up again with the City's Transportation System Plan (TSP) and questioned if it is still part of the plan.

Ms. Newcomb also mentioned in a recent article in the Washington County weekly newspaper there were at least 11 misconceptions in an article regarding water issues. She is working with Citizens for Safe Water to correct those misconceptions.

Dolores Hurtado, 8685 SW Chinook Street, Tualatin, was present to speak on a number of questions she has regarding the I-5 / 99W Connector project northern arterial portion. Ms. Hurtado reiterated Mayor Ogden's update on the Connector project and the City's support of the 124th Avenue extension. She also questioned the non-unanimous decision by the I-5/99W Project Steering Committee (PSC). Mayor Ogden explained by not receiving a unanimous vote there is not a completed project. Next step is what components will get on the Regional Transportation Plan (RTP). Ms. Hurtado asked about the other components of the project still being part of the plan as described. Mayor Ogden said the status it has is a report recommendation by the PSC. Mayor Ogden reiterated his comments on the next steps in the process.

Councilor Maddux suggested this discussion could be continued with staff and the Mayor in a different venue and Mayor Ogden said he'd be happy to meet with Ms. Hurtado to discuss this issue further.

D. CONSENT CALENDAR

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

1. Approval of the Minutes for the Special Work Session of April 20, 2009 and the Work Session and Meeting of April 27, 2009
2. Approval of a New Liquor License Application for Tequeira El Lago Restaurant
3. Reauthorize Concession Agreement with Alder Creek Canoe and Kayak for Provision of Canoe and Kayak Livery Services at Brown's Ferry Park
4. Resolution No. 4880-09 Authorizing a Revocable Permit for Architectural Features at the Robinson Crossing II Building Overhanging Public Sidewalk of SW Seneca Street and SW Boones Ferry Road
5. Resolution No. 4881-09 Awarding the Bid for the Norwood Pump Station
6. Resolution No. 4882-09 Authorizing an Amendment to the Intergovernmental Agreement with the City of Lake Oswego
7. Resolution No. 4883-09 Approving the SW Seneca Street Sanitary Sewer Extension Project Agreement between the City of Tualatin and the Tualatin Development Commission

MOTION CARRIED.

E. PUBLIC HEARINGS – Legislative or Other

None.

F. PUBLIC HEARINGS – Quasi-Judicial

None.

G. GENERAL BUSINESS

1. *Update from ODOT regarding the I-5 Tualatin River – Willamette River Section Project*
City Engineer Mike McKillip introduced representatives from the Oregon Department of Transportation (ODOT), Matt Freitag, Lilly Gordon, and Ron Kroop, and consultant Kevin Thelin of Murray Smith & Associates, to speak on the Interstate 5 Preservation Project – Tualatin River Bridge to Boone Bridge (Wilsonville) Project. It is a pavement rehabilitation and facility upgrade and extends from the Tualatin River to the Willamette River. The work is scheduled to be performed in the summer of 2009 and 2010. Most of the work will be done at night similar to other I-5 work in recent years.

A PowerPoint presentation was given explaining what the project will entail in terms of construction. Elements that affect the City of Tualatin were mentioned. Signage was reviewed, and the sound wall component was also reviewed. Facts about the sound wall was mentioned. Sixty-one residences will be affected. ODOT is committed to holding several open houses on this project, and flyers will be distributed for a May 28th, 6:30 – 8:00 p.m. meeting to affected residences. A contractor has been selected for the job, and there will be a 24-hour hot line for people to get updates. This will be a two-season project, and the website is also up and going with information. Well over half of the project will be completed in 2009, and ODOT anticipates the start date in the beginning of July 2009. Councilor Maddux asked to have a link on the city's website about the project.

Questions were asked about merging distances and speeding issues on off-ramps at Nyberg/I-5 Interchange. In response to tire noise, Mr. Kroop explained about the use of open graded pavement to reduce water spray and that it is quieter when new, but does have its problems and ODOT is not currently using.

Discussion also on the City's efforts to clean up landscaping and grassy areas at freeway intersections and ODOT'S appreciation of the help. Mr. Kroop thanked the City for the help and said the winter maintenance budget is limited and they are trying to do what they can. Also mentioned was whether a modification to the bridge at Norwood Mr. Thelin explained what will be done there and hope to correct low spots where water collects.

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 Barhyte said "Comcast Cares Day" employee volunteer program was held on April 25, 2009.

Councilor Barhyte also mentioned the urban/rural reserves process and the timeline extension to accommodate the various cities and committees to determine what should be designated urban/rural reserves. More will be forthcoming in the next few weeks.

Councilor Maddux mentioned the recent Student Art Show held in the Library and said it was great to see the walls covered with student art. On May 1, 2009 at the Juanita Pohl Center a luncheon was held for the City's volunteers and noted a number of City staff were also there to serve lunch to the volunteers.

K. ADJOURNMENT

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to adjourn the meeting at 8:51 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary





Approved By Tualatin City Council

Date May 26, 2009

Recording gKerby

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Doug Rux, Community Development Director *DR*
Aquilla Hurd-Ravich, Senior Planner *AHR*

DATE: May 26, 2009

SUBJECT: RESOLUTION AMENDING THE CITY OF TUALATIN FEE
SCHEDULE AND RESCINDING RESOLUTION NO. 4877-09.

ISSUE BEFORE THE COUNCIL:

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

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

EXECUTIVE SUMMARY:

- This action is not a public hearing.
- This proposal is to amend the City of Tualatin Fee Schedule in order to increase the following fees based on the Consumer Price Index increase over the years 2006, 2007 and 2008:

Community Development Department:

Amendment to Comprehensive Plan Map

Amendment to Comprehensive Plan Text/Landmark

Designation/Removal of Landmark Designation

Annexation

Appeal Proceeding to Council

Appeal Expedited Process to Referee, Deposit per ORS 197.375

Architectural Review Application, Nonexpedited Process

Architectural Review Application, Expedited Process:

Conditional Use Permit

Conditional Use Permit Renewal
Core Area Parking District Tax Appeal
Industrial Master Plans
Landmark Alteration/New Construction Review
Landmark Demolition Review
Landmark Relocation Review
Reinstatement of Nonconforming Use
Request for Council Rehearing
Sign Code Interpretation
Sign Ordinance
Sign Code Variance
Sign Permit:
 New Sign or Structural Change to Existing Sign
 Temporary Sign or Each Face Change to Existing Sign
Temporary Uses, 1 - 3 days
 4 - 180 days
 Over 3 days
Transitional Use Permit
Variance:
 When primary use is a single family dwelling in RL or RML
 When primary use is not a single family dwelling in RL or RML
Variance, Minor:
 When primary use is a single family dwelling in RL or RML
 When primary use is not a single family dwelling in RL or RML
All Other Actions

Engineering & Building Department:
Engineering Copies:
 1987 and earlier, aerial/contour maps
 36" x 48"
 24" x 36"
 18" x 24" and 11" x 17"
Geographic Information System:
 Citywide aerial photo, 36" x 42"
 Subdivision street map, 34" x 36"
 Street map, 22" x 22"
 Planning Districts, 34" x 44"
 Planning Districts, 18" x 24"
 Custom Mapping
Partition,* Nonexpedited & Expedited Processes
Partition,* Nonexpedited & Expedited Exten. /Modif.
Partition,* Nonexpedited, Appeal Proceeding to Council
Partition,* Expedited, Appeal to Referee, Deposit per ORS 197.375
Partition,* Minor Variance included & primary use is a single family dwelling in RL or RML
Partition,* Minor Variance included & primary use is not a single family dwelling & not in RL or RML
Property Line Adjustm't.,* primary use is a single family dwelling in RL or RML
Property Line Adjustm't.,* Minor Variance included & primary use is a

single family dwelling in RL or RML
Property Line Adjustm't., * primary use is not a single family dwelling
in RL or RML
Property Line Adjustm't., * Minor Variance included & primary use is
not a single family dwelling in RL or RML
Property Line Adjustm't.* Appeal Proceeding to Council
Public Works Construction Code
Subdivision,* Nonexpedited and Expedited Processes
Subdivision,* Variance included & primary use is a single family
dwelling in RL or RML
Subdivision,* Variance included & primary use is not a single family
dwelling in RL or RML
Subdivision,* Minor Variance included & primary use is a single
family dwelling in RL or RML
Subdivision,* Minor Variance included & primary use is not a single
family dwelling in RL or RML
Subdivision,* Nonexpedited, Extension/Modif. by Council
Subdivision,* Expedited, Extension/Modif. by City Engineer
Subdivision,* Nonexpedited, Appeal Proceeding to Council
Subdivision,* Expedited Appeal to Referee, Deposit per ORS 197.375
Street Name Change
Street Vacation Application Deposit
Zone of Benefit Application Fee

OUTCOMES OF DECISION:

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

1. Affected fees will be increased;
2. All other fees will remain unchanged;
3. The changes will become effective July 01, 2009, in order to coincide with the start of the 2009-10 fiscal year; and
4. Resolution No. 4877-09 will be rescinded effective July 01, 2009, 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.

ALTERNATIVES TO RECOMMENDATION:

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

FINANCIAL IMPLICATIONS:

When fees identified in this staff report are collected by the City, they are deposited into various accounts that are identified as "revenue" in the City of Tualatin Budget. The City's current FY 2008-09 revenue projections for the accounts impacted by this proposed fee update are listed in the table below. The anticipated effect of the proposed fee adjustments on each of these revenue accounts is presented in the right-hand column of the table:

Account No.	Revenue Source	Adopted 08/09 Revenue	Effect of Fee Increase on 08/09 Revenue
001-0000-452.02-01	General Fund- Architectural Reviews	\$28,900	\$ 32,200.00
001-0000-452.02-02	General Fund- Signs	\$14,600	\$ 16,270.00
001-0000-452.02-03	General Fund- Other Land Use Fees	\$10,201	\$ 11,340.00
003-0000-451.02-03	Engineering and Building Fund- land use applications and other applications	\$3,000	\$ 3,310.00
003-0000-451.02-04	Engineering and Building Fund- Subdivisions	\$0.00	\$ 0.00
003-0000-451.04-00	Engineering and Building Fund- Code Book and Maps	\$600	\$ 670.00

DISCUSSION:

During the last four years fees have been increases based on the increase in the Consumer Price Index (CPI). The CPI increase in 2006 was 0.026, based on Council discussion at work session on May 11, 2009 staff used 0.03 for the fee increase. In 2007 the increase was 0.037, staff used 0.04 and in 2008 the increase was 0.033 staff used 0.04 to increase fees. Community Development and Engineering & Building fees have not been increased since 2006; therefore, the increase is compounded over the last three years. Staff recommends that the group of fees scheduled for review this year be increased as presented in the right-hand column of the table below. The column labeled **Fee Increase** is the increase resulting from three years of CPI increases.

Staff Report: Resolution amending the City of Tualatin Fee Schedule
 May 26, 2009
 Page 5 of 9

Fee Scheduled for Review	Account Number	Current Amount Collected	Fee Increase	Recommended Fee
Amendment to Comprehensive Plan Map	001-0000-452.02-03	\$1,795.00	\$ 205.00	\$ 2,000.00
Amendment to Comprehensive Plan Text/Landmark Designation/Removal of Landmark Designation	001-0000-452.02-03	\$1,795.00	\$ 205.00	\$ 2,000.00
Annexation	001-0000-452.02-03	\$1,225.00	\$ 140.00	\$ 1,365.00
Appeal Proceeding to Council	001-0000-452.02-03	\$115.00	\$ 13.00	\$ 128.00
Appeal Expedited Process to Referee, Deposit per ORS 197.375	001-0000-452.02-03	\$300.00	\$ -	\$ 300.00
Architectural Review Application, Nonexpedited Process				
Under \$5,000	001-0000-452.02-01	\$100.00	\$ 11.00	\$ 111.00
\$5,000 - \$24,999.99	001-0000-452.02-01	\$470.00	\$ 54.00	\$ 524.00
\$25,000 - \$99,999.99	001-0000-452.02-01	\$850.00	\$ 97.00	\$ 947.00
\$100,000 - \$499,999.99	001-0000-452.02-01	\$1,415.00	\$ 161.00	\$ 1,576.00
\$500,000 and greater	001-0000-452.02-01	\$2,070.00	\$ 236.00	\$ 2,306.00
Architectural Review Application, Expedited Process:				
Under \$5,000	001-0000-452.02-01	\$100.00	\$ 11.00	\$ 111.00
\$5,000 - \$24,999.99	001-0000-452.02-01	\$945.00	\$ 108.00	\$ 1,053.00
\$25,000 - \$99,999.99	001-0000-452.02-01	\$1,880.00	\$ 214.00	\$ 2,094.00
\$100,000 - \$499,999.99	001-0000-452.02-01	\$2,830.00	\$ 323.00	\$ 3,153.00
\$500,000 and greater	001-0000-452.02-01	\$4,335.00	\$ 494.00	\$ 4,829.00
Conditional Use Permit	001-0000-452.02-03	\$1,225.00	\$ 140.00	\$ 1,365.00
Conditional Use Permit Renewal	001-0000-452.02-03	\$1,225.00	\$ 140.00	\$ 1,365.00
Core Area Parking District Tax Appeal	001-0000-452.02-03	\$115.00	\$ 13.00	\$ 128.00
Industrial Master Plans	001-0000-452.02-03	\$1,565.00	\$ 178.00	\$ 1,743.00
Landmark Alteration/New Construction Review	001-0000-452.02-03	\$50.00	\$ 6.00	\$ 56.00
Landmark Demolition Review	001-0000-452.02-03	\$50.00	\$ 6.00	\$ 56.00
Landmark Relocation Review	001-0000-452.02-03	\$50.00	\$ 6.00	\$ 56.00
Reinstatement of Nonconforming Use	001-0000-452.02-03	\$1,225.00	\$ 140.00	\$ 1,365.00

Staff Report: Resolution amending the City of Tualatin Fee Schedule
 May 26, 2009
 Page 6 of 9

Fee Scheduled for Review	Account Number	Current Amount Collected	Fee Increase	Recommended Fee
Request for Council Rehearing	001-0000-452.02-03	\$140.00	\$ 16.00	\$ 156.00
Sign Code Interpretation	001-0000-452.02-02	\$350.00	\$ 40.00	\$ 390.00
Sign Ordinance	001-0000-452.02-02	\$6.00	\$ 1.00	\$ 7.00
Sign Code Variance	001-0000-452.02-02	\$580.00	\$ 66.00	\$ 646.00
Sign Permit:				
New Sign or Structural Change to Existing Sign	001-0000-452.02-02	\$115.00	\$ 13.00	\$ 128.00
Temporary Sign or Each Face Change to Existing Sign	001-0000-452.02-02	\$60.00	\$ 7.00	\$ 67.00
Temporary Uses, 1 - 3 days	001-0000-452.02-03	\$40.00	\$ 5.00	\$ 45.00
4 - 180 days	001-0000-452.02-03	\$40.00 + 1.50/day	\$ 5.00	\$45 +1.50/day
Over 3 days	001-0000-452.02-03	not to exceed a total of	\$ 19.00	not to exceed a total of \$189.00
Transitional Use Permit	001-0000-452.02-03	\$1,315.00	\$ 150.00	\$ 1,465.00
Variance:				
When primary use is a single family dwelling in RL or RML	001-0000-452.02-03	\$245.00	\$ 28.00	\$ 273.00
When primary use is not a single family dwelling in RL or RML	001-0000-452.02-03	\$1,225.00	\$ 140.00	\$ 1,365.00
Variance, Minor:				
When primary use is a single family dwelling in RL or RML	001-0000-452.02-03	\$245.00	\$ 28.00	\$ 273.00
When primary use is not a single family dwelling in RL or RML	001-0000-452.02-03	\$905.00	\$ 103.00	\$ 1,008.00
All Other Actions	001-0000-452.02-03	\$280.00	\$ 32.00	\$ 312.00
Engineering Copies:				
1987 and earlier, aerial/contour maps	003-0000-451.04-00	\$6.00	\$ 1.00	\$ 7.00
36" x 48"	003-0000-451.04-00	\$3.50	\$ 0.50	\$ 4.00
24" x 36"	003-0000-451.04-00	\$2.50	\$ 0.50	\$ 3.00
18" x 24" and 11" x 17"	003-0000-451.04-00	\$1.50	\$ 0.50	\$ 2.00
Geographic Information System:				

Staff Report: Resolution amending the City of Tualatin Fee Schedule
 May 26, 2009
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Fee Scheduled for Review	Account Number	Current Amount Collected	Fee Increase	Recommended Fee
Citywide aerial photo, 36" x 42"	003-0000-451.04-00	\$25.00	\$ 3.00	\$ 28.00
Subdivision street map, 34" x 36"	003-0000-451.04-00	\$12.00	\$ 1.00	\$ 13.00
Street map, 22" x 22"	003-0000-451.04-00	\$6.00	\$ 1.00	\$ 7.00
Planning Districts, 34" x 44"	003-0000-451.04-00	\$12.00	\$ 1.00	\$ 13.00
Planning Districts, 18" x 24"	003-0000-451.04-00	\$6.00	\$ 1.00	\$ 7.00
Custom Mapping	003-0000-451.04-00	45.00/hr, plus materials	\$ 5.00	\$50/hr + materials
Partition,* Nonexpedited & Expedited Processes	003-0000-451.02-03	\$350.00	\$ 40.00	\$ 390.00
Partition,* Nonexpedited & Expedited Exten. /Modif.	003-0000-451.02-03	\$115.00	\$ 13.00	\$ 128.00
Partition,* Nonexpedited, Appeal Proceeding to Council	003-0000-451.02-03	\$115.00	\$ 13.00	\$ 128.00
Partition,* Expedited, Appeal to Referee, Deposit per ORS 197.375	003-0000-451.02-03	\$300.00	\$ -	\$ 300.00
Partition,* Minor Variance included & primary use is a single family dwelling in RL or RML	003-0000-451.02-03	Add 115.00	\$ 13.00	Add 128.00
Partition,* Minor Variance included & primary use is not a single family dwelling & not in RL or RML	003-0000-451.02-03	Add 175.00	\$ 20.00	Add 195.00
Property Line Adjustm't,* primary use is a single family dwelling in RL or RML	003-0000-451.02-03	\$60.00	\$ 7.00	\$ 67.00
Property Line Adjustm't,* Minor Variance included & primary use is a single family dwelling in RL or RML	003-0000-451.02-03	Add 115.00	\$ 13.00	Add 128.00
Property Line Adjustm't,* primary use is not a single family dwelling in RL or RML	003-0000-451.02-03	\$255.00	\$ 29.00	\$ 284.00
Property Line Adjustm't,* Minor Variance included & primary use is not a single family dwelling in RL or RML	003-0000-451.02-03	Add 115.00	\$ 13.00	Add 128.00

Staff Report: Resolution amending the City of Tualatin Fee Schedule

May 26, 2009

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Fee Scheduled for Review	Account Number	Current Amount Collected	Fee Increase	Recommended Fee
Property Line Adjustm't.* Appeal Proceeding to Council	003-0000-451.02-03	\$115.00	\$ 13.00	\$ 128.00
Public Works Construction Code	003-0000-451.04-00	\$40.00	\$ 5.00	\$ 45.00
Subdivision,* Nonexpedited and Expedited Processes	003-0000-451.02-04	\$2,320.00	\$ 265.00	\$ 2,585.00
Subdivision,* Variance included & primary use is a single family dwelling in RL or RML	003-0000-451.02-04	Add 230.00	\$ 26.00	Add 256.00
Subdivision,* Variance included & primary use is not a single family dwelling in RL or RML	003-0000-451.02-04	Add 290.00	\$ 33.00	Add 323.00
Subdivision,* Minor Variance included & primary use is a single family dwelling in RL or RML	003-0000-451.02-04	Add 115.00	\$ 13.00	Add 128.00
Subdivision,* Minor Variance included & primary use is not a single family dwelling in RL or RML	003-0000-451.02-04	Add 175.00	\$ 20.00	Add 195.00
Subdivision,* Nonexpedited, Extension/Modif. by Council	003-0000-451.02-04	\$530.00	\$ 61.00	\$ 591.00
Subdivision,* Expedited, Extension/Modif. by City Engineer	003-0000-451.02-04	\$130.00	\$ 15.00	\$ 145.00
Subdivision,* Nonexpedited, Appeal Proceeding to Council	003-0000-451.02-04	\$115.00	\$ 13.00	\$ 128.00
Subdivision,* Expedited Appeal to Referee, Deposit per ORS 197.375	003-0000-451.02-04	\$300.00	\$ -	\$ 300.00
Street Name Change	003-0000-451.02-03	\$115.00	\$ 13.00	\$ 128.00
Street Vacation Application Deposit	003-0000-451.02-03	\$290.00	\$ 33.00	\$ 323.00
Zone of Benefit Application Fee	003-0000-451.02-03	\$580.00	\$ 66.00	\$ 646.00

Attachments: A. Resolution with Exhibit "A" (City Fee Schedule)

RESOLUTION AMENDING THE CITY OF TUALATIN FEE
SCHEDULE AND RESCINDING RESOLUTION NO. 4877-09

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 Community Development Department and Engineering & Building Department in the City of Tualatin Fee Schedule were last evaluated and amended in 2006 or prior; and

WHEREAS the City's costs incurred in providing materials and services have increased since these fees were last evaluated; and

WHEREAS Resolution No. 4877-09, adopted April 27th, 2009, 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 Community Development Department and Engineering & Building Department 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 incorporated by reference.

Section 3. The fees shall be effective July 01, 2009.

Section 4. Resolution No. 4877-09 is rescinded effective July 01, 2009.

INTRODUCED AND ADOPTED this 26th day of May, 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

Community Development Department:

Amendment to Comprehensive Plan Map.....	2,000.00
Amendment to Comprehensive Plan Text/Landmark Designation/Removal of Landmark Designation.....	2,000.00
Annexation	1,365.00
Appeal Proceeding to Council.....	128.00
Appeal Expedited Process to Referee, Deposit per ORS 197.375.....	300.00
Architectural Review Application, Nonexpedited Process:	
Estimated Project Value:	
Under \$5,000.....	111.00
\$5,000 - \$24,999.99	524.00
\$25,000 - \$99,999.99	947.00
\$100,000 - 499,999.99	1,576.00
\$500,000 and greater	2,306.00
Architectural Review Application, Expedited Process:	
Estimated Project Value:	
Under \$5,000.....	111.00
\$5,000 - \$24,999.99	1,053.00
\$25,000 - \$99,999.99	2,094.00
\$100,000 - 499,999.99	3,153.00
\$500,000 and greater	4,829.00
Architectural Review, Single-family Level I (Clear & Objective)	50.00
Architectural Review, Single-family Level II (Discretionary)	700.00
Conditional Use Permit	1,365.00
Conditional Use Permit Renewal.....	1,365.00
Core Area Parking District Tax Appeal.....	128.00
Interpretation of Development Code	No Fee
Industrial Master Plans	1,743.00
Landmark Alteration/New Construction Review	56.00
Landmark Demolition Review	56.00
Landmark Relocation Review	56.00
Reinstatement of Nonconforming Use	1,365.00
Request for Council Rehearing	156.00
Sign Code Interpretation	390.00
Sign Ordinance	7.00
Sign Code Variance	646.00

Sign Permit:	
New Sign or Structural Change to Existing Sign	128.00
Temporary Sign or Each Face Change to Existing Sign	67.00
Temporary Uses, 1 - 3 days	45.00
4 - 180 days.....	\$45.00 + 1.50/day
Over 3 days.....	not to exceed a total of \$189.00
Transitional Use Permit.....	1,465.00
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	273.00
When primary use is not a single family dwelling in RL or RML	1,365.00
Variance, Minor:	
When primary use is a single family dwelling in RL or RML	273.00
When primary use is not a single family dwelling in RL or RML	1,008.00
All Other Actions	312.00

Engineering & Building Department:

Engineering Copies:

1987 and earlier, aerial/contour maps	7.00
36" x 48"	4.00
24" x 36"	3.00
18" x 24" and 11" x 17"	2.00

Geographic Information System:

Citywide aerial photo, 36" x 42"	28.00
Subdivision street map, 34" x 36"	13.00
Street map, 22" x 22"	7.00
Planning Districts, 34" x 44"	13.00
Planning Districts, 18" x 24"	7.00
Custom Mapping	50.00/hr, plus materials

Partition, * Nonexpedited & Expedited Processes	390.00
Partition, * Nonexpedited & Expedited Exten. /Modif.	128.00
Partition, * Nonexpedited, Appeal Proceeding to Council	128.00
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 128.00
Partition, * Minor Variance included & primary use is not a single family dwelling & not in RL or RML.....	Add 195.00
Property Line Adjustm't., * primary use is a single family dwelling in RL or RML	67.00
Property Line Adjustm't., * Minor Variance included & primary use is a single family dwelling in RL or RML.....	Add 128.00
Property Line Adjustm't., * primary use is not a single family dwelling in RL or RML	284.00
Property Line Adjustm't., * Minor Variance included & primary use is not a single family dwelling in RL or RML.....	Add 128.00
Property Line Adjustm't.* Appeal Proceeding to Council.....	128.00
Public Works Construction Code	45.00
Subdivision, * Nonexpedited and Expedited Processes.....	2,585.00

Subdivision,* Variance included & primary use is a single family dwelling in RL or RML	Add 256.00
Subdivision,* Variance included & primary use is not a single family dwelling in RL or RML	Add 323.00
Subdivision,* Minor Variance included & primary use is a single family dwelling in RL or RML	Add 128.00
Subdivision,* Minor Variance included & primary use is not a single family dwelling in RL or RML	Add 195.00
Subdivision,* Nonexpedited, Extension/Modif. by Council	591.00
Subdivision,* Expedited, Extension/Modif. by City Engineer	145.00
Subdivision,* Nonexpedited, Appeal Proceeding to Council	128.00
Subdivision,* Expedited Appeal to Referee, Deposit per ORS 197.375.....	300.00
Street Name Change	128.00
Street Vacation Application Deposit.....	323.00
Zone of Benefit Application Fee	646.00

* 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
Passport Photo	15.00

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)	175.00
Street Tree Removal (excluding Stump Grinding).....	280.00

Street Tree Stump Grinding 110.00
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, 6th and More False Alarms 210.00 per alarm

Release of Towed (impounded) Vehicles..... 100.00



STAFF REPORT

CITY OF TUALATIN

Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary J. Kirby

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *sl*

FROM: Michael A. McKillip, City Engineer *mak*
Dayna Webb, Project Engineer *DW*

DATE: May 26, 2009

SUBJECT: RESOLUTION AWARDING THE BID FOR THE
INDIAN WOODS AND INDIAN MEADOWS SUBDIVISIONS
WATERMAIN REPLACEMENT PROJECT

ISSUE BEFORE THE COUNCIL:

Awarding the Indian Woods and Indian Meadows Subdivisions Watermain Replacement Project to Canby Excavating, Inc.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution awarding the Indian Woods and Indian Meadows Subdivisions Watermain Replacement Project and authorizing the Mayor to execute a contract with Canby Excavating, Inc in the amount of \$1,207,764.00 for the base bid and optional 1.

EXECUTIVE SUMMARY:

- The budget contains a project to replace the asbestos cement waterlines in the Indian Meadows and Indian Woods subdivisions. The lines are starting to fail and need to be replaced.
- The Invitation to Bid was published in the *Daily Journal of Commerce* on April 21, 30 and May 5, 2009.
- Bids are for a base bid to replace the waterline and reinstall the service lines.
- Optional 1 was to replace the water meter service boxes.
- The water meters are being replaced under the service repairs budget line, and are not included in this project budget.

- The bids for this project were opened on Tuesday, May 12, 2009, at 2:00 p.m. Eight bidders responded as follows:

	<u>Base Bid</u>	<u>Optional 1</u>
Canby Excavating, Inc	\$ 1,168,364.00	\$39,400.00
C & M Construction	\$ 1,261,416.08	\$21,285.00
Landis & Landis Construction	\$ 1,317,148.00	\$23,640.00
Excel Excavation	\$ 1,339,289.00	\$47,280.00
Dunn Construction	\$ 1,396,495.00	\$49,250.00
K & E Excavating	\$ 1,401,201.00	\$34,278.00
Dirt & Aggregate Interchange	\$ 1,537,916.00	\$31,520.00
Jim Smith Excavating	\$ 1,703,082.00	\$25,610.00

- The Engineer's Estimate for base bid was \$2,030,000.00.
- The Engineer's Estimate for the optional 1 was \$40,000.00.
- Contract documents state the project will be awarded based on the base bid.
- The lowest responsible bidder is Canby Excavating, Inc at \$1,207,764.00, including the optional 1.

OUTCOMES OF DECISION:

Awarding of the contract will result in the following:

- Construction of the proposed waterline replacement project.

Not awarding the contract will result in the following:

- All work on the project will stop.

FINANCIAL IMPLICATIONS:

Funds are available for this project in the Water Operating Fund.

Attachments: A. Resolution

RESOLUTION NO. 4885-09

RESOLUTION AWARDING THE BID FOR THE
INDIAN WOODS AND INDIAN MEADOWS SUBDIVISIONS
WATERMAIN REPLACEMENT PROJECT

WHEREAS the project was advertised in the *Daily Journal of Commerce* on April 21, 30 and May 5, 2009; and

WHEREAS eight proposals were received prior to the close of the bid period on May 12, 2009; and

WHEREAS Canby Excavating, Inc submitted the lowest responsible base bid for the project in the amount of \$1,168,364.00; and

WHEREAS the proposal included an optional 1 item to Replace Water Service Meter Boxes; and

WHEREAS the contract documents state the project will be awarded on the based on the base bid; and

WHEREAS the lowest responsible bidder is Canby Excavating, Inc at \$1,207,764.00, including the Replace Water Service Meter Boxes; and

WHEREAS there are funds available for this project in the Water Operating Fund.

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

Section 1. The contract is awarded to Canby Excavating, Inc.

Section 2. The Mayor and City Recorder are authorized to execute a contract with Canby Excavating, Inc in the amount of \$1,207,764.00.

Section 3. The City Engineer is authorized to execute Change Orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 26th day of May, 2009.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN, OREGON

By 
Mayor

ATTEST:

By 
City Recorder



Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary [Signature]

STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *[Signature]*

FROM: Paul Hennon, Community Services Department *[Signature]*
Carl Switzer, Parks and Recreation Coordinator *[Signature]*

DATE: May 26, 2009

SUBJECT: RESOLUTION AUTHORIZING RENEWAL OF A LEASE FOR A PORTION OF THE BROWN'S FERRY COMMUNITY CENTER TO THE WETLANDS CONSERVANCY

ISSUE BEFORE THE COUNCIL:

Council will consider a resolution renewing the Wetlands Conservancy's lease of a portion of Brown's Ferry Community Center.

RECOMMENDATIONS:

Staff recommends that the Council renew the Wetlands Conservancy's lease of a portion of Brown's Ferry Community Center.

EXECUTIVE SUMMARY:

The City of Tualatin Community Services Department is prepared to renew a one-year lease agreement with the Wetlands Conservancy (Conservancy) for the upstairs portion of the Brown's Ferry Community Center. The property is located at 5485 SW Nyberg Lane between the east end of the developed Brown's Ferry Park and SW 50th Avenue. In September of 1999 Council approved an initial one-year lease agreement with the Conservancy, to be reviewed on an annual basis.

The Community Services Department is satisfied with Conservancy's abidance to the agreement over the past nine years, and both parties wish to renew the lease agreement for an additional one-year period. The agreement would continue to be reviewed annually for renewal. The lease proposed for renewal under this resolution is in compliance with both the intergovernmental agreement entered into with Metro for the purchase of the site, and the Conditional Use Permit granted by Council in April of 1999

STAFF REPORT: RESOLUTION AUTHORIZING RENEWAL OF A LEASE FOR A PORTION OF THE BROWN'S FERRY COMMUNITY CENTER TO THE WETLANDS CONSERVANCY

May 26, 2009

Page 2 of 2

for the use of the site. The Conservancy would continue to pay a monthly fee to the City to cover the expense of utilities. That fee would increase under this renewal from \$260 per month to \$275 to cover the increased expense of utilities. Custodial services within their office space would continue to be their responsibility.

FINANCIAL IMPLICATIONS:

The lease will produce \$3,300 in FY09/10 and will be used to offset the cost of utilities the Conservancy incurs at the site. The \$3,300 is included as revenue in the 09/10 budget.

Attachments:

- A. Resolution
- B. Lease Agreement

C: Tualatin Parks Advisory Committee
The Wetlands Conservancy

RESOLUTION AUTHORIZING RENEWAL OF A LEASE FOR A PORTION OF
THE BROWN'S FERRY COMMUNITY CENTER TO THE WETLANDS
CONSERVANCY

WHEREAS the City of Tualatin owns the Brown's Ferry Community Center with Metro Regional Government, and through an intergovernmental agreement with Metro Regional Government chooses to make it available for use; and

WHEREAS the City of Tualatin, as a condition of that intergovernmental agreement, is responsible for the maintenance and management of the property; and

WHEREAS the Wetlands Conservancy is a non-profit group; and

WHEREAS the costs to pay for utilities, maintenance and upkeep of the Brown's Ferry Community Center in conjunction with a lease necessitates the collection of a monthly fee; and

WHEREAS the Wetlands Conservancy wishes to renew their lease of the Brown's Ferry Community Center.

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

Section 1. The City shall renew the lease of a portion of the Brown's Ferry Community Center to the Wetland Conservancy for a one-year period, beginning July 1, 2009.

INTRODUCED AND ADOPTED this 26th day of May 2009.

CITY OF TUALATIN, OREGON

BY 

Mayor

ATTEST:

BY 

City Recorder

Approved as to legal form:



City Attorney

LEASE

THIS LEASE is made between the City of Tualatin, Oregon ("Owner"), and The Wetlands Conservancy, a non-profit corporation ("Tenant").

GRANT AND ITEM

Section 1. Leased Premises

- (a) In consideration of the rents and covenants, the Tenant rents from Owner the property described as follows:

The upstairs portion of the "Brown's Ferry Community Center" located at 5855 SW Nyberg Lane, Tualatin, Oregon 97062, and the ground floor meeting rooms as available, together with the nonexclusive right to use the parking areas and yard areas of the property. City functions shall take priority over Tenant activities at all times.

- (b) The parties agree that the building is ready for occupancy by Tenant without substantial modifications. Tenant shall not make any modifications to any portion of the building without the prior express written consent of Owner. Such approved modification shall be made at Tenant's sole expense.
- (c) If Tenant makes any alterations, decorations, additions or improvements to the leased premises, Tenant shall promptly pay all contractors and materialmen who have furnished labor or materials to minimize the possibility of a lien attaching to the leased premises. Tenant agrees to protect, defend, indemnify, and hold harmless Owner and the leased premises from any such lien or claim. Should a lien be filed, Tenant shall bond against or discharge the lien within ten days after the lien is filed or attached.

Section 2. Term

- (a) The lease term is from July 1, 2009 to June 30, 2010. The lease may be renewed every year. If the Lessee is unable to secure funding to continue the lease, the Lessee may terminate the lease within the primary term of the lease by providing written notice to the Lessor within 60 days of expected termination.
- (b) The parties' obligations under this lease shall commence on July 1, 2009.

Section 3. Rent

- (a) Tenant shall pay two hundred and seventy five (\$275) dollars per month as rent, made payable to the City of Tualatin, and mailed to the attention of the Community Services Department, 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062, in advance, no later than the 6th of each month, beginning July 1, 2009. Rent for part of a month shall not be prorated.

- (b) Owner has determined rent by examining Owner's costs, including but not limited to: maintenance, repairs, utilities, administration and insurance. The parties agree that should the lease term be extended, the monthly rent may be increased on an annual basis.

Section 4. Tenant's Acceptance of Lease

Tenant knows the condition of the premises and accepts them as they now are. Neither the Owner nor its agent makes any representations or warranties as to the condition of the premises unless stated in this lease. Tenant shall provide furnishings, appliances, fixtures, improvements, surface covers, decoration, and other contents of the leased premises at its own expense.

Section 5. Use of Premises

- (a) Tenant shall operate and use the leased premises solely for the purpose of conducting the business of a Wetlands Conservancy operation as described in Tenant's by-laws existing and effective on the date this lease is executed by the parties and will not use, permit, or suffer the use of the leased premises for any other business or purpose without the prior written consent of the Owner. The leased premises shall not be used for residential or for-profit purposes.
- (b) Tenant shall comply with and faithfully observe in the use and occupation of the leased premises all rules, laws, regulations, and requirements of the county, municipal, state, federal, and other applicable governmental authorities.
- (c) Tenant shall not use the premises in an unlawful, improper, or offensive manner, damage or waste the premises, or permit anything to be done upon or about the premises tending to create a nuisance. Alcohol may be permitted on the premises only in compliance with state and local regulations.
- (d) Tenant shall not allow the leased premises to fall into a state of disrepair or disorder that causes a fire hazard.
- (e) Tenant shall pay all claims as due for work done, services rendered, or material furnished to the premises at its request and shall keep the premises free from any liens. If Tenant fails to pay such claim or to discharge any lien, Owner may do so and collect all costs of discharge, including its reasonable attorney fees, from Tenant. Such action by Owner shall not constitute a waiver of any right or remedy Owner may have on account of Tenant's default. Tenant may withhold payment of a claim in connection with a good faith dispute over the obligation to pay, so long as Owner's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten days after knowledge of filing, execute a discharge of the lien or deposit with Owner cash or a sufficient corporate surety bond or other security satisfactory to Owner in an amount sufficient to discharge the lien plus costs, attorney fees, or other charges that could accrue as a result of a foreclosure sale, lawsuit, or sale under the lien.

- (f) Lessee shall not bring keep or use any Hazardous Materials in or about the Property by Lessee, Lessee's agents, employees, contractors, or invitees without the prior written consent of Owner.
- (g) As used in this Lease, "*Hazardous Material*" means any hazardous or toxic substance, material or waste, including but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49CFR§172.101), or by the United States Environmental Protection Agency as hazardous substances (40CFR pt 302) petroleum products or other such substances, materials and wastes that are or become regulated under applicable local, state or federal law.

Section 6. Assignment and Sublease

Tenant shall not assign or sublet this lease in whole or in part, without the prior written consent of Owner in each instance.

Section 7. Sign, Awnings, Canopies

Tenant may not place or maintain a sign, awning, canopy, advertising matter, or other thing on the premises without first obtaining Owner's written approval. Owner may place conditions upon its approval.

Section 8. Utilities and Garbage Collection

- (a) Owner shall pay promptly when due all charges for janitorial and/or cleaning service, water, sewer, electricity, road maintenance, storm drain, garbage collection, and other utilities of any kind furnished to the premises. Owner shall be responsible for any paper products and toilet supplies used on the premises. Tenant shall install a separate telephone line for its business needs at its own expense and shall be responsible for any telephone communication expenses related to business needs.

Section 9. Maintenance of Leased Premises and Common Areas

- (a) Owner shall maintain the structural portions of the premises, the lighting, heating, plumbing, and electrical fixtures and equipment in good condition and repair. However, if a defect, malfunction, or damage results from Tenant's negligent act or omission to act, Owner may charge to and collect the cost of such repair from Tenant. Owner shall maintain the common areas of the building (consisting of walks, landscaping, service areas, driveways, automobile parking areas, and any other facilities designed for the common use of all invitees and members of Tenant's organization). Owner's maintenance of such areas shall not be construed as extending the leased premises to all such areas, unless they are otherwise defined as a portion of the leased premises.
- (b) At the expiration of this tenancy, Tenant shall surrender the leased premises in the same condition as they were at the beginning of this lease, except for reasonable

wear and tear and damage by unavoidable casualty to the extent that the damage is covered by Owner's fire insurance policy with extended coverage endorsement. Tenant shall surrender all keys for the leased premises to Owner, inform Owner of all combinations on locks, if any, and remove any alterations before surrendering the premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease.

- (c) If caused by Tenant, Tenant shall replace all broken or cracked glass with glass of quality equal to that existing at the commencement of the lease term.
- (d) Owner has no duty to make repairs under this lease until Tenant gives written notice to Owner of the repairs to be made or condition to be corrected. Owner has no liability for failure to make any repair required of it if the repair is completed within a reasonable time following the notice from Tenant. Tenant shall not withhold any rent it owes because of repairs Owner is required to make.
- (e) The parties agree that the Owner, Owner's contractors and workers may enter any portion of the premises at any time and erect all necessary structures to repair, alter or maintain the premises. Tenant waives any claim to damages resulting from such activities.

Section 10. Insurance and Indemnity

- (a) During the entire term of the lease, Tenant shall keep in full force and effect a policy of comprehensive general liability, property damage, and personal injury insurance with respect to the leased premises and Tenant's business in the leased premises in which the limits of liability shall not be less than one million dollars (\$1,000,000) per person and per accident and in which the property damage liability shall not be less than eight hundred thousand dollars (\$800,000). If the limits of liability provided under the Oregon Tort Claims Act, ORS 30.270, or other applicable law should be raised to an amount exceeding those dollar amounts, then Tenant shall provide a policy of insurance, which covers such increased amount of liability. The insurance shall be in an insurance company approved by Owner; a copy of the policy or certificate of insurance shall be delivered to Owner; the policy shall name Owner, as well as Owner's officers, employees, and agents as additional named insureds; and the policy shall contain a clause that the insurer will not cancel or change the insurance without first giving Owner 30 days prior written notice.
- (b) Tenant agrees to indemnify, defend and hold harmless Owner, its officers, agents, and employees from and against all claims, actions, damages, liability, and expense in connection with the loss of life, personal injury, or damage to property arising from or out of an occurrence in, upon, or at the leased premises, or its occupancy or use by Tenant or occasioned wholly or in part by an act or omission of Tenant, its members, its agents, contractors, employees, or servants. If Owner, without fault on its part, is made a party to litigation commenced by or against Tenant, then Tenant shall protect and hold Owner harmless and shall pay all costs, expenses, and reasonable attorney fees incurred or paid by Owner in connection with such litigation.

- (c) Tenant shall indemnify, defend, and hold Owner harmless from all claims, judgments, damages, penalties, fines, costs, liability or losses (including without limitation, diminution in value of the Property, damages for the loss or restriction on use or rent of the property, damages arising from adverse impact on marketing of the property, and sums paid in settlement of claims, attorneys fees, consultants fees, and experts fees), that arise during or after the lease term due to contamination by Hazardous Materials as a result of Lessee's use or activities or Lessee's agents or contractors. This indemnification includes without limitation, costs incurred in connection with investigation of site conditions, cleanup, remedial removal or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater or under the Property. Without limiting the foregoing, if the presence of any Hazardous Materials on the Property caused or permitted by Tenant or Tenant's agents or contractor results in contamination of the Property, Tenant shall promptly take all actions necessary at Lessee's sole expense to return the Property to the condition existing prior to the release of such Hazardous Materials onto the Property, provided Owner's approval is first obtained, which shall not be unreasonably withheld, if such action would not potentially have material adverse long or short-term effects on the Property. This indemnity shall survive the expiration or early termination of this lease.
- (d) If in the opinion of Owner the leased premises are rendered substantially unfit for the occupancy or use contemplated by casualty or peril, Owner at its option may promptly and diligently restore the leased premises to the condition existing prior to the occurrence of the insured casualty or peril or may terminate the lease.
- (e) Tenant waives all claims for recovery from Owner for loss or damage to the property insured under valid and collectable casualty or fire insurance policies to the extent of any recovery collectable under such insurance.

Section 11. Damage by Casualty or Fire and Duty to Repair

If the building in which the leased premises are located is destroyed by fire or other casualty, either party may terminate this lease as of the date of the fire or casualty. Owner may or may not elect to repair the building; written notice of Owner's election shall be given to Tenant within 15 days after the occurrence of damage. If notice is not so given, Owner shall be deemed to have elected not to repair. In that event, this lease shall terminate with the date of the damage. But if the building in which the leased premises are located is partially destroyed and Owner elects to repair, then Owner shall repair the building with all convenient speed and take possession of and occupy, to the exclusion of Tenant, all or part of the building to make the necessary repairs. Tenant agrees to vacate, upon request, all or any part of the building that Owner may require to make necessary repairs. For the time between the day of damage until such repairs have been substantially completed, rent shall be abated to the extent warranted by the injury or damage and its interference with Tenant's occupancy.

Section 12. Waiver of Subrogation of Rights

Owner shall not be liable to Tenant, or Tenant to Owner, for loss arising out of damage to or destruction of the leased premises, the building or improvements of which the leased premises are a part, the contents of the premises, when the loss is caused by a peril which is or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for loss, however caused, are waived. This absence of liability shall exist whether or not the damage or destruction is caused by the negligence of Owner or its agents, servants, or employees. The parties agree that the rentals reserved by this lease have been fixed in contemplation that Tenant shall fully provide its own insurance protection at its own expense and that Tenant shall look to its insurance carrier for reimbursement of such loss. The insurance carrier involved shall not be entitled to subrogation under any circumstances unless specifically covered as a joint assured.

Section 13. Performance by Owner

Owner shall not be deemed in default for the nonperformance or interruption or delay in performance of any of the terms, covenants, or conditions of this lease if due to a labor dispute, strike, lockout, civil commotion or like operation, government regulation or controls, inability to obtain labor or materials, or through an act of God or other cause beyond the reasonable control of Owner, if such cause is not due to the willful act or neglect of Owner.

Section 14. Default

- (a) If Tenant fails to perform any of the terms, conditions, or covenants of this lease to be observed or performed by Tenant for more than 30 days after written notice of such default has been mailed to Tenant, or if Tenant shall abandon premises, then besides other rights or remedies it may have, Owner shall have the immediate right of re-entry and may remove all persons and property from the leased premises and store such property in a public warehouse or elsewhere at the cost of Tenant, without service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for loss or damage which may be occasioned by such removal or storage.
- (b) Following re-entry, Owner shall have the right to recover from Tenant the following damages:
 - 1. All unpaid rent or other charges for the period prior to re-entry;
 - 2. An amount equal to the rental lost during any period in which the premises are not re-let if Owner continuously uses reasonable efforts to re-let the premises during such period. Owner shall not be required to list the premises with a real estate broker in order to establish reasonable efforts to re-let the premises;

3. All costs incurred in re-letting or attempting to re-let the premises, including without limitation the cost of clean-up and repair and preparation for a new Tenant, the cost of correcting any defaults or restoring unauthorized alterations, and the advertising expense;
4. The difference between rent reserved under this lease and the amount actually received by Owner upon any re-letting;
5. Reasonable attorney fees incurred in connection with the default, whether or not any litigation has commenced;
6. If Tenant remains in possession following default and Owner does not elect to re-enter, Owner may recover all unpaid rent or other charges and shall have the right to cure any non-monetary default and recover the cost of such cure from Tenant. In addition, Owner shall be entitled to recover attorney fees reasonably incurred in connection with the default, whether or not litigation has commenced. Owner may institute actions to recover such amounts as they accrue and no one action for accrued damages shall bar a later action for damages subsequently accruing;
7. This remedy shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law.

Section 15. Delivering Up Premises on Termination

- (a) Both parties agree that time is of the essence. At the expiration of the lease, Tenant will quit and deliver up the leased premises.
- (b) If an action is brought for an unlawful detainer of the leased premises, for the recovery of any rent due under this lease, or for breach, Tenant shall pay to Owner reasonable attorney fees which shall be fixed by the court, including attorney fees on appeal.

Section 16. Miscellaneous

- (a) Waiver
The waiver by Owner of any breach of any term, covenant, or condition in this lease shall not be a waiver of such term, covenant, or condition or subsequent breach. No covenant, term, or condition of this lease shall be deemed waived by Owner, unless the waiver is in writing and approved by Owner.
- (b) Entire Agreement
This lease sets forth all the covenants, promises, agreements, conditions, and understandings between Owner and Tenant concerning the leased premises. No subsequent alteration, amendment, change, or addition to this lease shall be binding upon Owner or Tenant unless reduced to writing and signed by the parties.

(c) No Partnership

Owner is not in any way or for any purpose a partner of Tenant in the conduct of its business or otherwise.

(d) Notices

Notice or demand required or permitted under this lease is given only when the notice or demand is written, deposited in the United States mail, with postage prepaid, to be forwarded by certified mail with return receipt requested and addressed as follows:

to Owner at: Community Services Department
 c/o City of Tualatin
 18880 SW Martinazzi Ave.
 Tualatin, OR 97062

to Tenant at: The Wetlands Conservancy
 PO Box 1195
 Tualatin, Oregon 97062

or at such other address as may be designated by either party by giving notice of such change of address in the manner above provided.

(e) Partial Invalidity

If any term, covenant, or condition of this lease or its application to any person or circumstance shall be invalid or unenforceable, the remainder of this lease shall be valid and in force to the fullest extent permitted by law.

(f) Attorney Fees

If suit or action is instituted by either party to establish or enforce a right under this lease; to recover any amounts due hereunder; to correct a breach of any covenant, term, or condition hereof; or to litigate any other matter arising from the execution of this agreement, the prevailing party on any appeal shall recover reasonable attorney fees awarded by the trial and appellate courts in addition to the costs and disbursements. This provision shall survive any termination of this lease.

(g) Tax Exempt Status

Tenant shall provide to the Owner proof of filing for property tax exemption with the Washington County Assessors Office. Tenant shall apply for this exemption in a timely manner. Application fees shall be the expense of the Tenant. Any fees associated with a late filing shall be paid by the Tenant. If Tenant fails to file for such exemption, Tenant shall be responsible for all taxes assessed to the Owner for the leased premises.

Section 17. Termination

- (a) This lease shall terminate by its own terms on the expiration of the primary term of the lease. Termination may occur by either party upon giving to the other party 30 days prior written notice.

IN WITNESS WHEREOF, Owner and Tenant have executed this lease as of the date indicated below

CITY OF TUALATIN, OREGON

Mayor

[Signature]

May 26, 2009

Date

City Manager

May 26, 2009

Date

STATE OF OREGON)

)

)ss.

County of Washington)

)

Personally appeared the above named, Lou Ogden, Mayor, and Sherilyn Lombos, City Manager, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: *Maureen A Smith*

Notary Public for Oregon

My Commission Expires: *July 4, 2009*



By authority of the Wetlands Conservancy:

Esther Lew

President or Authorized Officer

5/13/09
Date

STATE OF OREGON)

)

CLACKAMAS

)ss,

County of Washington)

)

Personally appeared the above named *ESTHER LEW* and acknowledged the foregoing instrument to be his/her voluntary act and deed.

Before me: *Maryanne Sohlstrom*

Notary Public for Oregon

My Commission Expires: *6/29/11*



APPROVED AS TO LEGAL FORM

Brenda L. Brader
CITY ATTORNEY



Approved By Tualatin City Council
Date May 26, 2009
Recording Secretary [Signature]

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 DR
William Harper, Associate Planner WH

DATE: May 26, 2009

SUBJECT: INDUSTRIAL MASTER PLAN REQUEST FOR JAE OREGON, INC. PROPERTY IN THE MANUFACTURING PARK (MP) PLANNING DISTRICT (IMP-09-01)

ISSUE BEFORE THE CITY COUNCIL:

A request for approval of an Industrial Master Plan (IMP) proposed by JAE Oregon, Inc. for an existing 40 acre-1 building development in the Manufacturing Park (MP) Planning District at 11555 SW Leveton Drive (Assessors Map 2S122B Tax Lot 200). The application proposes a site plan showing expansion of the existing JAE Oregon, Inc. manufacturing building, two new (future) industrial buildings and alternate development standards allowing shared loading & circulation, a new access driveway on SW Tualatin Road and a reduced minimum lot size 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 Richard McMahon of JAE Oregon, Inc. JAE Oregon, Inc. developed, owns and occupies the 40 acre-1 building property located at 11555 SW Leveton Drive (2S1 22B, Tax Lot 200) 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.

- 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 JAE Oregon, Inc. site is currently improved with the existing JAE manufacturing and administration building (114,423 sq. ft.), landscaping, loading area, with primary access on SW Leveton Drive, shared access onto SW Tualatin Road (with Novellus) and 181 parking spaces (179 required in AR-98-06). JAE Oregon, Inc. has identified the future growth needs for the facility as approximately 24.6 acres and seeks to partition and sell the remaining 15.1 acres for development by another firm. An IMP is not required for JAE Oregon, Inc. to continue developing the property with its current 40 acre lot size. Development of the property including building additions, new buildings, parking and other improvements can occur under the requirements of the MP Planning District and the Architectural Review Process.
- The IMP proposes a plan for building additions to the existing JAE Oregon, Inc. building, two (2) new single or two-level buildings on the undeveloped north portion of the site with additional shared parking spaces and loading areas, shared access and circulation, additional landscaping improvements 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 a partition of the property into two lots (proposed 24.6 acre Parcel 1/South Lot & 15.1 acre Parcel 2/North Lot) and the sale of the Parcel 2/North Lot. The IMP plans shows development of two new buildings on the Parcel 2/North Lot (Manufacturing Bldg. #1 79,800 sq. ft.; Bldg. #2 108,300 sq. ft.) with supporting parking (approximately 425 new spaces), a future temporary ingress/egress access onto SW Tualatin Road, shared ingress/egress access, shared cross access with Parcel 1 and landscaping improvements. The Parcel 1/South Lot plan shows two future expansions of the existing JAE Oregon, Inc. building (46,000 sq. ft. & 36,000 sq. ft.), approximately 264 new parking spaces (a total of 439 spaces) and shared access and utility easements. 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. 1-17)

- If modifications to the alternative standards approved in IMP-09-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-09-01 are to be exceeded, a condition of approval requires a new IMP application be submitted for review.
- The Applicant has prepared a narrative that describes the JAE Oregon, Inc. 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 would result in a decrease in the JAE Oregon, Inc. site’s developable area, from 639,000 s.f. down to 589,660. (Attachment G, pp 1-2) This is due to partition of the property into two parcels with no 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 630 Average Daily Trips. The table below shows the Trip Generation Summary presented in the JAE Oregon, Inc. IMP March 27, 2009 Transportation Letter:

JAE Oregon, Inc. 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	639,000	8,154	190	635
	Proposed IMP	589,660	7,524	175	586
Difference		-49,340	-630	-15	-49

- The Council approved an IMP for Novellus Systems in 2000 (Adjoining properties to the east of JAE) and an IMP for Mittleman Properties (Adjoining properties west of JAE) in January 2009. 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 Mittleman Properties IMP (IMP-08-01) 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.
- The applicable policies and regulations that apply to the proposed JAE Oregon, Inc. 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 JAE Oregon, Inc. 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 one existing building with additions and two new buildings, additional landscaping, shared access, circulation and utility easements. The proposed concept for a new access for Parcel 2 onto SW Tualatin is acknowledged with consideration for review when Parcel 2 is developed.
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 40 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.

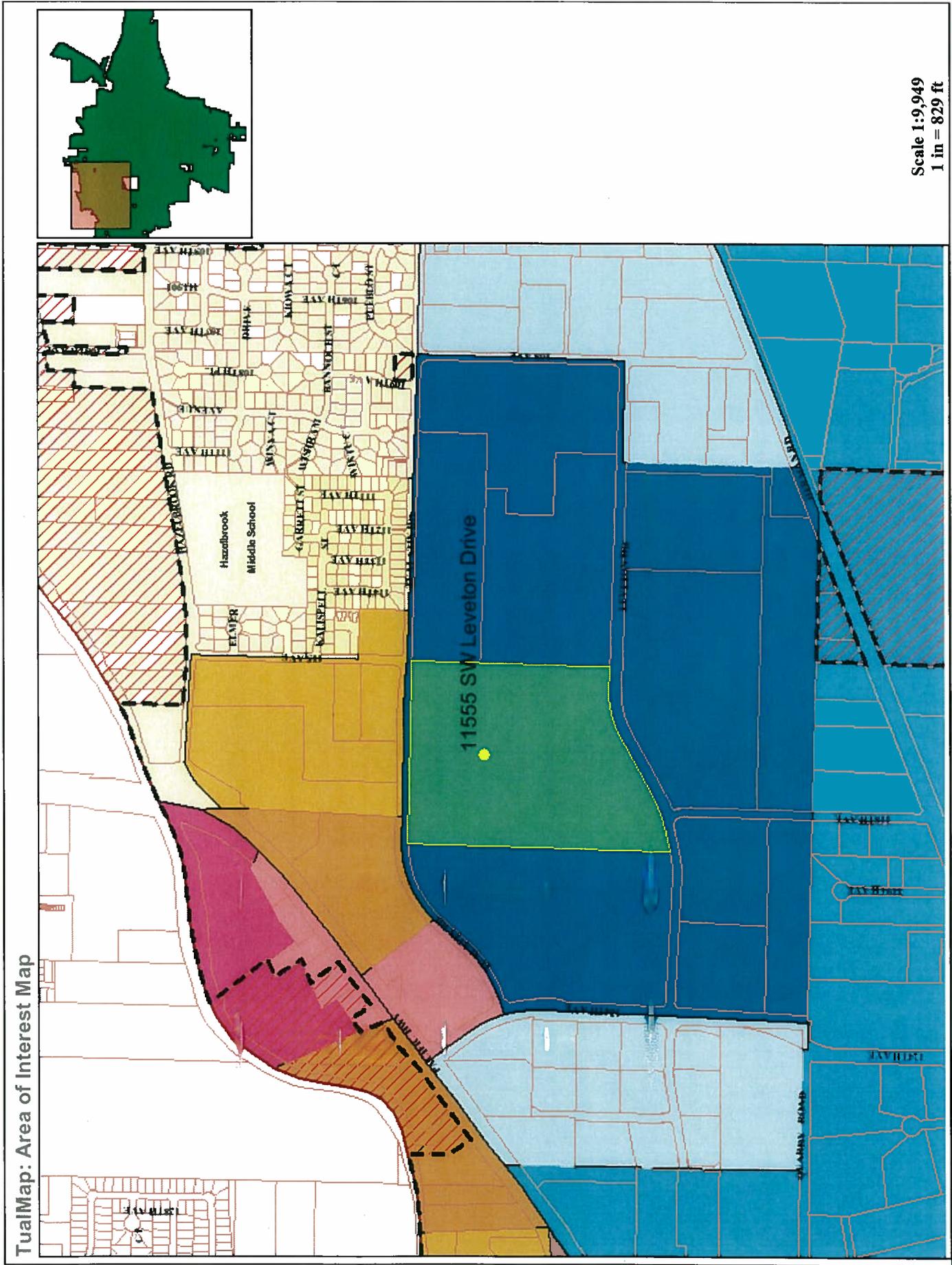
FINANCIAL IMPLICATIONS:

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 March 18, 2009, to explain the Industrial Master Plan proposal to neighboring property owners and to receive comments. No one from nearby residences, businesses or properties attended the meeting.

- Attachments:**
- A. Vicinity Map
 - B. Assessor's Map
 - 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



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 GROUP
 Architects
 4000 NE Oregon Street
 Portland, Oregon 97232
 Phone: 503.253.8800
 Fax: 503.253.8801
 www.mackenziegroup.com

C-441
 JAE Oregon, Inc.
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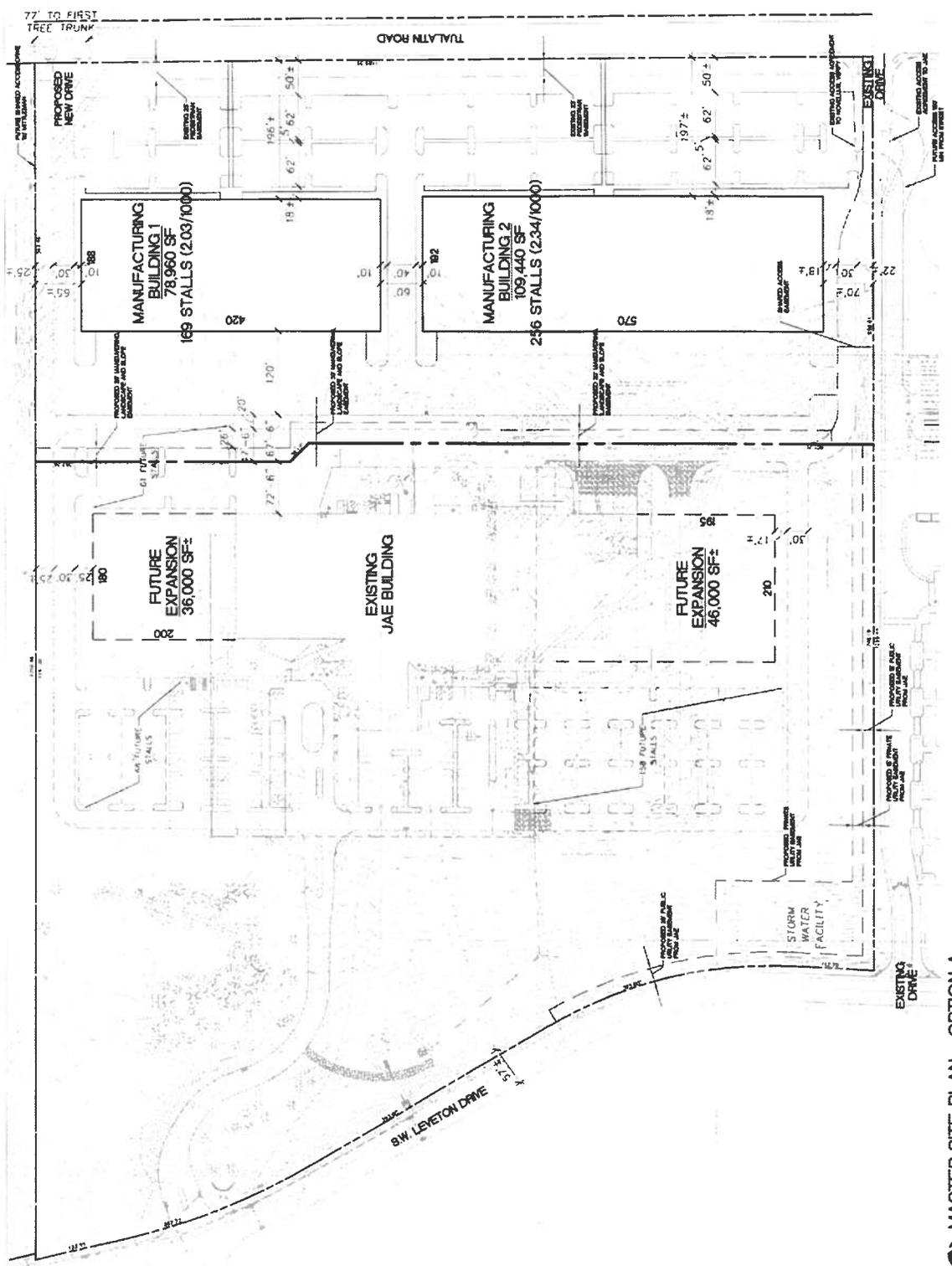
Project:
**JAE INDUSTRIAL
 MASTER PLAN**

DATE: 11/22/09
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: [Number]

Scale: 1" = 40'
 NORTH

DATE: 11/22/09
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO.: [Number]

MP
 20080620.00
 PRELIMINARY ONLY - 11/22/09



JAE SITE		NEW SITE	
SITE AREA	1,070,995 SF (24.59 AC)	SITE AREA	557,934 SF (15.104 AC)
EXISTING PARKING	175 STALLS	BLDG 1 AREA:	78,960 SF
FUTURE PARKING	285 STALLS	BLDG 2 AREA:	109,440 SF
FINAL TOTAL PARKING	449 STALLS	TOTAL AREA:	188,400 SF
		TOTAL STALLS:	343 STALLS
		LOT COVERAGE:	28.1%

MASTER SITE PLAN - OPTION A



APPLICATION FOR INDUSTRIAL MASTER PLAN

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

Case No. IMP-09-01
Fee Rec'd \$1565
Receipt No. 739028
By [Signature]

PLEASE PRINT IN INK OR TYPE

Code Section 37-Industrial Master Plan Planning District MP

Owner's Name JAE Oregon, Inc Phone 503-692-1333

Owner's Address 11555 SW Leveton Drive Tualatin OR 97062
(street) (city) (state) (zip)

Owner recognition of application: Richard McMahon - JAE Oregon

Signature of Owner(s)

Applicant's Name Kelly Niemeyer - Group Mackenzie

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

Applicant is: Owner Contract Purchaser Developer Agent
Other consultant

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 2S122B000200 Tax Lot Number(s) 000200

Address of property 11500 SW Tualatin Rd Lot area 40 acres

Existing Buildings (Number and Type) one manufacture/Production Building

Current use manufacture electrical connectors for use in automobile and telecommunication applications

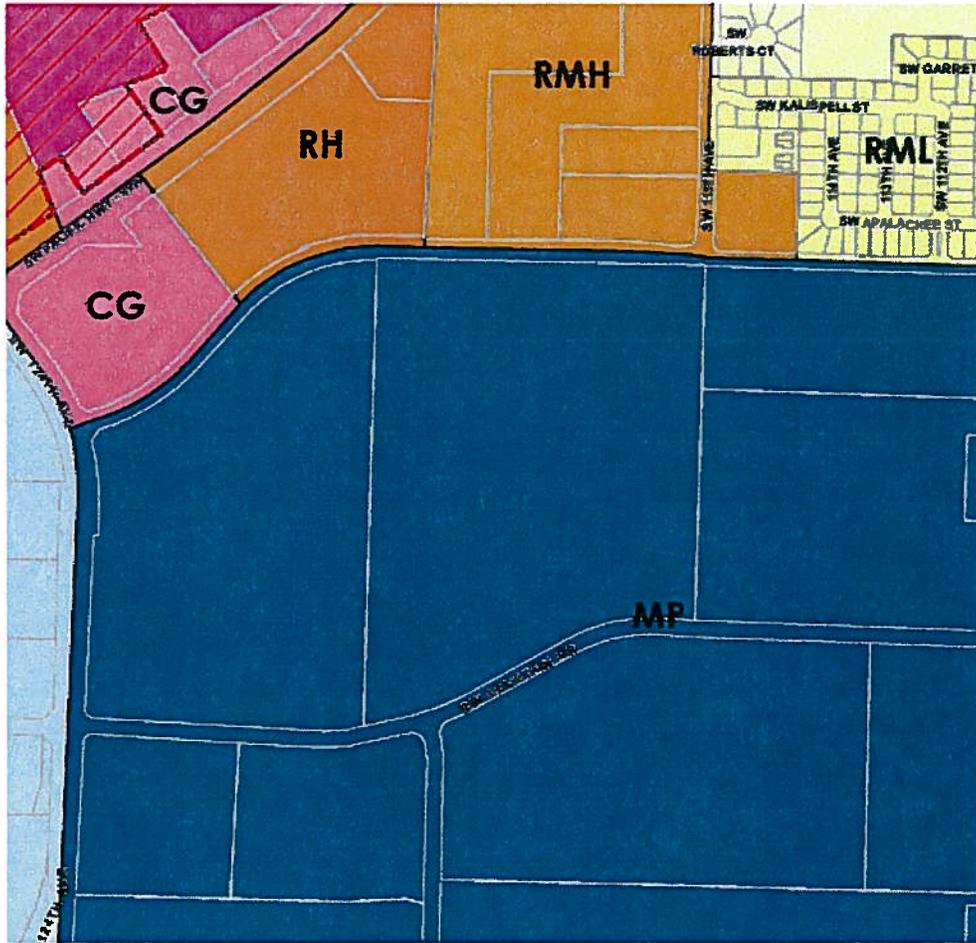
As the person responsible for this application, I, the undersigned hereby acknowledge that I have read the above application and its attachments, understand the requirements described herein, and state that the information supplied is as complete and detailed as is currently possible, to the best of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

Name Kelly Niemeyer Date _____ Phone _____

Address 1515 SE Water Ave Portland OR 97293

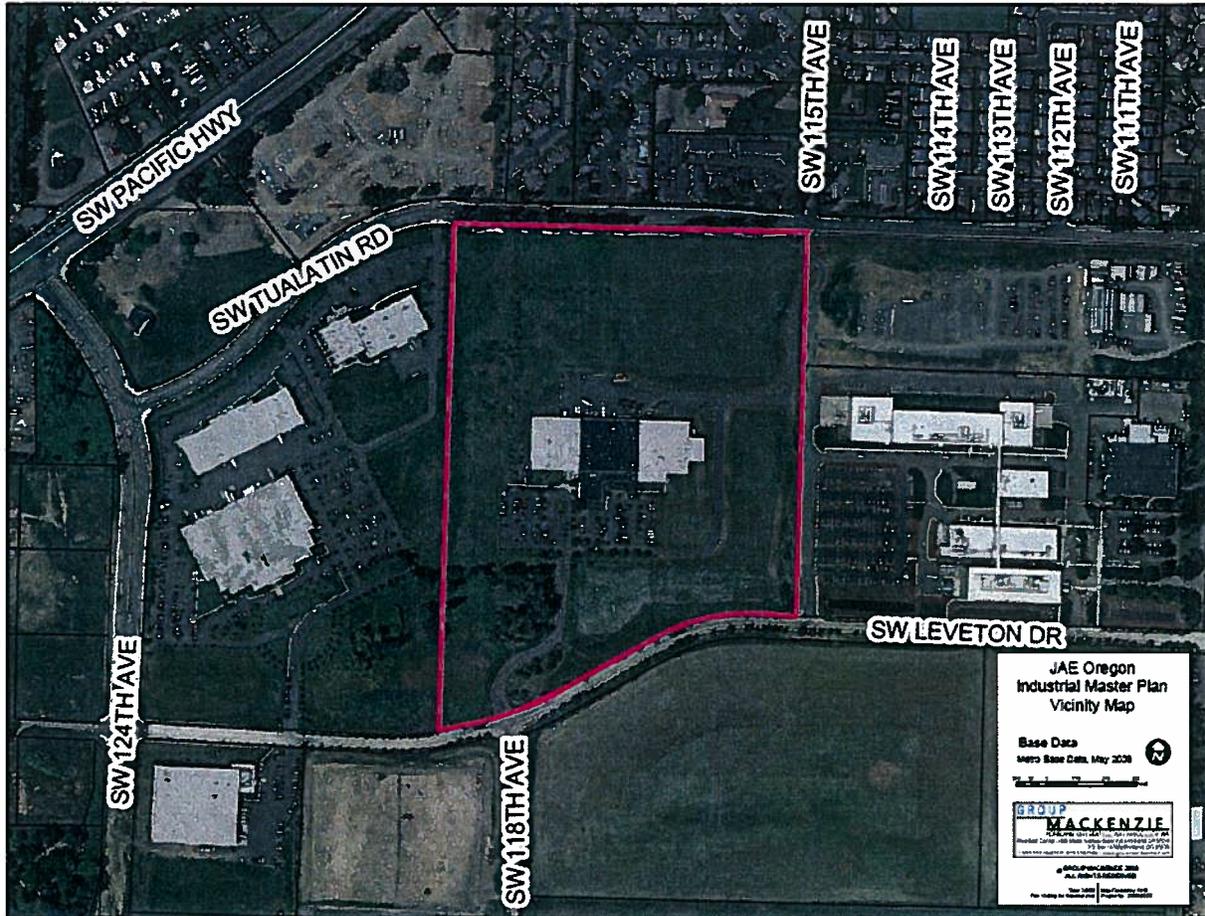
I. INTRODUCTION

This narrative details the application for an Industrial Master Plan (IMP) on an approximately 40-acre site located at 11500 SW Tualatin Road. According to the City of Tualatin Plan District Map (Map 1), the site is zoned MP (Manufacturing Park). The site, owned by JAE Oregon, Inc., is located north of Leveton Drive, south of Tualatin Road, and directly north of the intersection of Leveton Drive and SE 118th Avenue (see Map 2). It consists of one 40-acre legal lot of record (2S 1W 22B, Taxlot 200).



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

The site is currently developed with a single building. As shown on the attached site plan(s), the JAE Building has an approximately 75,000 SF footprint. Access points are located along SW Tualatin Road and SW Leveton Road. With the building located in the middle of the site, a considerable amount of land remains vacant to the north and south. The southern area is mostly made up of grass field, shrubs, and coniferous and deciduous trees. The northern portion of the site is mostly open grassy field with sparse trees and shrubs. Generally, the entire site has rolling topography increasing in elevation from south to north, with a significant 45-foot overall increase in elevation.



Map 2: Vicinity Map

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

- North: RH (Residential High-Density), RMH (Residential Medium-High Density), multi-family housing
- East: MP (Manufacturing Park) Novellus Systems, Inc.
- South: MP (Manufacturing Park), vacant land
- West: ML (Light Manufacturing), Mittleman Properties

Most of the adjacent properties feature existing development and the vicinity is generally similar in character to 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:

TABLE 1				
Building	Use	Building Footprint (SF)	Parking Stalls	Parking Ratio (per 1,000 SF)
JAE Building	Existing Manufacturing	75,000	175	2.33
Future Expansion	Manufacturing	82,000	264	3.22
Manufacturing Building 1	Manufacturing	79,800	169	2.14
Manufacturing Building 2	Manufacturing	108,300	174	1.59
Total		345,100	782	2.27

TABLE 2	
Overall Landscape Area	716,713.62 SF (16.45 acres)
Overall Landscape Percentage	41.13%
Overall Impervious Area	101,2216 SF
Overall Pavement Area	622,538 SF
Required Parking Lot Landscape for Both Lots	10,975 SF
Total Area Both Lots	1,742,389.12 SF (39.9998 acres)

The IMP will not result in an increased development density beyond what the MP District already allows, as governed by minimum setbacks and a 20% landscaping minimum. The two proposed expansions and two proposed buildings on the site plan are consistent with the use standards and purpose of the MP District, and all uses are anticipated to be related to manufacturing. An IMP is being requested with the ultimate goal of a site partition and establishment of a guiding master plan for the property.

A minor partition will be requested as a separate application. The goal of this partition will be to separate the northern portion of the subject property so it can be sold to a user who will develop it within the general parameters of this proposed master plan. The resulting lot configuration will be relatively simple and rectangular. The site is proposed to be divided into two parcels with the following building area and parking stalls:

TABLE 3			
Parcel	Area	Building Area	Parking Stalls
Parcel 1	24.59 acres	157000 SF	439
Parcel 2	15.41 acres	188100 SF	425
Total	40 acres	345,100 SF	782

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. Access points for the northern lot are proposed along SW Tualatin Road. The southern lot will retain its existing access points.

Significant site landscaping has already been installed, and additional landscaping will be provided for all future buildings in accordance with City standards, at the time of Architecture Review.

Surface parking areas will be situated on the perimeter of the building areas. Three large parking lots will be located in front of the existing building, set far back from Leveton Road (190 feet at a minimum). New vehicle parking areas will be installed between the proposed buildings and Tualatin Road, with loading areas being located in the center of the site between the existing and proposed buildings. The site's overall parking ratio will be approximately 2.27 spaces per 1,000 SF. Consequently, 782 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, JAE Oregon, Inc. 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 related to large lot development prior to applying for Architectural Review. By applying for the IMP 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 one manufacturing building. As shown on the site plan, two additions onto this building are proposed, as well as two new manufacturing buildings of 108,300 SF and 79,800 SF, as proposed. These additions will be consistent with the existing development and constitute efficient infill development of the site.

Two parcels are shown within this IMP, one consisting of approximately 24.59 acres and the other consisting of approximately 15.41 acres. The layout of these lots has been established to meet the needs of the proposed building and in order to comply with the minimum lot size requirements of TDC 62.050. 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, including signage and landscaping. Another existing access point is located along SW Tualatin Road, at the northeast corner of the site. The existing internal vehicle circulation area allows either of these entrances to provide access to the entirety of the site. The proposed addition to this access arrangement is a second access to SW Tualatin Road along the site’s western property line. The grade of the site prevents direct viewing of vehicle areas from Leveton Drive. The two new proposed buildings are oriented to face SW Tualatin Road and parking is proposed between the buildings and the road. A 25-foot pedestrian easement with a paved sidewalk and substantial tree growth is located along SW Tualatin Road. This area will not be impacted by proposed development. The tree growth shields the existing and proposed development from neighboring properties to the north. Loading areas are located between the existing and proposed buildings which creates a less land intensive shared use for the master planned development. Furthermore, the loading area location is separated from vehicle parking areas so that any potential conflicts between trucks and passenger vehicles are minimized. These loading areas will be screened by the existing and proposed buildings so that loading areas cannot be easily seen from the perimeter of the site. While the on-site pedestrian system serving the existing building is not proposed to be significantly altered, both of the future buildings will include direct pedestrian links to the sidewalk and an

internal pedestrian system which allows safe circulation within the site. A unified landscaping theme will be maintained throughout. Given the nature and degree of site design unification and shared pedestrian and vehicle facilities, this IMP clearly meets the intent referenced 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 March 11, 2009. The preliminary site plan and code requirements for this project were discussed. Also, a neighborhood meeting was held on March 18, 2009. Neighborhood meeting materials are included as Attachment G.

(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 IMP. The partition application will request the creation of two parcels (24.59 and 15.41 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. When modifications of setbacks are not necessary, the setback requirements of TDC Chapter 62 apply. In this case, we are not requesting deviations from standard setbacks, and have proposed setbacks appropriate to accommodate the existing development, proposed future expansions, and the undeveloped portion of the site. Proposed setbacks for both buildings and parking are shown in Tables 4 and 5 below:

TABLE 4 – PROPOSED BUILDING SETBACKS			
Building	Setback	Required Minimum (feet)	Proposed (feet)
Existing Building	Front (street)	100	570
	Side	0-50	275 (east) and 280 (west)
	Rear	0-50	130
Eastern Expansion	Front (street)	100	510
	Side	0-50	82 (east)
	Rear	0-50	130
Western Expansion	Front (street)	100	85'
	Side	0-50	80 (west)
	Rear	0-50	130
Proposed Building 1	Front (street)	100	196
	Side	0-50	65 (west)
	Rear	0-50	130
Proposed Building 2	Front (street)	100	197
	Side	0-50	70
	Rear	0-50	130

TABLE 5 – PROPOSED PARKING SETBACKS			
Building	Setback	Required Minimum (feet)	Proposed (feet)
Lot 1	Front (street)	50	225
	Side	5-25	35 (east) 25 (west)
	Rear	5-25	10
Lot 2	Front (street)	50	50
	Side	5-25	35/90 (east) 25 (west)
	Rear	5-25	10

As shown in the tables above, the proposed master plan is not intended to deviate from the parking standards set forth in the base MP zone. In summary, very generous landscaped setback areas will be provided to ensure adequate and attractive 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 located in the front of the existing building, its proposed expanded sections, and proposed future buildings on Parcel 2. Loading areas are located behind the buildings and will be screened from exterior view by virtue of their location between buildings, site topography, and landscaping. 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 the building, its proposed expanded sections, and future buildings will accommodate the existing topography. The buildings and parking areas themselves are not visible from SW Leveton Drive. Only the top of the existing building is visible from Tualatin Road, as it is constructed below street grade. Buffering landscape areas are located in front of the building and the drop in grade between the street and the building which minimizes its rearward appearance. New buildings on Parcel 2 will face Tualatin Road. Generous setbacks are proposed in order to ensure that the site has ample site landscaping, consistent with the industrial park concept. Finally, building heights will be consistent with the standards in the underlying zone.

(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: Although the circulation system serving the existing JAE building is not proposed to be significantly altered, complete pedestrian and vehicle circulation systems are proposed to allow reasonably safe and direct access for multiple transportation modes for all new development.

(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 24.59 acres and 15.41 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 referenced 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 parcel 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. Two boundary streets, Leveton Road and Tualatin Road, abut the exterior of the subject property. Two separate driveways provide access to these streets and a third is proposed to access Tualatin Road along the western property line. The attached traffic letter (Attachment F) 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. Therefore, 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 approximately 0.60 miles of the subject property based on realistic walking distances. Other public utilities to serve the subject property are shown in the enclosed site plan and are summarized below:

TABLE 6	
Facility	Location
Water Lines	Tualatin Road
Sanitary Sewer Lines	Within Leveton Road
Storm Sewer	Runs to the south and is detained on site

For sanitary sewer, the existing parcel is served by the Public Sanitary Sewer Main within Leveton Road.

All storm drainage generated on the subject property will be accommodated by on-site facilities, including major stormwater quality/detention ponds located at the south end of the southern lot. The northern lot's stormwater will flow south along the eastern property line and will be detained on a detention pond in the southeast corner of the site. The existing facility's stormwater flows south and is detained in a south centrally located detention pond. The proposed JAE building expansion will be served by both ponds. These facilities will be shared between both lots, and will include Best Management Practices (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 two sides (east and west) by existing industrial developments, vacant industrially zoned land to the south, and residential zoning to the north, across Tualatin Road. Existing industrial developments are 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.

The proposed buildings are anticipated to be tilt-up concrete construction with a moderate amount of window glazing. The existing JAE building provides a good model of other similar manufacturers that may choose to locate on Parcel 2. Architecturally, the styles of future buildings will be largely similar to surrounding buildings, but will include street-facing entrances and windows. The colors are anticipated to be off-white and include masonry similar to the existing JAE building and the Mittleman industrial park to the west.

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 as discussed below.

Internal Circulation

As shown on the attached site plan(s), separate internal circulation areas are proposed for Parcel 1 and Parcel 2. Both systems allow complete circumnavigation of their respective sites without requiring vehicle turnarounds or backing movements within public rights-of-way. All drive aisles are a minimum of 25 feet and all driveway entrances are at least 25 feet in width. Where trucks are entering and exiting, driveways typically range from 35 to 40 feet wide. Finally, the existing driveway onto Leveton Road is over 60 feet wide. In all cases, driveway widths exceed 36 feet within 50 feet from any abutting right-of-way.

Pedestrian walkways are shown on Parcel 2 to connect the buildings to the abutting sidewalk. Both parcels include walkways around buildings and between building and parking areas to ensure safe pedestrian movements. All walkways will measure a minimum of 5 feet in width. Raised and/or visually distinct crosswalks will be provided where walkways cross drive aisles or parking areas.

Building Location/Orientation

Buildings are located as shown on the attached site plan(s). As previously discussed, all setback requirements will be met. Buildings are oriented towards the nearest public rights-of-way to encourage a more attractive development.

Street Frontage

Proposed Parcel 1 will feature approximately 1,100 feet of street frontage along Leveton Road after completion of the proposed partition. Proposed Parcel 2 will feature just over 1,200 feet of street frontage along Tualatin Road. Both of these parcels greatly exceed the minimum street frontage of 250 feet required pursuant to TCD Chapter 62.

Parking

Parking areas are consistent with the common requirements of TDC 73.370-390 and the proposed partition will result in sufficient parking dedicated to the uses on both lots. The parking and loading areas shown on the attached site plan(s) provide for an overall ratio of 2.27 parking spaces per 1,000 SF of building area, thereby exceeding the minimum parking ratio for manufacturing uses (1.60 spaces per 1,000 SF). Proposed loading areas offer more than enough space for at least 3 spaces per building, also exceeding codified requirements. Loading areas are separated from vehicle parking areas so that any potential conflicts between trucks and passenger vehicles are minimized. Finally, exterior views of parking areas are deemphasized by locating such areas around and behind buildings.

Setbacks

As discussed above, all required setbacks for buildings, parking, and loading are proposed to be met. The following tables summarize all required and proposed setbacks:

TABLE 7 - PROPOSED BUILDING SETBACKS			
Building	Setback	Required Minimum (feet)	Proposed (feet)
Existing Building	Front (street)	100	570
	Side	0-50	275 (east) 280 (west)
	Rear	0-50	130
Eastern Expansion	Front (street)	100	510
	Side	0-50	82 (east)
	Rear	0-50	130
Western Expansion	Front (street)	100	855
	Side	0-50	80 (west)
	Rear	0-50	130
Proposed Building 1	Front (street)	100	196
	Side	0-50	65 (west)
	Rear	0-50	130
Proposed Building 2	Front (street)	100	197
	Side	0-50	18
	Rear	0-50	130

TABLE 8 - PROPOSED PARKING SETBACKS			
Building	Setback	Required Minimum (feet)	Proposed (feet)
Lot 1	Front (street)	50	225
	Side	5-25	35 (east) 25 (west)
	Rear	5-25	10
Lot 2	Front (street)	50	50
	Side	5-25	35/90 (east) 25 (west)
	Rear	5-25	10

Building Height

While specific building heights are not proposed at this time, they will not ultimately exceed the 70-foot height maximum. Building height will be further reviewed through future Architectural Review processes for individual buildings.

Lot Size

The minimum lot size in an MP Zone is 15 acres with an approved IMP. Although the existing parcel consists of approximately 40 acres, a partition process is anticipated to be submitted in conjunction with this proposed IMP. Proposed Parcel 1 will consist of approximated 24.59 acres and proposed Parcel 2 will consist of approximately 15.41 acres. Both of these lots exceed minimum lot area standards set forth in TDC Chapter 62.

Access

TDC 62.090 requires that all lots have access to the public street system, either directly or via an easement/accessway. All buildings will have relatively direct access to the public street system. The existing building and its planned expansions have direct street access via the existing driveway onto Leveton Road. Indirect access will be available to both Leveton Road and Tualatin Road via the private drive proposed along the east side of the subject site. Direct access to Tualatin Road will be available for Parcel 2, as well as indirect access to Leveton Road via the proposed private drive.

In summary, the proposed IMP has demonstrated consistency with every design standard required by TDC Chapter 62. 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 a single industrial manufacturing business whose activities are consistent with the MP District’s purpose. Although specific future tenants have not yet been determined, the uses of the future buildings are anticipated to be manufacturing, and therefore consistent with the uses permitted in the MP zone. Future buildings will be compatible with the manufacturing park itself and surrounding development. 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 will be proposed other than those which are determined by the Director to be permitted within the MP District.

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 25.59 and 15.41 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 over 1,100 feet for Parcel 1 and over 1,200 feet for Parcel 2. This standard is met.

(4) *For flag lots...*

Response: A flag lot is not proposed, this standard is 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: This standard is not applicable.

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

Response: This standard is 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). All setbacks are consistent with the requirements set forth in TDC 62.060. 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 as previously demonstrated.

(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: Fifty-foot setbacks between buildings and side/rear lot lines are observed throughout, as shown on the attached site plan(s).

(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. A shared easement is proposed along the proposed private street, however setbacks of at least 10 feet are proposed to separate parking and circulation areas from this private roadway. The proposal thereby meets this standard.

(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: This standard is 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 located across Tualatin Road from the north lot line of future Parcel 2. The nearest proposed building will be located nearly 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: This standard is 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 access points to public rights-of-way 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 2.27 spaces per 1,000 SF for the overall site, as shown in the following table:

TABLE 9				
Building	Use	Building Footprint (SF)	Parking Stalls	Parking Ratio (per 1,000 SF)
JAE Building	Existing Manufacturing	75,000	175	2.33
Future Expansion	Manufacturing	82,000	264	3.22
Manufacturing Building 1	Manufacturing	79,800	169	2.14
Manufacturing Building 2	Manufacturing	108,300	174	1.59
Total		345,100	782	2.27

Approximately 782 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 2.27 spaces per 1,000 SF. 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 according to 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. All community design standards can be met.

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 overall site and for the future two-lot configuration, will meet the 20% landscape requirement for an approved IMP. 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, and around the perimeter of future parking areas and circulation areas as shown on the attached site plan(s). 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. All landscaping criteria can be met.

V. SUMMARY

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

**JAE
Industrial Master Plan &
Partition
Vicinity Map**



SCALE

Source Data

Aerial Data - November, 2008

Geographic Projection Information

NAD 83 North Central Zone
Projected Coordinate System



Location Map



GROUP

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Map Scale: 1" = 200' ±

Map Date: 11/2008



March 27, 2009

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

Re: **JAE Oregon, Inc. IMP – Industrial Master Plan**
Transportation Letter
Project Number 2080492.00

Dear Mr. Harper:

This letter accompanies the Industrial Master Plan (IMP) application for 11500 SW Leveton Drive, JAE Oregon Inc. (JAE). 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. Specifically, this letter describes the proposed IMP and its reduced trip generation potential.

JAE IMP Modifications

According to City of Tualatin Development Code Chapter 37.030, 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 lot size development standards, but does not allow additional development density or a change in uses that the MP District permits. Therefore, 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.*

The JAE IMP requests a reduction in the MP District’s minimum lot size.

If initial analysis shows the proposed JAE IMP, its modifications, and subsequent partition do not increase potential development, then a Transportation Impact Analysis (TIA) is not necessary.

EXISTING AND PROPOSED CONDITIONS

Existing Conditions

The 40-acre site is located between Tualatin Road and SW Leveton Road, immediately east of the Mittleman Industrial site. The property is zoned City of Tualatin MP. There is one 70,000 SF building on the site with 185 associated parking spaces.

There is one existing driveway access to Leveton Drive and one shared driveway access (with Novellus) to Tualatin Road. A new driveway access to Tualatin Road is proposed at the west end of the site.

Proposed Master Plan

The proposed IMP will create two separate parcels: Parcel 1 (24.59 acres) and Parcel 2 (15.41 acres). Parcel 1 will encompass the existing 70,000 SF JAE industrial building, anticipated 82,000 SF future expansions, and associated 439 total future parking spaces. Parcel 2 is anticipated to accommodate two future manufacturing buildings totalling 188,100 SF and associated 425 parking spaces.

All proposed uses are permitted outright within the existing MP Planning District (TDC 62.020). The resulting lot coverages for Parcels 1 and 2 are 14.7% and 28.1%, respectively.

JAE IMP Trip Generation Potential

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 40.0 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 JAE IMP application proposes a reduction to the minimum lot size in order to allow a future partition which will create two parcels. 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 Figures). The net decrease in area is as follows:

- The existing overall site area is 40.0 acres.
- With street and side yard setbacks, the existing net developable area is 32.60 acres.
- The JAE IMP allows a new internal lot line and creates setbacks resulting in a new net developable area of 29.08 acres, a difference of 3.52 acres.

For the purposes of quantifying the “reasonable worst-case” traffic generation, the following table presents potential trip generation with and without the proposed JAE 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
 JAE Oregon, Inc. IMP – Industrial Master Plan
 Project Number 2080492.00
 March 27, 2009
 Page 3

JAE 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	639,000	8,154	190	635
	Proposed IMP	589,660	7,524	175	586
Difference		49,340	630	15	49

As shown in the above table, the IMP reduces potential trip generation by 630 daily and 64 PM peak hour trips. Therefore, because total site development area and the reasonable worst-case traffic decreases, additional Level of Service information for specific intersections is not necessary.

The JAE 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.

Sincerely,

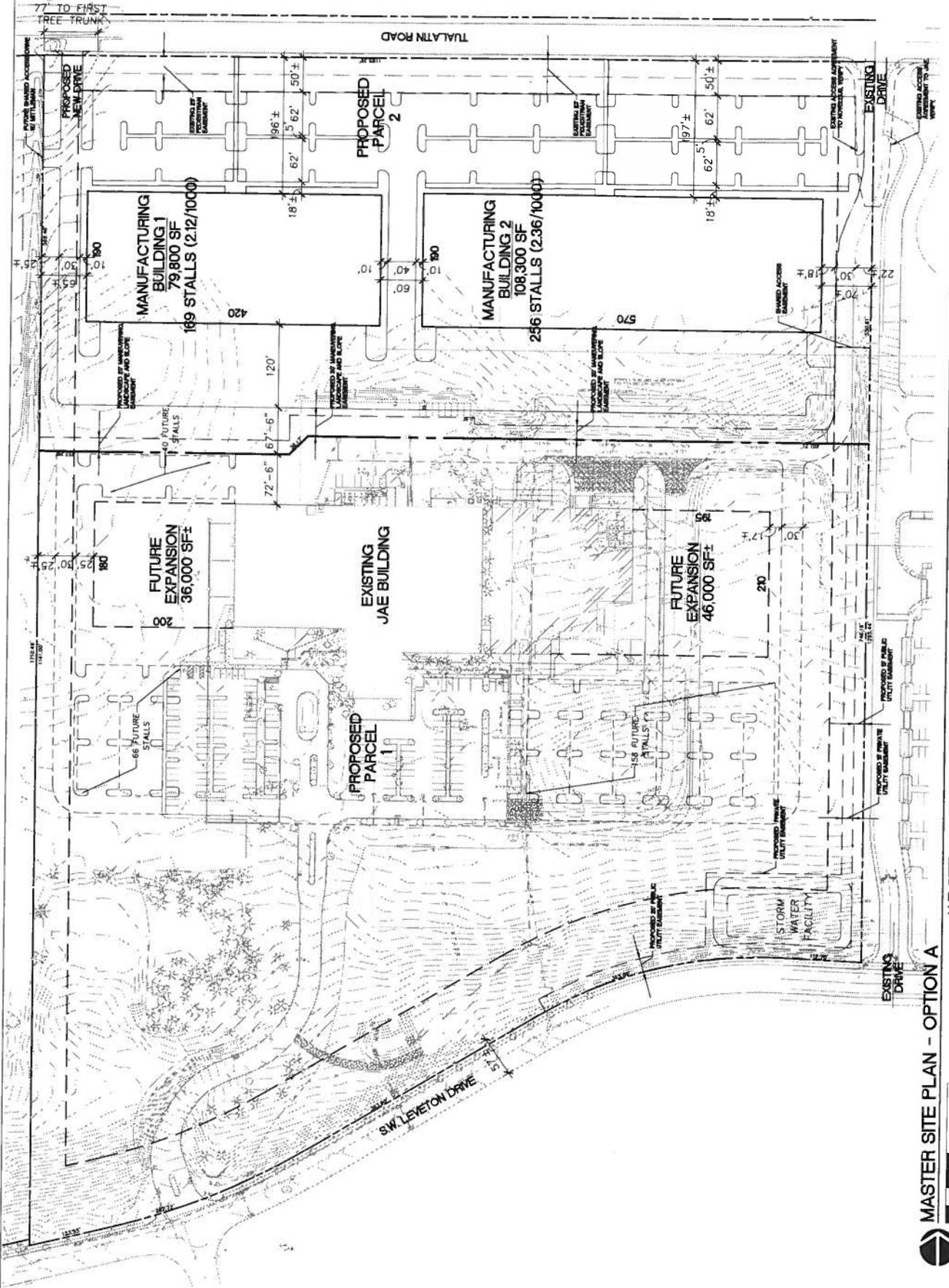


Sean Morrison, P.E., Transportation Engineer
 Associate



Enclosures: Figures – Preliminary Partition Plan

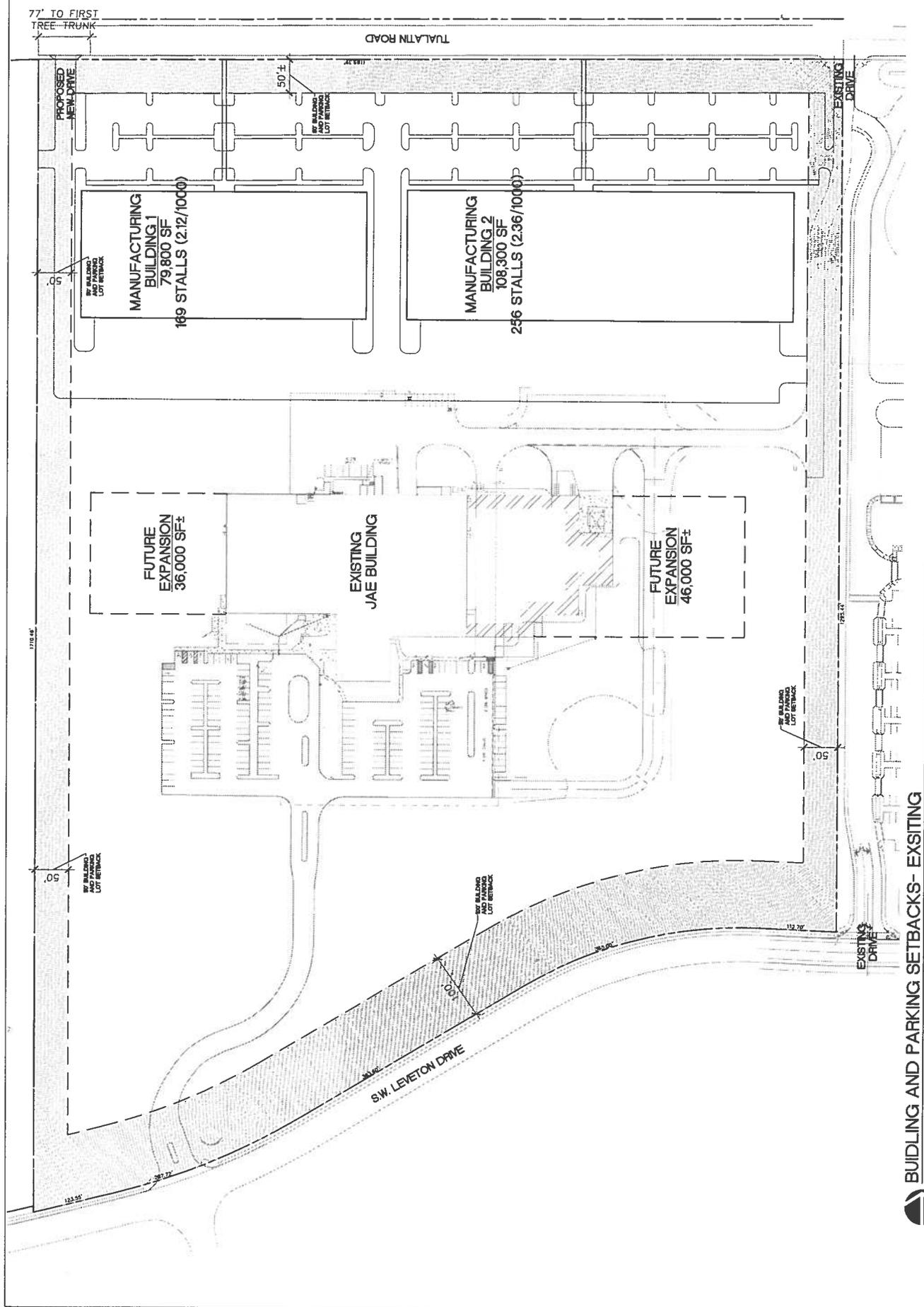
- c: Tony Doran – City of Tualatin
- Kelly Niemeyer – Group Mackenzie



JAE SITE		NEW SITE	
SITE AREA	1,070,995 SF (24.59 AC)	SITE AREA	657,934 SF (15.104 AC)
EXISTING PARKING	175 STALLS	BLDG 1 AREA:	79,800 SF
FUTURE PARKING	264 STALLS	BLDG 2 AREA:	108,300 SF
FINAL TOTAL PARKING	439 STALLS	TOTAL AREA:	188,100 SF
		LOT COVERAGE	28.6%



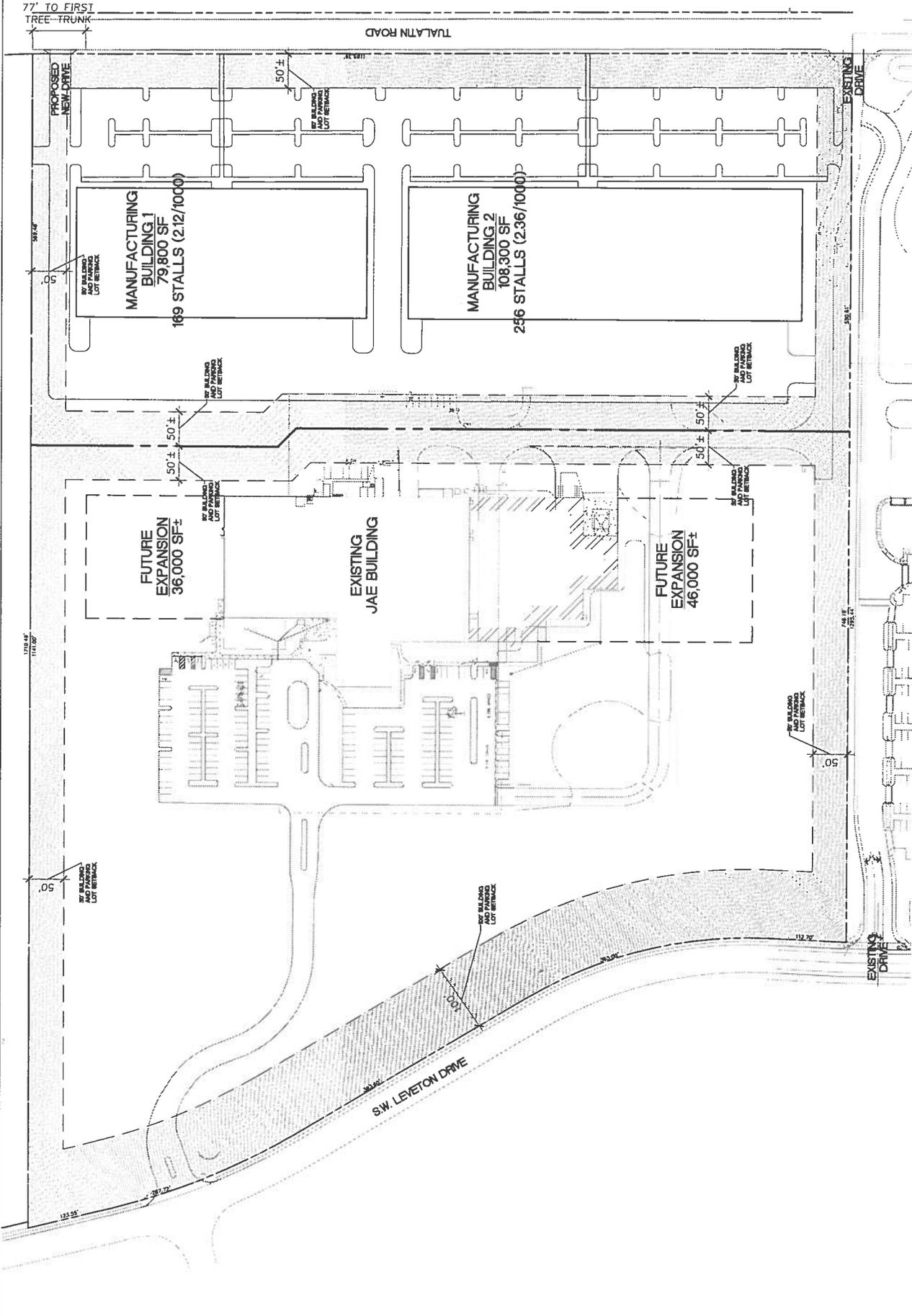
MASTER SITE PLAN - OPTION A



EXISTING JAE SITE	
TOTAL SITE AREA	1,742,389 SF (40.00 AC)
BUILDING AND PARKING SETBACK AREA	322,368 SF (7.4 AC)
TOTAL NET DEVELOPABLE AREA	1,420,021 SF (32.60 AC)

BUILDING AND PARKING SETBACKS- EXSITING





JAE SITE		NEW LOT	
TOTAL SITE AREA	1,084,455 SF (24.90 AC)	TOTAL SITE AREA	657,934 SF (15.10 AC)
BUILDING AND PARKING SETBACK AREA	266,923 SF (6.13 AC)	BUILDING AND PARKING SETBACK AREA	165,110 SF (3.79 AC)
TOTAL NET DEVELOPABLE AREA	817,532 SF (17.77 AC)	TOTAL NET DEVELOPABLE AREA	492,824 SF (11.31 AC)



BUILDING AND PARKING SETBACKS- PROPOSED

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 Richard McMahon of JAE Oregon, Inc. JAE Oregon, Inc. developed, owns and occupies the 40 acre -1 building property located at 11555 SW Leveton Drive (2S1 22B, Tax Lot 200) in the MP (Manufacturing Park) Planning District. A Vicinity Map, a Tax Map and the proposed Industrial Master Plan (IMP) Site Plan are included as Attachments A, B & C respectively. The applicant's materials 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., DPI Northwest and the future "Phight Campus" development. Also in the MP Planning District is the subject JAE Oregon, Inc. property and 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 and IMP-08-01 for Mittleman Properties. 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 and the 70 ft. maximum building height is not subject to an increase in the IMP process. 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-09-01 seek approval of an Industrial Master Plan that proposes a plan for building additions to the existing JAE Oregon, Inc. building, two (2) new buildings on the undeveloped north portion of the site with additional parking spaces and loading areas, a future interim ingress/egress access to SW Tualatin Road, shared access and circulation, additional landscaping improvements and reducing the minimum parcel size from 40 acres to 15 acres to allow division of the property into two parcels.

ATTACHMENT F

IMP-09-01: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 37.030 must be met if approval of the proposed JAE Oregon, Inc. 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)(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, JAE Oregon, Inc. intends to partition the 40 acres into two lots. A partition will create the need for shared access and crossing circulation easements between the two lots, shared pedestrian access from SW Tualatin Road, a shared loading area between Parcel 1 (JAE Oregon, Inc. building) and Parcel 2 (Future Buildings 1 & 2), and common public or private infrastructure improvements including sewer and stormwater. Also the existing property has shared access onto SW Tualatin Road with the adjoining Novellus property on the proposed Parcel 2. Shared parking is not proposed.

The IMP shows site ingress/egress access shared between the proposed 2 parcels via the two existing site accesses to SW Leveton Drive and SW Tualatin Road (East driveway shared with the Novellus Systems property) and proposes a future access to SW Tualatin Road at the Parcel 2 northwest corner. Cross use and circulation between the two parcels is proposed that allows circulation between the access drives. The Engineering Memorandum (Attachment G) clarifies that the proposed west access on SW Tualatin Road for Parcel 2 is acceptable as a concept in the IMP and may be allowed in a Partition or Architectural Review as an interim access subject to traffic engineering analysis and consolidation of access in the future with an existing access on the Mittleman Properties site to the west (See analysis under Section 37.030).

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 located on the south portion of the JAE Oregon, Inc. property and on proposed Parcel 1. 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 JAE Oregon, Inc. site will require shared access, circulation, loading areas and common public and private infrastructure. To ensure the adequate provision of facilities between the two parcels allowed by the IMP, shared circulation and loading, common access and common public and private facilities shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared loading and circulation easements, access easements and common facility agreements and easements shall be established.

No alternative public infrastructure development methods are proposed in the JAE Oregon, Inc. 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 62.080) 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 north property line of the site adjoins SW Tualatin Road and the RMH (Medium High Density Residential) Planning District Boundary. No IMP alternative height is proposed.

The existing JAE Oregon, Inc. building on the Parcel 1 proposed in the JAE Oregon, Inc. IMP does not adjoin a residential district and meets the 62.080 standards for height and placement.

The future Parcel 2 buildings (Buildings 1 & 2) proposed in the JAE Oregon, Inc. IMP are across SW Tualatin Road from a RMH residential district. No height is shown for Buildings 1 & 2 which are shown with a setback 195 ft. from the SW Tualatin Road ROW (on the north). With the proposed 195 ft. setback to the residential district, Buildings 1 & 2 would be allowed a maximum 70 ft. building height. Building setbacks for Buildings 1 & 2 are 140 ft. to the proposed South property line of Parcel 2, 65 ft. to the west property line (adjoining Mittleman Properties) for Building 1 and 70 ft. to the east property line (adjoining Novellus property) for Building 2, that will meet the TDC 62.080 standards for a maximum 70 ft. building height and placement. No IMP alternative standard to the building height and placement standards of TDC 32.020(4)(c) is proposed for the Parcel 1 or Parcel 2 buildings.

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 JAE Oregon, Inc. building and site improvements including pedestrian connections, off-street parking and truck loading facilities on the 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 building and additions, the proposed Buildings 1 & 2 or for the two proposed lots.

The IMP proposes providing 264 new parking stalls to serve the existing JAE Oregon, Inc. building with up to 82,000 gross sq. ft. of building additions for manufacturing uses for a total of 439 spaces which would exceed the minimum off-street parking requirement of 314 spaces [TDC 73.370(2)].

The IMP shows 425 parking stalls for Parcel 2 and 188,100 gross sq. ft. of Buildings 1 & 2 for manufacturing uses, which would exceed the minimum off-street parking requirement of 301 spaces [TDC 73.370(2)].

Each lot will have shared or building-specific loading docks that meet TDC 73.390. The existing loading and truck maneuvering area on the north side of the JAE Building on the IMP proposed Parcel 1 and Buildings 1 & 2 on proposed Parcel 2 may 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).

The JAE Oregon, Inc. IMP proposes dividing the existing 40 acre parcel into 2 lots as follows (Attachment 4, pp. 3, 5-8, IMP Site Plan):

Parcel 1	24.59 acres	Existing JAE Bldg. and future additions
Parcel 2	15.1 acres	Proposed Buildings 1 & 2

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 JAE Oregon, Inc. 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 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 or 73.230-73.210, 73.320, 73.340 and 73.360-410 (Attachment 4, pp. 8, 16, IMP Site Plan). 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 1 & 2 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 JAE Oregon, Inc. site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-09-01.

If modifications to the alternative standards approved in IMP-09-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-09-01 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 JAE Oregon, Inc. site's developable area, from 639,000 s.f. down to 589,660. (Attachment G, pp 1-2) This is due to partition of the property into two parcels with no 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 630 Average Daily Trips. The table below shows the Trip Generation Summary presented in the JAE Oregon IMP March 27, 2009 Transportation Letter:

JAE 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	639,000	8,154	190	635
	Proposed IMP	589,660	7,524	175	586
Difference		-49,340	-630	-15	-49

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

“As no greater development than as standard in the zone can occur with approval of this Industrial Master Plan, no quantity of traffic greater than planned in the Transportation System Plan will be generated by this site. Therefore, the Level-Of-Service (LOS) of nearby intersections and the capacity of streets will not be increased by IMP 09-01.”

“As the developable area does not increase, the proposed IMP does not change the functional classifications of, SW 118th Avenue, SW 124th Avenue, SW Leveton Drive, SW Pacific Highway, or SW Tualatin Road for the City of Tualatin. As the developable area does not increase, 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 the lack of change 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 8-9)

The Engineering Division Memo states: “As the developable area does not change, the potential impact on all public utilities does not change. Public sanitary sewer, stormwater, and water lines exist in surrounding public rights-of-way in accordance with Master Plans that accommodated existing developable area. As such, public utility capacity for this developable area exists.” (Attachment G, pp 1-3)

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. Across SW Tualatin Road to the north is the Rivercrest Apartments and Tualatin Woods Townhouses (in RMH-Medium-High Density Residential). Within the vicinity industrial developments 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 Rivercrest Apartments and Tualatin Town Homes are 2-story wood-frame apartments with frontage on SW Tualatin Road and SW 115th Ave.

The typical industrial buildings in the vicinity of the JAE Oregon, Inc. 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. Examples of multi-story buildings that are part of 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 buildings 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 JAE Oregon IMP requests alternative methods for lot sizes for the JAE Building (and additions) and the proposed Parcel 2 Buildings 1 & 2 (Attachment D, pp 1-17), the location of Buildings 1&2 on the site respective to the public street and to other developments in the vicinity is considered. Buildings 1 & 2 are proposed as Light Industrial buildings oriented toward SW Tualatin Road and approximately 190 ft south of the SW Tualatin Road ROW, separated by surface parking areas and landscape areas.

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 America	12	161,120			.28
DPI	7.36	137,315	0	137,715	.43
DPI #II	7.2	181,800	0	181,800	.46
Mittleman Properties Parcel 1	24.6	114,150	20,000	134,150	.21
Mittleman Properties Parcel 2	15.1	115,960	62,800	178,760	.26
JAE Oregon, Inc. (Current)	40	114,150	170,850	285,000	.16
Phight Campus Phase I	29.6	0		240,000	.19
Novellus Parcel I Property	23.1 acres	373,875			.33
Novellus Parcel II Property	19.56 acres	74,000			.09

The existing and IMP proposed JAE Oregon, Inc. property buildings have the following estimated sizes identified:

Existing JAE Oregon 114,150 s.f.
Parcel 1 additions 82,000 s.f.
 Proposed Parcel 1 196,150 s.f.

Building 1 79,800 s.f.
Building 2 108,300 s.f.
 Parcel 2 Total 188,100 s.f.

The one existing JAE Building and the two proposed Buildings 1 & 2 are one-story structures that at IMP build-out will have building floor areas and Floor Area Ratios (FAR) (Parcel 1 FAR .18) (Parcel 2 FAR .29) that favorably compare to the other campus-style development in the MP Planning District.

The palette of building materials on the existing JAE Oregon, Inc. building and common to other buildings in the vicinity include:

- Finished concrete tilt panels
- Metal frame window and entry treatments on the north (SW Tualatin Road facing) side.
- Earth tone colors

The other neighboring industrial buildings also include:

- One and multi-level buildings with office floors or wings
- Architectural Metal treatments on exterior walls
- Use of masonry on exterior walls
- Extensive use of windows on street oriented elevations

The palette of materials proposed for the Parcel 1 building additions and two new Parcel 2 buildings in the JAE Oregon, Inc. IMP are described as: "The proposed buildings are anticipated to be tilt-up concrete construction with a moderate amount of window glazing. Architecturally, the styles of future buildings will be largely similar to surrounding buildings, but will include street facing entrances and windows. The colors are anticipated to be off-white and include masonry similar to the existing JAE building and the Mittleman industrial park to the west." (Attachment 4, pp. 8-9) The existing Parcel 1 building design and materials were approved in prior ARs and are the proposed design and materials of the additions shown in the IMP, meeting the requirement.

The materials and design of the proposed Parcel 2 Buildings 1 & 2 lack the features found in other development within the vicinity as described previously. Use of multi-level buildings with masonry treatments on the visible exteriors, greater use of windows and storefronts, multi-level bands of windows, and an office appearance rather than a plain "warehouse box" appearance would be consistent with the materials and design of other developments in the MP Planning District vicinity. To ensure that the Parcel 2 Buildings 1 & 2 include the building design and material elements that are characteristic of the campus style architecture of the MP Planning District and meet the requirements of TDC 37.030(2), an Architectural Review application for the proposed Parcel 2 buildings shall be presented for approval showing building design and materials that include the materials identified in the IMP-09-01 application and include: One and multi-level buildings with office floors or wings; use of architectural metal treatments on exterior walls; use of masonry on exterior walls; and extensive use of windows on street-oriented elevations.

With the condition requiring building design and materials for Parcel 2 to include elements found in other MP Planning District developments, the location, design, size, color, and materials of the proposed Parcel 1 building additions and Parcel 2 Buildings 1 & 2 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.

Access and Internal circulation for the existing 40 acre JAE Oregon site is provided by a primary access on SW Leveton Drive and a secondary service access on SW Tualatin Road that is shared with the adjacent Novellus Systems property. The proposed access

for the JAE Oregon IMP development concept is provided by the two existing access points and a new access onto SW Tualatin Road at the northwest corner of the property that will be shared between the two parcels and three buildings. These access locations connect to a network of shared internal drive aisles serving the existing and proposed buildings, parking areas and loading areas on the site.

The Engineering Division Memo states:

“The application includes conflicting statements indicating no new accesses and a new access to SW Tualatin Road on the west side of the lot. Clarification from the applicant indicated that the request for a new access to SW Tualatin Road was the correct statement.”

“After a future evaluation of the following issues, during a land use decision of an architectural review or partition, an additional interim access may be allowed to SW Tualatin Road:

- In order to reduce truck traffic traveling further west than necessary, an access will need to be as far to the east on the JAE Oregon, Inc. lot as possible.
- Since SW Tualatin Road was designed to meander in this area in order to preserve the street trees, an access will need to be placed to remove the least amount of trees possible with the preferred quantity to be zero.
- The addition of an access should address left-turn movements and queue lengths of the proposed and all existing accesses in the area on both the north and south sides of the street to not create conflicts.”

“At a future time, only one shared access for this lot (JAE Oregon, Inc.) and the lot to the west (Mittleman) will be allowed to remain. This may result in one of the following options:

- Closure of the existing access on the east of the Mittleman lot with a shared access easement between lots to the new access on the west side of the JAE Oregon, Inc. lot.
- Closure of an interim access on the west of the JAE Oregon, Inc. lot with a shared access easement between lots to the existing access on the east side of the Mittleman lot.
- Closure of both the existing access on the Mittleman lot and an interim access on the JAE Oregon, Inc. lot with a new permanent access created to be shared between both lots with shared access easements between lots as needed. If a new permanent access is created, the same issues mentioned previously to allow the new JAE Oregon, Inc. access will need to be evaluated.” (Attachment G, pp 1-3)

To ensure the proposed new Parcel 2 west ingress/egress access on SW Tualatin Road meets the standard of TDC 37.030(3), the applicant shall submit a Partition application that proposes an additional interim access for Parcel 2 to SW Tualatin Road. If approved, the access will remain an interim access until a future time when either:

1) closure of the existing access on the adjacent lot to the west (Mittleman), or; 2) closure of the proposed interim access on the JAE lot, or; 3) closure of both the existing access on the Mittleman lot and an interim access on the JAE Oregon, Inc. lot with a new permanent access created to be shared between both lots with shared access easements between lots as needed. The closure of an access will be borne by the owner of the lot. The future traffic engineering study associated with the request to construct the proposed access will need to address left-turn movements and queue lengths of the proposed and all existing accesses in the area on both the north and south sides of SW Tualatin Road to minimize traffic conflicts.

With the condition for the proposed Parcel 2 west ingress/egress access, the access and circulation standards proposed in the IMP is consistent with TDC standards.

The existing JAE Oregon, Inc. building and proposed additions are internal to the site and not adjacent to or relative to the public streets. The locations of proposed Buildings 1 and 2 are 190 ft. from the SW Tualatin Road frontage on the north and the building entries are oriented toward the parking areas and the street on the north, which is satisfactory. The proposed JAE building additions and the existing or proposed locations and orientations of Buildings 1 & 2 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 JAE Oregon, Inc. 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 manufacturing tenants. Parcel #1 (JAE Oregon, Inc.) will have 439 spaces (314 required) and Parcel #2 (Buildings 1 & 2) will have 425 spaces at build out (301 required).

The JAE Oregon, Inc. IMP does not propose an alternative building height. The building height maximum is 70 feet allowed by TDC 62.080(1) including Buildings 1 & 2 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)]. The heights of Buildings 1 & 2 are 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 Buildings 1 & 2 exceed the setbacks contained in TDC 62.060.

Lot sizes are proposed at 15.1 acres and 24.6 acres 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. The proposed new (west) SW Tualatin Road access location for Parcel 2 is subject to a condition of approval.

RECOMMENDED CONDITIONS

The proposed JAE Oregon, Inc. IMP-09-01 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 JAE Oregon, Inc. 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 JAE Oregon, Inc. IMP site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-09-01.
4. If modifications to the alternative standards approved in IMP-09-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-09-01 are to be exceeded, a new IMP application shall be submitted for review.
5. To ensure that the Parcel 2 Buildings 1 & 2 include the building design and material elements that are characteristic of the campus style architecture of the MP Planning District and meet the requirements of TDC 37.030(2), an Architectural Review application for the proposed Parcel 2 buildings shall be presented for approval showing building design and materials that include the materials identified in the IMP-09-01 application and include: One and multi-level buildings with office floors or wings; use of architectural metal treatments on exterior walls; use of masonry on exterior walls; and extensive use of windows on street-oriented elevations.
6. To ensure the proposed new Parcel 2 west ingress/egress access on SW Tualatin Road meets the standard of TDC 37.030(3), the applicant shall submit a Partition application that proposes an additional interim access for Parcel 2 to SW Tualatin Road. If approved, the access will remain an interim access until a future time when either: 1) closure of the existing access on the adjacent lot to the west (Mittleman), or; 2) closure of the proposed interim access on the JAE lot, or; 3) closure of both the existing access on the Mittleman lot and an interim

access on the JAE Oregon, Inc. lot with a new permanent access created to be shared between both lots with shared access easements between lots as needed. The closure of an access will be borne by the owner of the lot. The future traffic engineering study associated with the request to construct the proposed access will need to address left-turn movements and queue lengths of the proposed and all existing accesses in the area on both the north and south sides of SW Tualatin Road to minimize traffic conflicts.

DRAFT

MEMORANDUM

DATE: May 13, 2009

TO: Will Harper, AICP
Associate Planner

FROM: Tony Doran, EIT
Engineering Associate

SUBJECT: **IMP 09-01, JAE Oregon, Inc.**

Will,

On March 30, 2009 the engineering department received an Industrial Master Plan Notice, IMP 09-01, for a property designated Manufacturing Park Planning District (MP). This Industrial Master Plan would allow reduced lot sizes and setbacks in order to partition the existing JAE Oregon, Inc. building and future expansions from two future structures to the north.

TRANSPORTATION

The applicant's submittal states: "The IMP will not result in an increased development density beyond what the MP District already allows, as governed by minimum setbacks and a 20% landscaping minimum. The two proposed expansions and two proposed buildings on the site plan are consistent with the use standards and purpose of the MP District, and all uses are anticipated to be related to manufacturing. An IMP is being requested with the ultimate goal of a site partition and establishment of a guiding master plan for the property."

The applicant's request in this Industrial Master Plan is essentially to be able to partition the lot into two parcels of area smaller than would be allowed by the zone without and Industrial Master Plan. No additional request for variances of setbacks, building height, or other item that may increase the capability of developing more than allowed by the zone has been included.

The applicant submitted a Transportation Letter indicating an existing structure of 70,000 sq. ft. with 82,000 sq. ft. for future expansion with 439 total parking spaces along with two future buildings totaling 188,100 sq. ft along with 425 parking spaces. The IMP allowed lot line without a special request for reduced setbacks reduces developable area by 3.52 acres, from 32.60 to 29.08 acres. Reasonable worst-case trip generation is based on a building to developable area ratio of 0.45.

JAE Oregon, Inc. 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	639,000	8,154	190	635
	Proposed IMP	589,660	7,524	175	586
Difference		-49,340	-630	-15	-49

The City Engineer generally agrees with the Transportation Letter.

Attachment G
Engineering Division Memorandum

As no greater development than as standard in the zone can occur with approval of this Industrial Master Plan, no quantity of traffic greater than planned in the Transportation System Plan will be generated by this site. Therefore, the Level-Of-Service of nearby intersections and the capacity of streets will not be increased by IMP 09-01.

The application includes conflicting statements indicating no new accesses and a new access to SW Tualatin Road on the west side of the lot. Clarification from the applicant indicated that the request for a new access to SW Tualatin Road was the correct statement.

After a future evaluation of the following issues, during a land use decision of an architectural review or partition, an additional interim access may be allowed to SW Tualatin Road:

- In order to reduce truck traffic travelling further west than necessary, an access will need to be as far to the east on the JAE Oregon, Inc. lot as possible.
- Since SW Tualatin Road was designed to meander in this area in order to preserve the street trees, an access will need to be placed to remove the least amount of trees possible with the preferred quantity to be zero.
- The addition of an access should address left-turn movements and queue lengths of the proposed and all existing accesses in the area on both the north and south sides of the street to not create conflicts.

At a future time, only one shared access for this lot (JAE Oregon, Inc.) and the lot to the west (Mittleman) will be allowed to remain. This may result in one of the following options:

- Closure of the existing access on the east of the Mittleman lot with a shared access easement between lots to the new access on the west side of the JAE Oregon, Inc. lot.
- Closure of an interim access on the west of the JAE Oregon, Inc. lot with a shared access easement between lots to the existing access on the east side of the Mittleman lot.
- Closure of both the existing access on the Mittleman lot and an interim access on the JAE Oregon, Inc. lot with a new permanent access created to be shared between both lots with shared access easements between lots as needed. If a new permanent access is created, the same issues mentioned previously to allow the new JAE Oregon, Inc. access will need to be evaluated.

Comments have not been submitted by ODOT. Additional ODOT review and response may occur with future Architectural Reviews.

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 Tualatin Road and SW Leveton Drive, both City of Tualatin facilities. SW Pacific Highway is classified by ODOT as a Statewide Urban highway. As the developable area does not increase, the proposed IMP does not change the functional classifications of SW Pacific Highway for ODOT.

The City of Tualatin classifies:

- SW 124th Avenue, SW Leveton Drive (to the east of SW 118th Avenue), SW Pacific Highway as Major Arterials
- SW Tualatin Road as a Major Collector
- SW 118th Avenue and SW Leveton Drive (to the west of SW 118th Avenue) as a Minor Collector

As the developable area does not increase, the proposed IMP does not change the functional classifications of, SW 118th Avenue, SW 124th Avenue, SW Leveton Drive, SW Pacific Highway, or SW Tualatin Road for the City of Tualatin.

As the developable area does not increase, 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 the lack of change 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).

PUBLIC UTILITIES AND ACCESS

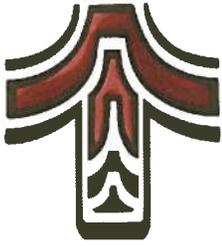
TDC 37.030 Criteria for Review

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 the developable area does not change, the potential impact on all public utilities does not change. 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 this developable area exists.

Public sanitary sewer and stormwater lines are available in SW Leveton Drive. Additionally, a stormwater line is available in SW Tualatin Road, however due to elevation and grades, there may be limited ability for this line to serve the entire proposed north lot. An existing public water line on site connects to the public line in SW Tualatin Road. Specific requirements for public infrastructure and private easements & agreements will be determined in Partition and Architectural Review decisions.



STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary J. Kirby

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager 

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

DATE: May 26, 2009

SUBJECT: CONDITIONAL USE PERMIT FOR THE STAFFORD HILLS RACQUET & FITNESS CLUB (SHR&F Club) AS A PRIVATE CLUB USE AND FOR ADDITIONAL BUILDING HEIGHT IN THE LOW-DENSITY RESIDENTIAL (RL) PLANNING DISTRICT AT 5916 SW NYBERG LANE (TAX MAP 21E19C, TAX LOT 900) (CUP-09-01)

ISSUE BEFORE THE CITY COUNCIL:

A request for a Conditional Use Permit that would allow: 1. The Stafford Hills Racquet & Fitness Club (SHR&F Club) as a private club use in the Low Density Residential (RL) Planning District at 5916 SW Nyberg Lane; 2. Increased building height from the maximum 35 ft. in a RL Planning District to a height of up to 40 ft.

RECOMMENDATION:

Staff recommends the City Council consider this staff report and supporting attachments including items submitted into the record that was left open after the April 27, 2009 public hearing on CUP-09-01, consider the staff report, testimony and information on the record of the April 27, 2009 public hearing, and adopt the attached resolution granting CUP-09-01 to allow a private club use and increase building height up to 40 ft. with the following conditions:

1. To ensure an adequate visual buffer between the Legacy Health Systems property to the proposed SHR&F Club outdoor/covered courts and indoor tennis building, the proposed club facility shall submit an Architectural Review plan that shows a buffer of evergreen and deciduous plantings on the south perimeter of the development area that extend from planter grade to 10 ft. in height to provide screening of the outdoor courts and include trees that will reach a minimum mature height of 30 ft. or more to provide a buffer to the indoor tennis building rooftop.

2. To ensure that the SHR&F Club buildings with the proposed increased building height is adequately buffered to the residences east of the site, the proposed athletic club facility shall submit an Architectural Review plan that shows a buffer of evergreen and deciduous plantings on the east perimeter of the development area that that extend from planter grade to a minimum height of 12 ft. and include trees that have a minimum planted size of 12 ft. or 3" caliper and will reach a minimum mature height of 30 ft. or more.
3. The SHR&F Club shall establish a parking management program that will restrict on-site parking before 8 am from parking stalls within 100 ft. of the SHR&F Club east property line.
4. Activities in the SHR&F Club buildings and on-site shall end by 10:00 p.m. and that the buildings and parking areas be closed by 10:30 p.m.
5. To ensure there is adequate on-site parking and to avoid spill-over parking onto neighboring residential streets, a Parking Management Plan for the SHR&F Club use shall be submitted with an Architectural Review application. The Parking Management Plan shall contain provisions for tournament and event parking that may include limits on attendance, mechanisms for restricting SHR&F Club visitor parking on public streets, and providing off-site parking in approved parking areas.
6. To ensure that outdoor lighting does not create glare to the adjoining public street, to the natural wetland to the west of the development area and onto adjacent properties, the proposed private club facility shall submit an Architectural Review plan that shows exterior building and site lighting will not shine or create glare in a manner that impairs the use of a property by residents or wildlife.

EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- This matter is a Conditional Use Permit request.
- This hearing was continued from the initial public hearing for the Stafford Hills Racquet & Fitness Club (SHR&F Club) Conditional Use (CUP-09-01) held at the April 27, 2009 Council Meeting. A copy of the April 27, 2009 Staff Report with a Vicinity Map, Tax Map, Site Map, the applicant's materials, site plan, staff's Background Information and staff's Analysis & Findings are included as Attachment A.
- At the April 27 public hearing, the Council granted a request by participants to leave the record open for additional information for seven days, a period ending on May 4 at 5:00 p.m. The information received during the open period is collected in Attachment B and includes letters, email messages and signed petition pages from persons who testified at the April 27 hearing and from other interested persons. Also during the record open period and collected in Attachment B, the applicant submitted information responding to questions and issues raised in the hearing including a letter from a traffic engineer and a collection of messages from persons in support. Subsequent to the closing of the 7-day record on May 4, the applicant (Zupancic Group) was allowed seven days

to submit rebuttal information into the record (ending 5-12-09). The rebuttal materials submitted by the applicant are compiled in Attachment C.

- In Attachment D, Staff provides a listing of the individuals who submitted comments or materials into the CUP-09-01 record that groups the submittals in respect to proponents and opponents with brief summaries of the issues and questions raised.
- Before granting the proposed conditional use permit, the City Council must find that the use and additional structure height are allowed as a conditional use in the RL Planning District and the criteria listed in TDC 32.030 are met. The Analysis and Findings attachment of the April 27, 2009 Staff Report (Attachment A) examines the application in respect to the criteria for granting a Conditional Use Permit.
- Attachment D is the Resolution.

OUTCOMES OF DECISION:

Approval of the Conditional Use Permit request will result in the following:

1. Allows the applicant to develop and operate the SHR&F Club facility on the subject property, located in a RL Planning District.
2. Allows the structure height of the clubhouse wing of the building to be increased to 40 ft. with the required minimum 60 ft. building setback to property lines.
3. Allows the use subject to meeting conditions of approval for buffers, parking and lighting.

Denial of the Conditional Use Permit request will result in the following:

1. The applicant will not be allowed to construct and operate the private club on the subject property.

ALTERNATIVES TO RECOMMENDATION:

The alternatives to the staff recommendation for the Council are:

- Approve the proposed Conditional Use Permit with conditions the Council deems necessary.
- Deny the request for the proposed Conditional Use Permit with findings that state which criteria in TDC 32.030 applicant has failed to meet.
- Continue the discussion of the proposed Conditional Use Permit and return to the matter at a later date.

FINANCIAL IMPLICATIONS:

Revenue for Conditional Use Permits has been budgeted for Fiscal Year 08/09.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting at the Legacy Meridian Park Hospital Education Center on February 12, 2009, to explain the Conditional Use Permit proposal to neighboring property owners and to receive comments. The CUP-09-01 April 27, 2009 staff report (Attachment A) includes additional information on public

involvement and includes a collection of Email messages received by the Community Development Department prior the April 27 public hearing. The reply and rebuttal materials submitted by the Zupancic Group (Attachments B and C) discuss recent meetings between neighbors and Mr. Zupancic, the applicant.

Attachments:

- A. April 27, 2009 CUP-09-01 Staff Report & Attachments
- B. Copies, List & Synopsis of Comments & Materials submitted in the CUP-09-01 record thru May 4, 2009
- C. Applicant's Rebuttal Materials submitted in the CUP-09-01 record thru May 12, 2009
- D. Resolution

ATTACHMENT A

As a conservation measure, the April 27, 2009 Staff Report and attachments is available in the City Recorder's Office.

ATTACHMENT B

CUP-09-01: Submittals to the Record-List & Summaries

List and summary of comments and information submitted for the record of CUP-09-01 through May 4, 2009 (5:00 pm.)

Letter, Email and Petition Submittals from Individuals

Name	Address	City Resident	Comment Synopsis
Angela Wrahtz	19155 SW Mobile Place	Yes	Opposition to CUP-09-01. Revised plan too large for the location; Lack of community support; Objectionable hours of operation; safety issues; Public costs of traffic and road improvements; Parking overflows; Too small a setback to residential; Costs and benefits of this development to the City.
Deborah & Tom Conchuratt	19000 SW Mobile Place	Yes	Opposition to CUP-09-01. Not a suitable use on this site; Conflicts with wildlife, wetlands & open space; Hours of operation; Traffic; Parking overflow.
Mark Coolican	19050 SW Mobile Place	Yes	Raise concerns, recommend conditions for CUP-09-01. Property buffer width; Tree canopy; Hours of Operation; Traffic & Parking; Conditional use exceptions.
Douglas L. Rasmussen	19025 SW Mobile Place	Yes	Raise concerns for impacts of SHR&F Club development to property. Private pond; Groundwater; Stormwater.
Kevan Rasmussen	19025 SW Mobile Place	Yes	Oppose approval of CUP-09-01. Traffic; Parking overflow; Safety; Loss of open space and view; Noise from parking activity; Commercial use in residential area.
Samara Rasmussen	19025 SW Mobile Place	Yes	Recommends denial of CUP-09-01. Noise; Crime; Traffic; Parking; Local small business; Displacement, disruption of wildlife, habitat and natural resources. Integrity (of habitat, quality of life).
Elly Branch	Not Provided	Unknown	Concerned. Destruction of wildlife habitat; traffic impacts on wildlife and environment; Opportunity to expand Brown's Ferry Park.
Richard Hager	SW Seminole	Yes	Doubts conditions can make SHR&F Club development a reasonable solution for site.

Name	Address	City Resident	Comment Synopsis
Joe & Beverley Lambert	19678 SW 57 th Avenue	Yes	Concerned. Proposed tennis club is a negative impact on neighborhood and quality of life. Across from nature park; next to wetland; deter wildlife; increase in traffic on SW 57 th Avenue; Noise caused by tennis club activity; Area is zoned residential.
Vern Reynolds	5475 SW Natchez	Yes	Concerned. Find a commercial location. Commercial use on a site zoned residential; Conflicts with kids at Brown's Ferry Park; Traffic on neighborhood streets;
Janice Dove	19135 SW Mobile Place	Yes	Application not acceptable. Keep site as single family residential. Alter character of Brown's Ferry Park; Size of facility & hours of operation not a good fit in residential location; concerns about emergency service access during flood event; Add traffic conflicts with neighborhood traffic conditions; Adequacy of parking.
Bob Dove	19135 SW Mobile Place	Yes	Critical of SHR&F Club proposals. Residential property values will decrease.
William Boaz	18342 SW 134 th Terrace	Yes	Opposition to application. Noise impact on Brown's Ferry Park; Emergency accessibility to Meridian Park Hospital; Liability and costs to City to mitigate project damages; Not an asset to Tualatin; Out of place and not a good fit.
Robert Sepp	19065 SW Mobile Place	Yes	Concerned. Negative effect on emergency response; Nyberg Creek flood events will result in parking overflow to neighborhood streets; Employee parking near residential property will cause noise and health exposure; Tall screening adjacent to residential will reduce view and sunlight; Noise; Adequacy of parking; Overflow parking during events; Location of trash facility in vicinity of residential property; Traffic conflicts with school buses; Applicant acceptance of one of six recommended conditions.

Name	Address	City Resident	Comment Synopsis
Julie Sepp	19065 SW Mobile Place	Yes	Opposed. Inadequate setback to residential; concerns for environmental cleanup of site & sewer system impacts; Commercial activity in area intended for residential; Noise; Lighting impacts on residential and wildlife; Contamination caused by pool chemicals and parking lots; Increase in traffic; Crime, safety & security;
Ryan Livesay		No	Comment in support.

May 4, 2009 8-Sheet Petition of Support for SHR&F Club. 101 signatures received – 6 unreadable – 70 different addresses. “Yes, as a resident of the Fox Hills Neighborhood, we support approval of a family-centered recreational facility (Tennis, Aquatics, Fitness, Child Care) to be located across from Brown’s Ferry Park with reasonable safeguards for the environment, the neighborhood, and nearby residences.”

Zupancic Group Submittals

- May 4, 2009 Response Letter with SHR&F Club Proposed Site Plan A1.10 and Revised Viewing Angle and Tree Heights graphic.
 - May 1, 2009 Letter with supportive email comments received by Zupancic Group and a notice of a forthcoming petition of support with signatures (Listed above).
 - May 1, 2009 Letter from Zupancic Group with attached letter from Kittelson & Associates, Inc. providing answers to a list of questions related to traffic engineering-related issues raised in the April 27, 2009 CUP-09-01 public hearing.
 - May 1, 2009 Letter from Zupancic Group notifying the Community Development Department of a change in ownership of the CUP-09-01 subject property (Tax Lot 21E19C, Tax Lot 900) to James D. and Marla Zupancic, effective May 1, 2009.
 - May 1, 2009 Letter from Zupancic Group providing a copy of the Clean Water Services Service Provider Letter for the SHR&F Club subject property and proposed development.
-

May 4, 2009

To: Mr. Doug Rux, Community Development Director, The City of Tualatin

From: Ms. Angela Wrahtz, Fox Hills Resident
19155 SW Mobile Place, Tualatin, OR 97062

Re: **Opposition to Zupancic Group CUP-09-01 Request**

Dear Mr. Rux,

I have attended every public meeting regarding the Zupancic Group's development proposals during the past 9 months and also met with him privately on Friday, May 1, 2009, at his request to review his revisions to the project for submittal today.

While the proposal Zupancic is submitting today will reflect some changes to address neighbors' concerns, his changes do not go far enough to resolve the fundamental problems with his plan. His revisions and traffic engineer's statement about traffic do not solve the problems which will be created if this project is allowed to be completed. His revisions still do not satisfy the criterion the City has established for protecting and preserving the character of the surrounding area. I have sent a separate email requesting another public hearing on his substantial changed proposal.

The revised plan remains too large for the intended location, generates too much noise for an unacceptable amount of time, creates significant traffic and parking problems, and, therefore, disrupts the surrounding properties usages.

I cannot support his plan and ask you to consider my concerns and reject Zupancic's application for the proposed Racquet and Fitness Club. Here are my reasons:

1. **Lack of support within the community.** Proponents of Zupancic's plan who spoke in the Public Hearing on April 27th were residents of other communities, namely Beaverton, Tigard, and Lake Oswego. These people do not experience a negative quality of life change because they live far away. The Tualatin residents who spoke were overwhelmingly AGAINST the plan as it is drafted. The one person from Tualatin who really liked the Club said he'd join "if it were in Wilsonville." Hundreds of residents from the surrounding neighborhood have attended meetings with the developer and voiced objections to the project which still have not been addressed. While the club in theory looks appealing, the location intended for it is unsuitable because it is not zoned for a large scale business and there is no way to transition the surrounding area except by condensing the size of the project down drastically.
2. **Objectionable "Hours of Operation," noise, stink, and light.** The peak period for Zupancic's business is early morning from 5:30am to 8:30 am when the surrounding neighbors expect and have a right to quiet. It is within the legal "use of the surrounding properties" that owners have a right to expect to sleep during normal human hours. Noise in the evening when residents are turning in would also create

stress and frustration. We have a right to keep our windows open in the Spring and Summer for fresh air without having it polluted with the noise of coming and going cars and their alarms, human noise from swimmers and loiterers in the parking lot, and pungent and poisonous exhaust fumes from over 100 vehicles just 20 feet away. Given the small buffers and the close proximity of the buildings to a residential property line, **the current plan is NOT a good fit for this RESIDENTIAL location.**

On the subject of noise pollution, I find it interesting that the City is looking at spending \$2.5 to \$5 million dollars to mitigate for train horn noise which is so disturbing to the community, and now, with this plan, the City is contemplating approving a project which will allow the same noise situation to happen again!

3. Safety issues.

- High volumes of traffic running along Nyberg Lane due to peak usage of the club overlapping with commute to work traffic times and, in the summer, drop off times for children attending the Willowbrook Day Camps make this a slow road for emergency service vehicles. Also, during nine months of the year, Tigard Tualatin School District school buses pick up children from the country club side of Tualatin and Stones Throw apartments and shuttle them to Bridgeport Elementary School between 7:30am and 8:15am. Then they pick up our children in Fox Hills and surrounding and drive them to Hazelbrook Middle School from 8:15am to 9am. What happens to the drive times of the school buses? Must their pickup schedules be increased in time to accommodate for slow downs due to increased traffic on Nyberg? It is not safe for our kids to be waiting at bus pickup locations while increased numbers of vehicles are speeding by in the morning and then again between 2:30pm and 4:30pm.
- Speeding along Nyberg Lane and SW 57th and SW 50th Streets by club members who are rushing to make their “court time” will increase hazards along the road especially for children. Is the City planning to put in speed bumps to slow down traffic along the neighborhood streets?
- Excessive traffic all day long along Nyberg Lane will endanger children and pets who play at the park.
- Flooding along Nyberg Lane will cause people to adjust their traffic and parking patterns into the neighborhood where children and pets play.
- Chlorine leaks from chemical storage around the pool will endanger wildlife in the wetlands.

4. **Traffic and Road Improvement Expenses Deferred to City and County after the fact.** If the plan is approved in its current form, there ensuing traffic nightmare and safety hazards will force the city/county and other agencies to make expensive road improvements. We know up front what the traffic problems will be—so why isn’t Zupancic being asked to make road improvements along with this project? Sure, that would be costly, but Nyberg Lane was not built with a big recreational facility in

mind. It was built out after Browns Ferry Park was put in place, so the expectation was for the lane to remain a carrier for a modest load of residential traffic.

5. **Unacceptable parking overflows into the surrounding neighborhood; problems with defining maximum capacity and utilization; hybridization of the business.**

There is no discussion in the application about the maximum capacity of the facility or information regarding the occupancy limits for the facility. Zupancic is describing four separate business ventures under the umbrella of his Stafford Hills Club proposal. Apart from the 1) Tennis and tournament business, he will be running a 2) Fitness Club, 3) a Café, and 4) a Pool. He will have 5) a daycare operation. He will be in the business of 6) booking private parties at the facility. Separate numbers have not been run for each of these enterprises. No doubt some members will come to conduct business meetings in the Café and never play any tennis. Some people will use the pool. All of these separate enterprises will generate their own numbers of users and uses. The child care facility will overlap with the other business, but the other businesses will not necessarily overlap.

- Based on this fact, the CUP Zupancic is asking for is not for a private club but a “hybrid private / public club.” Does the City Code allow for such a conditional use in RL1 zones?
- All of these different kinds of club-goers will represent separate drivers who need parking. The parking spaces from the previous plan have been reduced from 131 spaces to 122 spaces, increasing the likelihood that there will be a short fall. Where will these club-goers park?
- Doesn't Zupancic need to address the question of what numbers of people will be likely to be using the Club within the 17 hour time frame he expects to be open? Isn't “occupancy limitation” a consideration in granting a permit? Shouldn't it be? How can the build out be appropriate if we don't know what numbers we are dealing with? On the face of it, it clearly appears that there is inadequate accommodation for member parking which then carries over into the neighborhood.
- Is the City planning to implement a neighborhood parking permit program which limits unlimited neighborhood parking to only the residents while others who are non-residents may only park for no more than 30 minutes? Such a program would be costly to the City and also the residents. In the City of San Francisco, residential parking permits cost approximately \$30 per vehicle per year to homeowners. It would be a negative economic impact on top of everything else to ask residents to protect their streets at this additional cost. It will cost the City in terms of enforcement to be sending officers to ticket people who are then parking illegally from the Zupancic's Club.

In other words, if the City approves the plan, the City will be faced with solving new problems and remediation programs don't always fix the problem.

6. **A setback which is too small for the Tennis Alley /Activity Center.** While I am given to understand the green buffer from the property line will be increased, the 35

foot tall tennis alley in the May 4th plan is now only 20 feet from a residential property whereas it was approximately 45 feet or more previously. If the tennis alley is not sound proofed (i.e., if the building is steel construction), then the sound of banging balls will be heard all day long in my backyard and through my windows. This will drop the resale value of my home by \$50 to \$100,000. It setback for the building needs to be at least 40 feet with an appropriate green zone in between it and my fence line.

7. **Financial incentives/losses to the City connected with this plan.** The public has the right to know what the positive economic impact of such a Club would be projected to be. The application did not address the potential “assessed value” of the enterprise for tax purposes, but one has to assume the City would derive some positive net income from the project. What kind of numbers are we talking about? If the City isn’t expecting to receive substantial tax revenue from this enterprise but the plan will potentially COST the City in terms of mitigating for traffic and safety issues, then isn’t the plan unreasonable?

Zupancic’s plan has serious issues which have not been addressed. A large scale business does not belong in a quiet neighborhood. There is not enough acreage to allow for an adequate transition unless he scales way back. **Please consider these additional points as well as my prior letters to you and keep this parcel of property as it was intended: Low-density Residential, Single-family use.**

Thank you.

Will Harper

From: Doug Rux
Sent: Saturday, May 02, 2009 10:57 AM
To: Sherilyn Lombos; Paul Hennon; Mike McKillip; Brenda Braden; Will Harper; TONY DORAN
Subject: Fw: Follow up to last evening

Fyi

-----Original Message-----

From: Angela Wrahtz <angela.wrahtz@comcast.net>
To: Doug Rux
Sent: Sat May 02 10:43:50 2009
Subject: RE: Follow up to last evening

Doug,

Thank you very much for your thorough reply to my question. I will share this information with others who had the same question.

I learned from Jim Zupancic yesterday that he closed on the purchase of the Kozlowsky property yesterday, which means we will be continuing to address development issues. Zupancic continues to make changes to his plan which do improve it somewhat, at least as far as my own individual property is concerned. Others may be less convinced that the changes will improve the situation for their own residences. I will leave that for them to communicate about.

I am not an unreasonable person and would like to see the property developed in a way that adds value to the overall community while also being acceptable to the property line neighbors. I'd rather see the tennis club than a residential complex that looks like a trailer park, but I'd also rather see a small complex of new homes that are equivalent or better than Fox Hill III than the tennis club.

I remain concerned about the larger issue of traffic, flooding, and overflow parking into the neighborhood if the tennis club is built.

Angela Wrahtz

503-692-5123

angela.wrahtz@comcast.net

From: Doug Rux [mailto:DRUX@ci.tualatin.or.us]
Sent: Friday, May 01, 2009 4:25 PM
To: Angela Wrahtz
Cc: Julie Sepp; Janice Dove
Subject: RE: Follow up to last evening

Angela,

The Kozlowski land is identified on the natural resources map in the Parks and Recreation Master Plan as a resource to consider for acquisition as a natural area.

Since the Kozlowski property is on the map, its acquisition qualifies for funding through the Parks System Development Charge (SDC). For many years now, due to limited funding, all the Parks SDC funds available for land acquisition have been prioritized for acquisitions within the Tualatin River Greenway.

The Metro Natural Areas Bond Measure has both regional and local components for land acquisition.

Metro does not view the Kozlowski property as one they want to pursue with the regional funds. It is not large (over 40 acres), not on the Tualatin River, and the resource is not currently in especially good condition, though it could be through enhancement measures (and Metro has a grant program for this purpose).

Prior to the Metro Natural Areas bond election in 2006, Tualatin passed a resolution saying we would use our local share funds to further the goals of the Tualatin River Greenway through land acquisition within the boundaries of the Tualatin River Greenway. The Kozlowski property is not within the boundaries of the Tualatin River Greenway.

Hope this helps answer your question.

From: Angela Wrahtz [mailto:angela.wrahtz@comcast.net]
Sent: Tuesday, April 28, 2009 10:07 AM
To: Doug Rux
Cc: Julie Sepp; Janice Dove
Subject: Follow up to last evening

April 28, 2009

To: Mr. Rux
Fr: Angela Wrahtz
RE: Stafford Hills Racquet and Fitness Club Proposal

Thank you for hearing my concerns last evening at the City Council Meeting. I was sorry to leave early and understand there was good discussion in the questions and comments section of the agenda. I'll be getting notes on those later today. At this point I wonder if there is any possibility the City (in conjunction with other organizations such as Metro) will recognize the value of purchasing the parcel in question and expanding Browns Ferry Park as a dedicated green space and natural preserve?

Attached please find the electronic copy of my memo to the Council last evening for the record.

More soon. Thank you.

Will Harper

From: Doug Rux
Sent: Monday, May 04, 2009 7:48 AM
To: Will Harper; TONY DORAN
Subject: FW: Follow up to last evening

From: Angela Wrahtz [mailto:angela.wrahtz@comcast.net]
Sent: Saturday, May 02, 2009 10:44 AM
To: Doug Rux
Subject: RE: Follow up to last evening

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5/4/2009

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Attached please find the electronic copy of my memo to the Council last evening for the record.

More soon. Thank you.

5/4/2009

Dear Doug Rux and members of Tualatin City Council,

According to the hearing notice for CUP-09-01 which we received in April, there are five requirements stated that must be met in order for the city to grant a conditional use permit. The burden clearly lies with Mr. Zupancic to satisfy ALL of these conditions, and his proposed development of a commercial business on this site will never fit into the proposed location. It is inherently flawed as a conditional use for this property because the proposed facility is not in keeping with the aesthetics and character of the surrounding neighborhood. In addition, Mr Zupancic fails in at least two conditions, sited below, and in providing necessary and important information for a complete and thorough review of this development and its potential negative impacts. The size and scope of this private facility is out of wack with the surrounding area. We are not opposed to development, but the Stafford Hills Racquet and Fitness Club is an inappropriate use for this site.

To support our opposition to the city issuing a conditional use permit we will address two conditions specifically that are not met by Mr. Zupancic's plan:

1) The characteristics of the site are suitable for the proposed use.

Stafford Hills Club is not a good solution for use of the open space at this location. The wetlands that are adjacent to Nyberg Lane and the subject property are a fabulous natural resource not only for the surrounding neighborhood and all Tualatin residents to enjoy, but for the greater metro area, as well. The bird population alone is incredible and bird watching groups come to these wetlands frequently. There was a bald eagle sited just yards from the proposed development last week. There should be a study done by the State Fish and Wildlife Department on endangered species and the negative impact from this development on wildlife habitat and travel corridors. Not to mention the negative impact upon the wetlands' water source on this property that contributes significantly to the ecosystem in which the birds and other wildlife in the area thrive. Covering 5 acres with parking lots, tennis courts, 35-40 foot high buidings is not an appropriate use of this property. Has the city completed an evironmental impact statement report? Or is it incumbent upon Mr. Zupancic to complete this? I did not find it in his documentation. **CUP-09-01 application should be denied.**

2) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the uses of surrounding properties for the primary uses listed in the underlying planning district.

Where to begin?

Hours of operation. A private facility open for business from 5:30am to 10pm, 7 days a week, 52 weeks a year. Consider that employees will arrive earlier and leave later, which adds up to nearly 18 hours of business activity adjacent to a residential neighborhood. This is not appropriate use for a property zoned residential low density and is incompatible with the surrounding area. Mr. Zupancic has also stated that there will be "events" which may lengthen the hours of operation. **CUP-09-01 application should be denied.**

Traffic. Increased traffic will impact every resident of the Fox Hill neighborhood, Stonestrow apartments and all Tualatin residents trying to access Brown's Ferry Park. Nyberg Lane and the intersection at Nyberg Road and 65th were designed to carry neighborhood traffic and clearly not designed to handle the increased traffic that would result from the proposed use of this property. The flow of traffic on Nyberg Lane and at its intersection with 65th would be significantly limited and impaired. **CUP-09-01 application should be denied.**

Parking. There will be a greater demand for parking than the spaces being provided in the plan. The parking formula provided in the code cannot be taken in isolation as being satisfied when you take into consideration the size and activity level of this facility. It would be irresponsible for the city to

conclude that the character of the surrounding area would not be affected daily, particularly for any "events" occurring on the property, by overflow parking in the adjoining neighborhood, at Brown's Ferry Park, or in the bike lane on Nyberg Lane. Local residents (and their guests) would find it difficult to park in front of their own home. Mr. Zupancic has stated that the private club will be available for public rental. There is no evidence on record as to when maximum capacity for this facility has been reached. He has not satisfied his burden of proof to date with neighbors or the city (to our knowledge) regarding the maximum capacity of his proposed facility, which raises further questions about whether there is adequate parking. Overflow parking issues will substantially limit and impair the character of the surrounding area. **CUP -09-01 application should be denied.**

Excessive noise 18 hours each day and light pollution are incompatible with the surrounding neighborhood area and alters its character. **CUP -09-01 application should be denied.**

It is our understanding that Mr. Zupancic has submitted a new plan different from the one he presented to the City Council on April 27, 2009. We have seen a second plan which includes substantial modifications from the first plan he submitted. In light of these changes it is appropriate that the current application under review should be denied and that a new application be required that incorporates these modifications. We ask as well that the city staff create a new report and that there be a new hearing set to review this new application.

In closing, this development is an exception to what is normal for existing zoning and therefore we hope that the city council will apply extra scrutiny, caution and careful review. This is important to our community because the changes this development will cause will be irreversible and permanent. There is no evidence that there is a demand for this kind of facility for the residents of Tualatin. The conditional use proposed for this property does not benefit the public at large, it is a private club and any public use or benefit (other than financial from increased property tax dollars) is not guaranteed, it will be up to the discretion of the owners and leadership of the club.

Thank you for your consideration.

Sincerely,

Deborah and Tom Conchuratt

19000 SW Mobile Place

Tualatin, OR

Will Harper

From: Doug Rux
Sent: Sunday, May 03, 2009 2:08 PM
To: 'CoolicanM1@aol.com'
Cc: Sherilyn Lombos; Brenda Braden; Will Harper; TONY DORAN
Subject: Re: Public Hearing on Zupancic Nyberg proposal

Thank you for the comments.

The Tualatin Development Code in this instance allows two conditional use requests to be submitted. The first is for use and the second for building height.

-----Original Message-----

From: CoolicanM1@aol.com <CoolicanM1@aol.com>
To: Doug Rux
CC: angela.wrahtz@comcast.net <angela.wrahtz@comcast.net>; janice_dove@mentor.com <janice_dove@mentor.com>
Sent: Sun May 03 13:42:22 2009
Subject: Public Hearing on Zupancic Nyberg proposal

Doug,

Please find in the attachment, my signed statement regarding the Public Hearing on the Zupancic proposal.

I've included in this email the body of that statement as well.

Thanks.

Mark Coolican

May 3, 2009

Doug Rux

Director, Community Development

As a resident of Tualatin and SW Mobile Pl, I want to raise the following concerns regarding Zupancic development as presented at the Public Hearing.

1. Property Buffer

The plan presented a 10 ft buffer between parking lot and SW Mobile property line. This is not sufficient to maintain the current type of neighborhood environment and living standard for homeowners on SW Mobile Pl and other Fox Hill properties.

In order to maintain the neighborhood living standard this buffer should be a minimum of 35 ft. This should be easily accepted by Zupancic. When this point was raised at the previous community meeting, Zupancic stated that the parking area would be for staff and not heavily utilized. With such usage it would be easy enough for Zupancic to put staff parking on the west side of the property and expand the buffer zone into the

designated parking area.

Less than 35 ft. buffer between a low density residential area and the commercial enterprise being proposed is not sufficient to maintain the current designated residential zoning for the Fox Hill area. The plan should contain specific requirements to minimize light and sound pollution with a green buffer that clearly delineates and protects Fox Hill residential property.

Additionally, as presented there is no green buffer on the West side of this facility. The approach from the west will be confronted by a 40 ft high, 90,000 sq ft. complex. This certainly does meet the conditional use requirement number 4. A green buffer on the west side and north side of this complex should be required to minimize the visual impact to the community.

2. Tree Canopy

The developer's plan also indicated an attempt to maintain as much of the canopy as possible. This proposal carries no commitment or guarantee to protect the mature tree canopy that exists on this property.

As a requirement for conditional use approval, our city should require that Zupancic replace any destroyed mature canopy with trees of equal canopy level. This will insure that Tualatin continues it's designation as a "Tree City".

3. Hours of Operation

The council has the authority to control the hours of operation for this facility. A 5:30am to 10:00pm operating schedule places a serious burden on the residents of SW Mobile and should be restricted to a more reasonable time frame.

4. Traffic and Parking

Although much discussion took place at the hearing on this topic, I don't believe there was a resolution to this issue. On its face the addition of 1000 trips a day to Nyberg lane as well as the over flow parking issues presents a significant issue to the community that would prevent the approval of the plan as it has been presented by Zupancic.

5. Conditional Use exceptions

The Zupancic Plan requests conditional use under two categories, both the private club as well as a waiver on the height restriction of 35 ft. This seems to be double dipping or piling on, whichever term fits. The question is, how many conditional use exceptions can or should be granted on a low density residential code to accommodate the developer.

Mark Coolican

19050 SW Mobile Pl

Tualatin, OR 97062

home 503-692-2064

cell 269-569-8428

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Douglas L. Rasmussen

19025 SW Mobile Pl.

Tualatin, OR 97062

May 4, 2009

To: The City of Tualatin Council and City Planners

I was at the city council meeting on April 27th and spoke against the proposed Stafford Hills Racquet and Fitness Club. My testimony was such a brief version that I would like to add more information with this letter.

My spring-fed pond is about 70' wide, 90' long, and occupies over half of my property. It is part of the storm water drainage system for our neighborhood. There is an easement to dump storm water through pipes that lead directly to my pond. There are two inlets on SW Mobile Place and one inlet on Nyberg Lane. As you know, vehicles leak oil, fuel, and antifreeze. When it rains, the storm water picks up those contaminants, thereby washing them into my pond. It is common practice to lessen these contaminants through dilution; however, water volume is necessary to accomplish this.

Before the house next door (to the south of my pond) was built, there was an adequate flow of ground water to dilute the storm water coming through. Since my pond joins the Brown's Ferry Park pond through an over-flow pipe, and the Brown's Ferry Park pond joins the Tualatin River, there were less pollutants in all three bodies of water. The first summer after that house was completed, I realized that the water level in my pond had dropped approximately 8-10". Even when it would rain and fill slightly, once the rain was gone, the drop remained. It is evident that this one building reduced the underground flow of the natural spring, and we are losing a portion of what we need to keep the water level up, making it harder to maintain the health of the pond and wetland.

I was forced to research a way to try to clean it. This led me to aeration, so I purchased a pump to circulate water. While this has been somewhat effective, it has not completely solved the problem and the loss of flow from that underground source has certainly had a negative impact on my pond. This natural wetland cannot afford to lose any other underground sources.

The proposed plan situates the largest building directly on top of an existing natural wetland, requiring it to be covered over. This wetland is the closest to my property and is the main source of the valuable ground water that feeds my pond. The compression of the soil beneath the

building could block the flow of ground water to my pond. If this occurred, the level of my pond would drop even more, with the potential to dry up altogether. If a cut and fill is allowed, it would create a wetland over .6 acres further away from my pond, with no guarantee that this new, man-made wetland would route ground water to my pond. Even a French drain application carries with it too many variables and risks to be considered. There is a very real possibility that it would actually drain my pond, rather than fill it.

The proposed plan also has a parking lot that would be located directly behind my property. The excavation and trenching necessary to build this structure is yet another thing that would block the flow of ground water, add pollutants, and compromise my pond further.

Another important element in my yard, next to my pond, is a 35+ year old willow tree that stands eighty majestic feet tall. This tree needs a lot of water and if the water level is in jeopardy, the tree will be also. This tree shades the pond and is a haven for wildlife. My family and I have enjoyed watching Blue Herons, Green Herons, King Fishers, many species of ducks, migrating swallows, and a variety of songbirds too many to list. We have been visited by river otters, nutria, and our state animal, the beaver. If I lost this tree due to a lack of water and the level of the pond decreases or dries up, my property value will drop.

I chose my property because of the view, the country feel, the beautiful pond and the 80' tall willow. When I purchased the property it was with the understanding that the property west of me was designated RL, and would be developed in the future with single family homes. I would not have chosen this home had I thought I would be living next to a large scale business.

Thank you for your time and consideration.

Douglas L. Rasmussen

TO: City of Tualatin
FROM: Kevan Rasmussen, 19025 SW Mobile Place, Tualatin, OR
DATE: May 4, 2009
RE: Zupancic Group Tennis Club

After reviewing the proceedings from the City Council meeting on Monday, April 27, it is apparent that Mr. Zupancic has not been able to meet the requirements for the conditional use permits.

It is clear that the concerns presented have not been adequately addressed, and that the proposed site is not suitable for the intended use. The minimal changes that have been offered have not addressed the major issues sufficiently, and in fact have added yet more problems. These problems are valid, realistic concerns that can directly affect the quality of life of a neighborhood and surrounding areas and open spaces:

- TRAFFIC

The traffic from this commercial business has been discussed, calculated, approximated and certainly UNDERESTIMATED. The fact remains that Fox Hill residents know the traffic conditions on a daily basis. Nyberg Lane is a two lane residential road meant to take people in and out of the neighborhood and to and from Brown's Ferry Park.

Taking into account the ever-growing number of employees, members and guests that are expected to use this facility, it is a major underestimation to assume that 131 parking spaces will be sufficient. Considering proposed special events, tournaments and meets that draw hundreds of people from other places, how can it not be obvious even to those contracted to do traffic studies that there will be OVERFLOW parking on Nyberg Lane CONSISTENTLY? During these times, parking will also occur in our neighborhood, especially on those streets nearest the entrance to the business.

This will absolutely decrease visibility and endanger both drivers and pedestrians. It will negatively impact those trying to enjoy the park, as well as create a huge safety concern for those on affected streets.

Emergency Response times will suffer and perhaps cost a life. Emergencies do not differentiate between normal times and "peak" or "special event" times. This is not in the best interest of the residents of Fox Hill.

This is NOT acceptable.

It is extremely unrealistic to assume that traffic will flow freely, move smoothly and have minimal impact. The high volume of expected traffic and obvious two lane road make this clear to all who have driven Nyberg Lane.

In addition, this intense volume of traffic will also have a negative effect on the road surface itself. If the low-end estimate is 1,000 trips per day, that means 365,000 trips per year. For a residential road not meant for heavy commercial travel this could amount to expensive repairs.

During meets, tournaments and special events, even more trips will occur. It could also be expected that teams coming from all over the PNW to compete would arrive by bus. Nyberg Lane was not intended for commercial use.

Patrons coming from I-205 will consistently try to find shorter, faster and less crowded routes. They will “cut” through the Fox Hill neighborhood using 50th and 57th streets in order to connect to Nyberg Lane. This will create dangerous conditions for neighbors and their children and disrupt the quiet of the neighborhood.

This is UNACCEPTABLE.

The back of my house has windows that face Nyberg Lane and Brown’s Ferry Park. This is my family’s “living” area, and leads to my patio and backyard. Why should I be expected to exchange my view of beautiful open spaces and familiar local traffic for armloads of cars of cars parking up and down the road in front of me?

It is NOT acceptable.

- NOISE

Much has been said about the noise that would be generated by this facility. Discussion has centered around the amount of setback and the proposed buffer. Whether the setback would be 10 feet or 20 feet, and the buffer a row of trees or a 6 foot wall, the result will be the same. A business as large as this club, with activities that generate such a tremendous amount of noise cannot effectively be buffered.

The outdoor activities, whether playground, pool or tennis courts are all loud, continual noise. The indoor courts will become concert halls when their doors are up. Sound travels up...and far. No buffer of trees, newly planted or existing, will protect neighbors from such an extreme amount of noise from so many people and sources.

The parking lot noise will easily be heard at any hour. I can hear one motorcycle on the property, its’ rider much farther away than 20 feet, inside my home. Are we to assume that 131 plus cars, their drivers and passengers, are not as loud as one motorcycle?

All the noise from cars and people will directly impair our ability to enjoy our outdoor spaces with friends and family. The continual combination of noise will be stressful and disruptive.

This is NOT acceptable.

Tualatin has already experienced noise and traffic problems that the WES rail system caused to residents. They should not be expected to endorse any business that would create a like problem.

There are only so many ways to say the same thing. At the risk of being redundant once again, I can only state what has been repeatedly stated.

This proposed business is NOT suitable to, nor compatible with, the proposed site. It is NOT compatible with the adjoining neighborhood.

The only acceptable building plan for this property is the designation it has carried for many years...Low Density Residential. Commercial buildings are not appropriate and do not provide a natural transition for the existing neighborhood. They are not in keeping with the image our city has created for this area already.

I am confident that upon further review there could be no conscientious recommendation that allows this CUP application to be approved.

Thank you for reading and considering my concerns. I appreciate all your efforts to keep our city as beautiful as it is!

Sincerely,

Kevan Rasmussen

TO: City of Tualatin

FROM: Samara Rasmussen, 19025 SW. Mobile Pl.

RE: The CUP for the proposed Racquet and Fitness Club

The following letter addresses and elaborates my concerns for the CUP that would allow the proposed racquet and fitness club to be built.

This list shows my concerns and objections, along with the reasoning behind them:

❖ NOISE

- There exists NO suitable buffer for the sound coming from this business.
- Noise from the proposed club would be overwhelming. Along with the added traffic, factor in the sounds of the parking lot, i.e. keyless entry, car alarms, people and employees talking, car speaker systems, and idling engines; the sounds of people from the outdoor areas, such as the pool, the picnic area, the cabana, the splash fountain, and people on the tennis courts; and the sounds of tennis balls bouncing incessantly throughout the day from the 3 outdoor courts and, during warm weather, the 7 indoor courts transformed into outdoor courts.
- The hours of operation would allow noise to begin as early as 4:30 a.m. and later than 10:00 p.m. This is highly unacceptable.

❖ CRIME

- Any business with a large parking lot, especially an exclusive, members-only club (which can be perceived as having affluent clientele) is a target for crime. A high-volume business that invites people from across the Pacific NW has the potential to bring in and increase crime. It could not only heighten car-related offenses, but has the plausibility to allow all crime, including violent offenses, into the surrounding neighborhoods. The safety of our homes and families is of the utmost concern, and should warrant high priority when considering the consequences of allowing this application to pass.

❖ TRAFFIC

- Nyberg Lane is a modest two lane road with a bicycle path on each side. Currently, this road has a consistent flow of traffic heading east and west, during ALL hours of the day. This proposed business, which can accommodate an unanswerable amount of members and their guests, will add exponentially to this traffic, not only at "peak" hours, but at all hours of its operation. This has the probability of backing up traffic

on Nyberg Lane, 57th Ave., 65th Ave. (which has a turn lane capable of handling only 7 cars at a time), Borland Road, and Stafford road, which will, in turn, cause back-ups at the I-5 and I-205 freeway on and off ramps.

- The “envisioned” events, i.e. swimming meets and lessons, tennis competitions, and various classes, as well as the possibility of group rental, make the point mentioned above an all too realistic view of what could only be called a traffic nightmare.
- There is a stretch of Borland Road that has a **20 MPH** speed limit for the school zone. Added traffic would naturally back-up at this point and drivers may be inclined to speed through it, putting children at risk.
- The area surrounding Brown’s Ferry Park, including the proposed land, is home to a significantly high and varied amount of wildlife. This includes a Bald Eagle, which has been seen on the land in question and was seen only a few days ago in the Brown’s Ferry Park pond. These many creatures face danger from the traffic that already exists. There are a disturbingly high number of injuries and deaths from current motorists. Additional traffic from the proposed facility would almost certainly add to this gruesome toll.

❖ PARKING

- The project proposes a 131 space parking lot and this is described as being “sufficient for all envisioned events”. This is a gross underestimation. If you calculate the amount of employees at any given time, the tennis courts which can hold 40 people, a pool, a practice tennis alley, an 8,000 SF fitness area, a picnic area, a classroom, an activity and children’s center, a terrace, a viewing gallery, and a splash fountain, it becomes obvious that there will be parking overflow. Where, then, will these extra vehicles park? Parking along Nyberg Lane decreases visibility and endangers people walking with children and/or pets. Parking in the lot designated for Brown’s Ferry Park will deter visitors coming solely to enjoy the park. Parking along the streets of Fox Hill will interfere with the daily routines of home-owners and impact the quiet peace of the neighborhood, as well as increase dangerous conditions and the aforementioned noise issue. Overflow parking will become a nuisance to the residents surrounding the site.

❖ LOCAL SMALL BUSINESSES

- The massive commercial business proposed details plans for massages, classes for Pilates, yoga aerobics, and fitness activities. While this club is private, it still has the potential to take business away from our local small businesses. Just one example is the new business Massage Envy, located a few simple minutes away in the Nyberg Woods Shopping Center. In this economy, it is hard enough for small businesses to survive, let alone thrive, without having to compete with such a large entity.

❖ DISPLACEMENT/DESTRUCTION OF WILDLIFE, HABITAT, AND NATURAL RESOURCES

- The trees that would be cut down for the proposed plan are the homes and migratory rest areas of many varieties of wildlife. This is also true of the wetland that would need to be destroyed to accommodate the design of the plan. Although the concept includes the creation of a new wetland, there is certainly no guarantee that the displaced wildlife will return, nor a guarantee that new wildlife will emerge.
- There are a high number of species residing in this area, thus it seems only logical to conclude that an immense commercial development would have a harsh negative impact on wildlife, in and around the proposed site. This includes Brown's Ferry Park, a place where people come to learn, watch, and even film the inhabitants.

❖ INTEGRITY

- This proposal will destroy an integral part of the habitat that Tualatin's wildlife has come to call home. The magnitude of the potential loss of that wildlife will undoubtedly destroy the quiet, unadulterated atmosphere that Brown's Ferry Park affords us and those who come to visit.
- It is abundantly clear that the surrounding neighborhoods will be dramatically affected. The privacy, serenity, calm appeal, peaceful coexistence with nature, and even the clichéd "quality of life" for those of us who make-up Fox Hill, will be permanently disrupted. This area of Tualatin is an exceptional example of how a city can merge with nature to be beautiful as well as successful, yet it cannot exist if this facility is allowed to be built.

This proposal does not benefit the general public since it is an exclusive, members-only club. It will devalue the adjacent properties and detract from their appeal. There is no finite way to determine the damage it will cause to the natural resources of the community. The roads around it were not designed to handle excess traffic. There exists a protected natural wetland that would needlessly be destroyed. The character of the surrounding area would be impaired by spoiling the setting of Brown's Ferry Park as a place of education, recreation, and observation. The traffic, parking, noise, and security risks will substantially limit the feeling of tranquility and safety for those in the surrounding properties and for those coming to visit Brown's Ferry Park.

I respectfully ask that the request for this CUP be denied. This land is zoned RL and should remain so, as single family homes appear to be the only acceptable and suitable buildings plans.

I would like to thank you for your time and consideration regarding this matter. I appreciate you allowing my voice to be heard.

Sincerely,

Samara Rasmussen

Will Harper

From: Doug Rux
Sent: Monday, May 04, 2009 7:43 AM
To: Elly B.
Cc: SHERILYN LOMBOS; Brenda Braden; Will Harper; TONY DORAN
Subject: RE: Proposed tennis center

Thank you for your comments. They will be entered into the public record.

From: Elly B. [mailto:blueskies72@verizon.net]
Sent: Sunday, May 03, 2009 10:04 PM
To: Doug Rux
Subject: Proposed tennis center

Dear Doug Rux,

I'm contacting you in regards to the proposed tennis club on Nyberg Lane across from Brown's Ferry Park. I'm extremely concerned about the destruction of habitat for the animals that we invite and encourage to live in the natural area nearby. While adding 10 acres of wetlands to the Park would be wonderful, the remaining 5 acres would become contaminated and covered with an impervious surface which would be very detrimental to the environment. The increase of people and cars would discourage and endanger our local wildlife.

I especially worry about our birds that fly between the Brown's Ferry pond and the one across Nyberg Lane. Several ducks have already been struck and killed there in the past few years. Would the increased number of cars driving down Nyberg be careful to check for the Mama Ducks and their ducklings as they waddle across the street in a long, slow row, as happens every Spring? I've sighted a pileated woodpecker this year, in addition to our heron, egret, killdeer, mourning doves, bandtailed pigeons, and the wide array of other birds and waterfowl, plus the many mammals that currently inhabit the Park. Their current (relative) safety would be threatened if a large building meant to attract several hundred people were to be built nearby.

The latest issue of the "Tualatin Times" mentioned people from West Linn and other surrounding areas expressing interest in attending the club. Of course, these people would quickly figure out how to avoid the traffic congestion around the hospital by taking Saum to Nyberg Lane. This would increase traffic on the back road, further endangering our wildlife and degrading the air with their exhaust.

It would be ideal if the entire 15 acres across from Brown's Ferry Park could soon become an extension of the Park, making it a positive contribution to animal habitat and the environment. Why can't Brown's Ferry Park become known as one of Tualatin's foremost natural areas? It could compliment the recently dedicated National Wildlife Refuge on 99W -- a feather in Tualatin's cap!

Thank you for considering my input when you make your decision about building a tennis center near Brown's Ferry Park.

Best regards,

Elly Branch

Will Harper

From: Doug Rux
Sent: Monday, May 04, 2009 5:29 PM
To: TONY DORAN; Will Harper
Subject: FW: Open Record: proposed Stafford Hills Raquet & Fitness Club

From: RichardHager7@aol.com [mailto:RichardHager7@aol.com]
Sent: Monday, May 04, 2009 3:57 PM
To: Doug Rux
Cc: Will Harper
Subject: Open Record: proposed Stafford Hills Raquet & Fitness Club

Hi Doug; It was good to see you at the City Visioning event last Thursday. You might recall that we spoke for a moment about this proposed project, to be located on Nyberg Lane in Tualatin. I have included a few rather informal comments in this E-mail, since the Council record has been left open until 5pm today. I believe the issue at hand is the pending request for a "Conditional Use Permit", for this proposed project use. I have not read the official record of the Council meeting, nor have I seen the Staff Report on this project. As such, I do not know which "Staff conditions of approval" (or specific Council suggestions) are now on the table. But, at this point, I assume that no formal "appeal" would have been filed, since NO "Final Decision" has yet been made by the Council.

Doug, as you know (but some of the Council might not know), I have been a very actively involved citizen for the past 25 years or so. My involvement has included several years each on the ARB, City Council, T-PARK, and more recently on the Tualatin Arts Com. I have been a resident of Tualatin continuously for more than 32 years. I have also served on a number of regional bodies and Boards, as a designated representative of the City Council. That includes 18 years on the Washington County Policy Advisory Board (PAB). I think you are aware of my educational background, and that I have more than 30 years of experience in project design, all phases of development, and construction management (in various states). Doug, my comments are not based on any "NIMBY concerns", since I live more than two miles from the proposed site.

I like to start out with something positive, so I will say that this proposed project is NOT the absolute worst thing I can imagine at the proposed location, on Nyberg Lane. As you know, that site is adjacent to low density residential, significant wetlands resources, and across from Brown's Ferry Park (which is a passive activity park, which has been enhanced, but is left mostly in its natural state). So then, you are no doubt wondering what I think could possibly be "even worse than" and/or "less appropriate" than what is now proposed for this site.

Now, before I list a few equally "bad uses" for that site, I want to stick to the "positive" for a moment longer. So, I want to say that I believe this proposed project could be an ASSET to our community (or an adjacent community), IF it were located on a site that actually made some sense. Simply put; as a Planner might say, I believe this project (as now envisioned and proposed) is the "wrong use", on the "wrong site".

As promised, here's just a few uses that I think might be "worse" (assuming they would fit on the site):

1. A Wal Mart, Costco, Target, or similar "Big Box" user (along with hundreds of parking spaces)
2. A Sports Stadium (along with extensive parking)
3. A Shopping Center or Mall (along with extensive parking)
4. A NASCAR Race Track (along with extensive parking; ...and Noise too)
5. A Shooting Range (similar to a Gun Club). It might fit here, but would it make any sense here ?
6. A Bowling Alley, Water Park, or other similar recreational activity.
7. A Hi Rise facility, of any mix of uses.

Simply put, I doubt that this proposed use can be "conditioned" well enough to make it a reasonable solution for this site. I wonder if they have considered putting it underground, ...and building a park on top of it ?

Well, my friend, I think you get my "subtle" point, ...and I hope the Council does too !!

I am submitting this E-mail as my testimony at ~ 4pm, on Monday May 4th, 2009.

With My Best Regards, Richard (Hager)

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May 1, 2009

Mr. Doug Rux
City of Tualatin Planning

Subject: Possibility of construction of Tennis Club on Nyberg Lane

Our house was about the fourth house to be built in the Fox Hills subdivision. We have lived here over 20 years and love Tualatin. In that time there has been substantial growth and we would be naïve to believe that some growth in our area will not continue. It is the type of growth that concerns us. The construction of a “private tennis club” directly across from a nature park, as well as next to wetland would be irresponsible. This is a quiet, residential neighborhood. The added noise and added traffic to the “nature area” would have a direct impact on one of our favorite parts of Tualatin where we love to spend time by the river, enjoying egrets and herons as well as other wildlife. As a matter of fact, the other day a bald eagle was down on a stump on the pond in Browns Ferry Park where many of us took photos of this country’s symbol. It was a remarkable opportunity that would not have happened except in a quiet environment. The patrons at the club would also substantially increase the traffic on 57th Avenue and, in our feeling, could impact home values as well as the whole “family” atmosphere that exists in this area. Members arriving from the East would probably look for a short cut and not follow Borland Road with its signals down to Nyberg Lane. The noise would no doubt carry over into the evening and later during summer hours and with warm weather permitting and we would also suppose that there would be other “events” held there with more traffic and noise through our neighborhood. This project does not belong in a neighborhood like this one adjacent to wetland and a nature park. The area is zoned residential and that was our understanding when we moved here—when we invested in a family home, in a neighborhood where only family homes were to be developed.

We are asking the city to listen to our concerns, hear our voices, and agree that this “club” would not enhance our neighborhood and in fact would impact our neighborhood and our quality of life in a negative way. We are a neighborhood of Tualatin homes and a nature park that we love and would like to keep this area residential.

Thank you for your consideration.

Sincerely,

Joe and Beverley Lambert
19678 S.W. 57th Avenue

Reynolds comment FW Tennis Center.txt

From: Sherilyn Lombos
Sent: Sunday, May 03, 2009 2:38 PM
To: Doug Rux; Will Harper
Subject: FW: Tennis Center

FYI

-----Original Message-----

From: Lou Ogden [mailto:lou.ogden@juno.com]
Sent: Sunday, May 03, 2009 12:14 PM
To: vlreynolds@aol.com
Cc: Brenda Braden; chris@mustardpeople.com; maddux01@verizon.net;
etruax@royalaa.com; jay@h-mc.com; smbeikman@verizon.net; Sherilyn Lombos
Subject: Re: Tennis Center

Thanks Vern, for your comments.

I am very limited to what I can discuss with you outside the public hearing process because this is a quasi-judicial land use hearing. I am including your email and this response into the record which was left open for 7 days last Monday evening. I would encourage you to attend the hearing which was continued to May 26. At that time you can add any additional input, ask any questions during the hearing, and most importantly, hear the legal aspects and council deliberation. I can only add that all of us on the city council volunteer our time because we care very much for our community, just as you do, and I believe we base our decisions on first the laws, and also what we believe is in the best interest of everyone who lives here, and what is legally enforceable, not on whether or not we get re elected. In this particular case, nearly half of the council lives in the Fox Hill vicinity and I am sure share the same neighborhood life experiences as you do. I don't know the final outcome but I am sure it will base wholly on the tenets I mention above.

Lou

On Sun, 3 May 2009 10:58:24 -0700 Vern Reynolds <vlreynolds@aol.com> writes:

> Dear Lou
>
> I think this must be the first time that I have emailed concerning
>
> something other than basketball. I wanted to voice my concern and
>
> that of many of my neighbors concerning the tennis center proposed off
> of Nyberg Lane. As a resident of Fox Hills, this is not in the best
>
> interest of our neighborhood for many of the reasons I'm sure you have
> already heard. The bottom line is that this developer is buying at a
> residential price for commercial use. It is zoned residential and
>
> should stay that way. The residents of our neighborhood purchased
>
> based on the existing zoning conditions. It is not a good mix to have
> Browns Ferry Park across the street with all of the kids around. We
>
> have cars flying through our neighborhood as it is and you know very
>
> well those using the facility will use the neighborhood streets.
>
> Don't let this developer pull a fast one. Have him find a commercial
> space somewhere else.
> I can assure the members of the council that the voters of our
> neighborhood will be watching.
>
> Thanks

Reynolds comment FW Tennis Center.txt

>
> Vern Reynolds
> 5475 SW Natchez St.
>
>

Thanks,

Lou Ogden, Resource Strategies Planning Group Group Benefits & Life, Health,
Disability, and Long Term Care Insurance for Businesses and Individuals
21040 SW 90th Ave., Tualatin, OR 97062; Phone (503) 692-0163; Fax
(503) 914-1699; lou.ogden@juno.com

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wnkyp1cq4AYjRUHX0w/)

May 4, 2009

To: Doug Rux, Community Development Director, The City of Tualatin
From: Janice Dove, Fox Hills Resident, 19135 SW Mobile Pl., Tualatin OR 97062
Re: New Issues after City Council Meeting for Zupancic CUP Requests in Tualatin

Dear Mr. Rux,

We've attended every public meeting regarding Zupancic's development proposals during the past 9 months. We also attempted to work directly with Mr. Zupancic since our property adjoins the pending property. No matter which project he has pursued (the High-Rise Condo or Recreational Facility), his plans keep growing. The newest plan has outgrown the location, generates too much noise throughout the entire day and night, creates traffic and parking issues, and disrupts the surrounding properties usages. This is why we cannot support his plan and we trust that the City will find his CUP applications not acceptable for this location. Below are additional concerns beside my previous letter to you regarding the proposed Racquet and Fitness Club.

1. Our family moved to the Fox Hill neighborhood 10 months ago. One of the main reasons we did was because it is near Brown's Ferry Park: a quiet place where nature and animal habitats are valued, even nurtured to invite new wildlife. We enjoy walking our dog there, listening to the birds, sitting on the benches overlooking the pond and de-stressing from the hustle and bustle of life. Putting a large indoor/outdoor recreational facility directly across the street from the park **will alter the character of the surrounding area**. With all the car door slamming, pool noise, playground noise, light pollution, visually out of place buildings, this 5 acre commercial business is 100% opposite of the peaceful character of Brown's Ferry Park. A 2-lane road does not provide **an orderly transition between these property types**.
2. Zupancic has made it clear that he cannot reduce the number of parking spots because he's already using them all for normal operations, and he cannot limit his hours of operation in order for his business to succeed. He must use every square inch of the 5 buildable acres and be open for 17 hours a day for his chosen business. The hours of operation, the amount of vehicle traffic/noise that his large scale business creates, is **NOT a good fit for this RESIDENTIAL location**.
3. Zupancic said that when Nyberg Lane floods he will close the facility because he cannot service his patrons. Since this is the only access road in and out of this property, he has no choice. What happens when there is a fire, say in the clubhouse? How is TVF&R going to get their fire trucks and equipment close enough to put the fire out? This is a **major safety issue** that needs addressing.
4. Another scenario to consider is when Nyberg Lane floods and only the indoor tennis courts and parking are under water. Zupancic said he would close the facility. But what if his paying members want to use the rest of the facility? Will they be allowed to park in the neighborhood and walk a short distance? This will make a big impact to our streets even if a fraction of the members do this.

5. According to the chart provided by Zupancic, he expects the recreational facility to be utilized at 100% of capacity between 6-8 a.m. from people using the facility before they go to work. So there will be a lot of cars exiting the facility onto Nyberg Lane between 7:30 and 8 a.m. This will coincide with traffic from the Fox Hills neighborhood and the Stones Throw apartments as *they* head to work. In the summer we already have congestion on Nyberg Lane from parents dropping their kids off at Willowbrook on *their* way to work. The addition of traffic from the recreational facility **will compound the already existing traffic problem.**

6. During the previous City Council meeting there was discussion about the formula for determining parking needs of a tennis/fitness facility. It was 1 spot per 1000 sq. ft. This calculation did NOT include the swimming pool or the added staff that will work there. Zupancic confessed that he did not know what the usage would be for the swimming pool or for special tournaments. He also said the amount of staff could easily double from his previous estimates (going from 30-40, to 60-80). How can the parking study conclude then, that 131 spots is adequate if he can't confirm (or even estimate) the number of patrons for his facility? I would request a capacity limit for his entire facility as well as additional designated "Stafford Hills" parking off the premises.

While I appreciate the plan adjustments Mr. Zupancic has made, they don't address the serious issues. A large scale business does not belong in a quiet neighborhood. Please consider these additional points as well as my prior letters to you and keep this parcel of property as it was intended: Low-density Residential, **Single-family use.**

Dear Mr. Rux,

After it became clear that the vast majority of Fox Hills residents thought it would be a terrible idea to build condominiums next to the wetlands across from Browns Ferry Park, Mr. Zupancic came up with his "Plan B" tennis club. He decided to pitch the idea first to the owners of the adjacent properties on SW Mobile Place to gauge how it would be received.

He assured us that he wanted to be a good neighbor. He said he would only need 40-60 parking spaces and they would mostly lie between the tennis building and Nyberg Lane. He stressed that there would only be "40 to 60 parking spaces – 80 tops."

A few weeks later he held a public meeting to unveil his preliminary design. His "vision" had grown to the point where he now needed to build practically right up to our fence. He needed 120 parking spaces, and he was back to mocking our concerns about "a little noise" and our "fear of change." He also invited tennis enthusiasts from surrounding cities to tell us how great it would be to have more tennis courts.

But he did listen to our concerns. He went back and worked on the design some more, and while he wasn't able to increase the buffer he was able to find room for another outdoor tennis court and a few more parking spaces. Thanks, Jim!

I told Mr. Zupancic that I've heard from two different realtors who said I stand to lose between \$50 and \$100k on the resale value of my home if this development goes through. His reply? He thinks it will *raise* property values. He told the Tualatin Times he would be happy to live next door to a facility like this, and he testified before City Council that he knows someone else who wants to buy a house right next door so she could walk to the club. Well I'm sure you can see the obvious solution. Mr. Zupancic should swap houses with me. Or he could buy my house now, at the pre-development price, and sell it at a profit to one of his tennis club friends.

I'll even help him write the advertising copy.

Are you agoraphobic? Would a view of Browns Ferry Park frighten you? Let the Zupancic Group fix that for you. We'll build a wall that's taller and wider than your house to limit your view to 50 feet or so. And if that's not enough we'll be happy to plant thirty foot trees just 25 feet from your windows.

Do you hate yard work? Allergic to pollen? No problem! Nothing will grow in a 25-foot yard bordered by 30-foot trees.

Worried about over sleeping? Then I'm sure you'll appreciate our *Subaru Serenade* service. It starts at 5:30 every morning. Every single morning! You have our Good Neighbor Guarantee on that. Paid staff of *Stafford Hills Racquet and Fitness Club* will park just 35 feet from your bedroom window before 5:30 every morning.

Now who doesn't love that new car smell? Well have you thought about what 500 cars a day would smell like? Mmmm... smells like money! And think of all the money *you'll* save on things like pesticides, pet food, retirement planning... the list goes on and on. Whether you're relaxing in the hot tub or barbecuing on the back deck, you'll enjoy *eau de Audi* and the *Subaru Serenade* seventeen hours a day.

I think that ought to do it. I offer this advertising copy free of charge if it will help swing the deal on my house.

Personally, I'm not convinced the club would raise my property values. I have my doubts. I think he might be trying to cram too much "vision" into too little space, leaving insufficient room for an adequate transition between single-family homes and a huge freakin' wall.

I think this would alter the character of this area in a manner that substantially reduces the value of my home. It would impair its use as a place to sleep, as a place to relax in the hot tub, as a place where grass would grow. It would instead feel claustrophobic and prison-like.

But hey, that's just me. The little guy. Don't let me stand in the way of progress. Just pay me my price and I'll be on my way.

Sincerely,

Bob Dove
19135 SW Mobile Pl.
Tualatin OR 97062

P.S.

What is the meaning of the term "adequate transition" with regard to land use? Does putting a wall (or a wall of trees) between us constitute an adequate transition between residential and commercial?

William Boaz
18342 SW 134th Terrace
Tualatin, OR 97062

CITY OF TUALATIN
RECEIVED

MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

May 3, 2009

City of Tualatin
18876 SW Martinazzi Ave
Tualatin, OR 97062

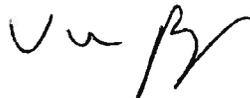
Dear Tualatin City Council,

I am writing in opposition of the conditional use applications submitted to the city for the private tennis club. Some of my concerns are how the noise from this project will effect the serenity of the Browns Ferry Park, the accessibility to Meridian Park Hospital in the event of an emergency, and the liability to the city and the potential cost to mitigate the damages from this project.

We chose to move to Tualatin because of the schools, parks, and for the strong sense of community. I fail to see how a private tennis club that is for the primary benefit of Lake Oswego, Wilsonville and West Linn will be an asset to the residents of Tualatin. This project seems like it is out of place and not a good fit for the location.

Thank you for your careful consideration to these applications.

Sincerely,



TO: CITY OF TUALATIN, OREGON

FROM: ROBERT SEPP, 19065 SW Mobile Pl, Tualatin, OR

DATE: MAY 4, 2009

RE: STAFFORD HILLS TENNIS CLUB

Some of the concerns that I have regarding the proposed tennis club on Nyberg Lane are:

1. The traffic from this large commercial business will have a negative impact on **Emergency Response times**, posing a health and safety issue for the Fox Hill neighborhood!
2. When Nyberg Lane closes due to **flooding** but the Tennis Club remains open for business, club members are going to be parking on our neighborhood streets, in the Brown's Ferry Park and Meridian Park Hospital parking lots in an attempt to walk (or swim) to the tennis club property. **The characteristics of the site are unsuitable for the proposed use.**
3. When the tennis club **floods** and closes, members unaware of the conditions attempting to drive to the club using 50th and or 57th Avenue, will use our driveways and cul-de-sacs to search for a way into the property and turn around in when they discover there is no access. This poses a huge safety issue for our children and increasing the risk of accidents. **The characteristics of the site are unsuitable for the proposed use** due to flooding.
4. The employee parking on the southwest corner of the property is insufficient. Employees will park along the east side of the property. Employees who smoke cigarettes will be going to their cars on their breaks and lunches, just 20 feet from our fence, to listen to music and have a cigarette, or two or three. My small children playing in our yard or on our deck, will be subject to inappropriate music lyrics and second hand smoke! In an article dated in September 2008 by the American Lung Association, "Infants and young children are especially susceptible: their lungs are still developing and childhood exposure to secondhand smoke results in decreased lung function. Children who breathe second hand smoke are likely to suffer from cough, phlegm and breathlessness. The current Surgeon General Report states that there is no risk-free level of second hand smoke

exposure. Even brief exposures can be harmful to children." **The proposed use will alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of the surrounding properties for the primary uses listed in the underlying planning district.**

5. Condition No. 3 imposed by the planning department to keep cars from parking within 100 feet of the fence line before 8:00 a.m. addresses the early morning hours, however, nothing was imposed to address this same issue in the evening after 8:00 p.m. This is when my young children are in bed trying to sleep. The hours of operation are not acceptable for the surrounding residential area. The noise from members and employees arriving before 5:30 a.m. and leaving at 10:00 p.m. or later, will have a negative impact on our ability to sleep. Thus, **the characteristics of the site are unsuitable for the proposed use and the proposed use will alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of the surrounding properties for the primary uses listed in the underlying planning district.**

6. The buffer of evergreen and deciduous plantings that the planning department has stipulated as condition No. 2 will cause our panoramic view to be significantly reduced and will limit the amount of sunlight we currently enjoy in our back yard. This will also reduce the quality and growth of our existing landscaping and organic produce garden which we use to supplement our meals and to educate our children about horticulture and eating healthy. The cost to replace this organic produce will effect our monthly grocery bill. **The proposed use will alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of the surrounding properties for the primary uses listed in the underlying planning district.**

7. During the summer we can easily hear the activities and music from the Willowbrook camp. The even closer proximity of the tennis club, it's parking, and year round operating hours will create a potential claim for common law nuisance. This will certainly have a negative effect on the quality of our life.

8. Having been someone who was one of the initial memberships for new "private" clubs, they are always exclusive and more expensive initially until membership dwindles, in which case the normal response by club management has always been to reduce fees, and bump up the number of

memberships. I watched the televised public hearing on April 27th, and when asked, Mr. Zupancic did not give a straight or coherent answer regarding the number of members this club will occupy. This indicates that in time the number of memberships will increase, and so will the number of employees. Therefore, making the plan of 122 parking spots inadequate, resulting in a spill over of cars onto Nyberg Lane and the streets of the Fox Hill neighborhood.

9. With the noise and traffic problems that the WES rail system has created for the residents of Tualatin, is the city prepared to mitigate the impacts of the noise and traffic problems for adjacent property owners and residents if these permits are granted?

10. The Zupancic Group has stated that the club will offer its facilities as a rental option to outside groups. This means that the maximum capacity/maximum membership count will be grossly under accounted for. This creates a very real possibility that members and guests will be forced to either park illegally on Nyberg Lane, or flood the streets of Fox Hill, thus, having a negative impact on traffic, parking, noise and increase in accidents and Emergency Response times.

11. The modifications that The Zupancic Group has distributed to the adjacent neighbors after the public hearing pose several problems. The parking that has been moved to the Southwest corner of the property, means that the commercial garbage container/compactor has been moved to the far Northeast corner of the property. This creates a huge noise problem with the sound of the garbage truck arriving as early as 6:00 a.m., the banging of the container when emptied and the beep beep beep of the garbage truck when backing away from the container. The stench from the garbage and the vermin infesting this area, makes this modification unacceptable and offers **no transition** from commercial business to single family homes.

12. The peak hours of operation for the tennis club and it's traffic are the exact same time that middle school age children in the neighborhood and on Nyberg Lane are waiting to be picked up or dropped off by the school bus. This traffic creates a huge increased risk for our children!

13. During the public hearing on April 27th, The Zupancic Group only accepted one of the six conditions imposed by the City Planning Department. This lends itself to the fact that the characteristics required to operate this commercial business are **not suitable** for the proposed area. How can the city staff continue to stand behind their recommendation to

approve these conditional use permits based on Mr. Zupancic's request to amend all but one of the conditions imposed? It stands to reason that by Mr. Zupancic's own inability to meet the imposed conditions, that he is implicitly admitting that this project is not appropriate and does not fit into the residential neighborhood.

TO: CITY OF TUALATIN, OREGON

FROM: JULIE SEPP, 19065 SW MOBILE PL, TUALATIN, OR
97062

DATE: APRIL 27, 2009

RE: STAFFORD HILLS TENNIS CLUB/CONDITIONAL USE
PERMIT APPLICATIONS

Mr. Zupancic said in a meeting that he was required to hold for the residents, that he was generously giving the neighboring properties a 10 foot setback, doubling what he is actually required to do. Come to find out, according to the planning dept., 10 feet is the minimum required setback for this permit. So, Mr. Zupancic's is not offering any more than what is required as a minimum. 10 feet! It's my understanding that the planning dept. is recommending that the city council approve this plan with a 10 foot setback? Wow! That's not a very big buffer.

As part of Mr. Zupancic's proposal, is the city considering acquiring the adjacent wetlands? If so, how much is it going to cost to maintain it and who is going to pay for that? Has anyone addressed the issue of rather or not any hazardous materials like gas or diesel fuel seeped into the soil in quantities large enough to require clean up? If so, how is the city prepared to pay for that? What kind of studies have been done to determine what effects this large scale business will have on the sewer system? The water use for laundry needs, members showering and flushing will be significant. If so, what was the basis for this study?

The property at 5916 SW Nyberg Lane is currently zoned for Low Density Residential. This means that the city's vision or plan for this property was for residential homes to exist here. The plan that The Zupancic Group has for this property is not appropriate. We are talking about a large commercial business that opens at 5:30 in the morning, and closes at 10:00 at night, with employees arriving earlier and leaving later than the proposed hours of operation. This is totally unacceptable and is incompatible for the existing residential area.

A commercial business with over 130 parking spots is going to create noise pollution beyond an acceptable level. Some of this noise will be from cars and trucks slamming their doors, starting their engines, stereos thumping, horns honking when members and employees lock their car to enter the club and the outdoor swimming pool play. Other noise will come from the tennis play including occasional profanity for a missed shot. We know that human nature extols the least of virtues when a shot is missed. I know this because my parents live on a private golf course and you wouldn't believe the swear words that can be heard when golfers slice or shank a shot!

I do not want my children to hear that on a daily basis and then have to explain it to them. All this noise will have a significant negative effect on the quality of our lives and our over-all health, well being and ability to get adequate sleep. This noise will create a hazardous nuisance and directly effect not only the adjacent property owners, but any property owner within ear shot.

I read a report by the Harvard Health Publications that states that deprivation of sleep has a substantial negative effect on your health. This includes Learning and Memory, Metabolism, Safety while driving, High blood pressure, Increased stress hormone levels, Alters the bodies immune function and ability to fight disease.

The light pollution for this commercial business will be harsh. Regardless of any special light or fast growing cypress, it's a white light and it will be intrusive and will be on all night for security.

In addition to noise and light pollution this commercial business will disrupt wildlife, demolish several huge mature trees, and pose a safety issue to our children with increased traffic and possible crime. This is a sensitive wetland area and putting a commercial business on it poses the risk of contaminants running off into the protected natural resources, such as pool chemicals and oil based run off from the parking lot. The grade of this property is going to change and this will have a negative effect on the adjacent properties, with the possibility of contamination.

According to the Staff Report submitted by the planning dept. to the city council, the amount of traffic that the tennis club will generate is

on average 1,010 trips per day. If this property was developed as it was intended, with single family homes, the average daily trips would be 58. This means that the tennis club will generate more than 1600% more traffic than a single family home development. This will certainly have a negative impact on the safety and traffic of Nyberg Lane. This kind of increase is incompatible with the surrounding low density residential housing. This doesn't even take into consideration the times when Nyberg Lane closes due to flooding, the summer Willowbrook Camp traffic issues and the tournaments and special events that will be held at the proposed tennis club. This will create a traffic nightmare for our neighborhood and pose an increased risk of accidents.

While I appreciate The Zupancic Group's creativity and perseverance to make money off this property by stacking multiple conditional use permits on top of each other, there is a very real possibility that this project will fail. No one can guarantee that it won't and when it does, the Fox Hill residents are going to be left with this huge vacant building to just sit and deteriorate. This brings a safety issue for the adjacent property owners with the potential for vandalism and crime. It's an established fact that vacant buildings are often used by drug users as drug houses and as areas to engage in prostitution and other criminal activity.

No community is immune to crime, but we do not need to invite it in. Who is going to monitor the safety and security of the property and parking lot when this business fails and sits empty? Who is going to be liable for anyone who gets harmed on the property or for any damages? Single family homes are the only acceptable plan for this property.

I trust that our city government will protect its residents and will deny the conditional use permits submitted by The Zupancic Group. This project is not an acceptable plan for a low density residential property.

For the record I would like to ask that City Council member Monique Beikman recues herself as she and Mr. Zupancic are members of the same church. Also, I used to live down the street from Mrs. Beikman, and her and I had an altercation regarding an ongoing issue between

our sons. Therefore posing potential for a biased vote.

If these conditional use permits are granted by the city, I am prepared to take this matter to LUBA.

This information was submitted by
hand and facsimile in support of the
Stafford Hills Racquet & Fitness Club
Facility

Livesay Email.txt

From: Doug Rux
Sent: Monday, April 27, 2009 4:02 PM
To: Will Harper; TONY DORAN
Subject: FW: Stafford Hills Tennis Club

From: Ryan Livesay [mailto:ryan.livesay@pacific-re.com]
Sent: Monday, April 27, 2009 4:01 PM
To: Doug Rux
Subject: Stafford Hills Tennis Club

I wanted to send this email in regards to the tennis center that will hopefully be built in Tualatin. I have been an avid tennis player in the Portland area since I was a child. I played junior tennis, college tennis and a bit of pro tennis. I have taught at many clubs throughout the US and also a few in Portland. I think we really do need another club in the West Linn, Tualatin, and Lake Oswego area. There have been no new clubs in the past 20 years, and I think the area could really use a great club. I have seen the plans and I think it would draw tremendous groups of people and it will bring a ton of energy in the area. Portland also needs a hub for a junior development program and I think with the technology of the hitting alleys and energy that a new club will bring--I think it's just the place! I am a strong advocate of building this new club. I am very connected in the tennis world and I have not heard one bad comment about the Stafford Hills Club. I think it would be a mistake not to build such a great place!

Thanks,

Ryan

Ryan Livesay
Pacific Real Estate Partners, Inc.
1 SW Columbia Street Suite 850
Portland OR, 97258
t. 503.972.8608
c. 503.880.0100
f. 503.972.8001
ryan.livesay@pacific-re.com

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P As part of Pacific Real Estate Partners, Inc.'s commitment to our environment, please do not print this email unless necessary. Thank you.



CITY OF TUALATIN
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MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

FAX COPY PAGE

Tualatin High School
TIMBERWOLVES
22300 SW Boones Ferry Rd.
Tualatin, OR 97062

Tualatin



Athletics

Mark Martens – Athletic Director: 503-431-5661
Syd Rabe – Athletic Secretary: 503-431-5660
Athletic Event Line: 503-431-5662
Fax: 503-431-5642

Date: 5 / 4 / 09
To: Will Harper
From: D. RUSTON
Fax #: 503-692-0147

NOTE: We are transmitting 3 pages including this cover page. If you do not receive all of the pages or there is a quality problem with this transmission, please contact sender at the numbers above.

Comments: _____

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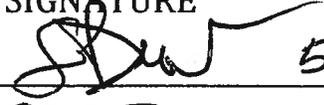
COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: _____

DEAR TUALATIN CITY COUNCIL:

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

THIS NEW PROJECT WILL CREATE NEEDED JOBS, PROVIDE SUPPORT FOR LOCAL SMALL BUSINESSES AND ALL WITHOUT THE NEED FOR PUBLIC FUNDING. WE REQUEST THAT YOU SUPPORT THIS PROPOSAL.

NAME	SIGNATURE	ADDRESS
1. SCOTT DAVIS		5795 SW Sequoia St Tualatin, OR
2. Coleen DAVIS		5795 SW Sequoia St. Tualatin, OR
3.		
4.		
5.		
6.		
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MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: 5/4/09

DEAR TUALATIN CITY COUNCIL:

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NAME	SIGNATURE	ADDRESS
1. Deandra Davis	Deandra Davis	5170 SW Natchez St
2. Janite Andrews	Janite Andrews	21235 SW 70th Ave
DUP 3. Emily Fisher	Emily Fisher	505 SW Greenwood Cir
4. Daniel Gimes	Daniel Gimes	19717 SW 57th Ave
5. Mark Weichard	Mark Weichard	19717 SW 57th Ave 981 SW 42nd Ave
6. Tom Weichard	Tom Weichard	981 SW 42nd Ave
7. Cameron France	Cameron France	10573 SW Crown St
8. Ally Ward	Ally Ward	5773 SW Calusa Loop
9. Krista Collins	Krista Collins	19005 SW Chesapeake Dr
10. Erin Ennis	Erin Ennis	5013 SW Greenwood
11. Brian Phillips	Brian Phillips	5525 SW Omaha Ct
12. Tony Vilaro	Tony Vilaro	5525 SW Omaha Ct
13. Kelsey Barnes	Kelsey Barnes	19120 SW 57th Place
14. Emily Wheeler	Emily Wheeler	5326 SW Natchez St
15. Dylan Moore	Dylan Moore	5573 SW Natchez St

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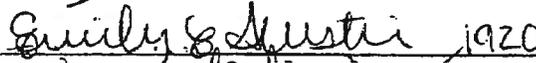
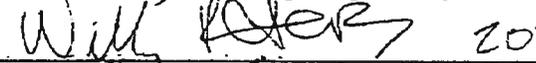
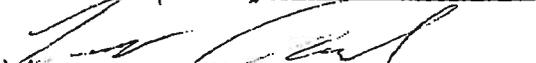
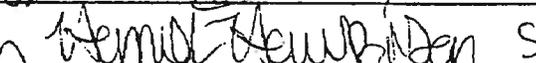
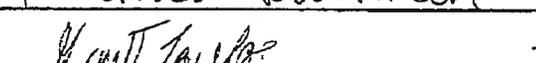
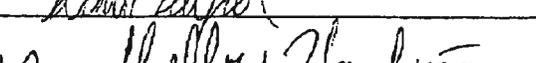
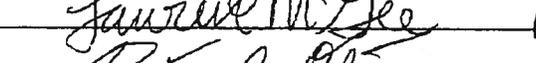
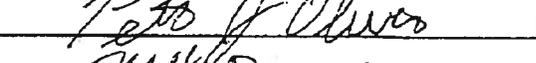
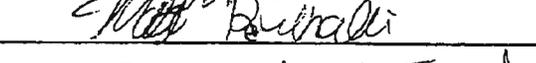
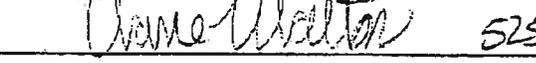
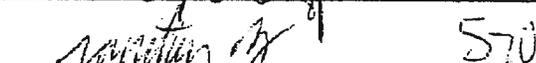
COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: 5/4/09

DEAR TUALATIN CITY COUNCIL:

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

THIS NEW PROJECT WILL CREATE NEEDED JOBS, PROVIDE SUPPORT FOR LOCAL SMALL BUSINESSES AND ALL WITHOUT THE NEED FOR PUBLIC FUNDING. WE REQUEST THAT YOU SUPPORT THIS PROPOSAL.

NAME	SIGNATURE	ADDRESS
1. Max Marlett		19530 SW 57 th AVE
2. Emily Austin		19200 SW 51 AVE
3. Will Peters		20307 SW 71 st Ave
4. Tanner Cheal		Sequoia Ridge
5. Hannah Hawkinson		5567 SW Joshua St
6. Grant Taylor		715 SW Delaware
7. Shelby Hawkinson		5567 SW Joshua St
8. Lauren McGee		19026 SW Chesapeake Dr.
9. Peter Oliver		19240 SW 56 th Place
10. Matt Derhalli		22040 SW 106 th PL
11. Colby Hatchett		5566 SW natcher st
12. Claire Walton		5254 SW Greenwood Pl.
13. Alexa English		5185 SW Greenwood Circle
14. Jonathan Ny		5700 SW Wichita St Trak
15. Auben Larson		4250 SW Natcher st

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COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: _____

DEAR TUALATIN CITY COUNCIL:

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NAME	SIGNATURE	ADDRESS
1. Jane Lemieux	Jane L	22041 SW 106th Ave Tualatin
2. Eric Rommel	Eric Rommel	10165 SW Luster Ct. Tualatin
3. Mark Roth	Mark Roth	22450 SW 107th Ave Tualatin
4. Pierre Feltz	Pierre Feltz	22050 SW Martinuzzi Ave Tualatin
5. Preston Hildred	Preston Hildred III	9195 SW Tower Dr
6. Jean Nguyen	Jean Nguyen	12579 SW Blakely St
7. Tyler Hugeski	Tyler Hugeski	5373 SW Johnson St
8. Kelvin Rommel	Kelvin D. Rommel	10165 SW Luster Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 SW 107th Tualatin
11. Catherine Calder Feltz	Catherine Feltz	22050 SW Martinuzzi Ave Tualatin
12. Linda Blatch	Linda Blatch	22535 SW Chilkat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 107th CT Tualatin OR 97149
14. _____		
15. _____		

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DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT
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NAME	SIGNATURE	ADDRESS
1. <u>Craig Stephens</u>	<u>Craig Stephens</u>	<u>22535 SW Chilkat Terr.</u>
2. <u>Ronald H. Carst</u>	<u>Ronald H. Carst</u>	<u>26340 SW Browns Ferry Rd.</u>
3. <u>Deston Wokes</u>	<u>Deston Wokes</u>	<u>14650 SW 103rd St.</u>
4. <u>Doug Pettit</u>	<u>Doug Pettit</u>	<u>22050 SW MARDON⁹⁷⁰⁶² Ave</u>
5. <u>Preston Hiefield</u>	<u>Preston Hiefield</u>	<u>9195 SW Iowa Drive</u>
6. <u>Mack Stinson</u>	<u>Mack Stinson</u>	<u>2173 SW Arlene Ct</u>
7. <u>Joe H.</u>	<u>Joe H.</u>	<u>9195 SW Iowa Dr Tualatin OR 97062</u>
8. <u>Gillian Stratton</u>	<u>Gillian Stratton</u>	<u>9195 SW Iowa Dr. Tualatin OR</u>
9. <u>Jonathan M.</u>	<u>Jonathan M.</u>	<u>5700 SW Wichita St Tualatin OR 97062</u>
10. <u>David McKeen</u>	<u>David McKeen</u>	<u>22685 SW Vermilion dr.</u>
11. <u>Tanner Milton</u>	<u>Tanner Milton</u>	<u>9820 SW Choctaw</u>
12. <u>Chris Pritchard</u>	<u>Chris Pritchard</u>	<u>91441 SW Arapaho R.D.</u>
13. <u>Nithan Senthirajah</u>	<u>N. Senthirajah</u>	<u>22740 SW Mardon dr</u>
14. <u>Brenda Buck</u>	<u>B. Buck</u>	<u>5373 SW Joshua St Tual. OR 97062</u>
15. <u>Andrew Shin</u>	<u>Andrew Shin</u>	<u>14524 SW Chardonnay ave</u>

DATED: _____

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DEAR TUALATIN CITY COUNCIL:

great news!

COMMUNITY DEVELOPMENT
PLANNING DIVISION

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

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NAME	SIGNATURE	ADDRESS
1. Kelly Gramdon	<i>Kelly Gramdon</i>	22980 SW Erie Pl Tualatin, OR
2. Emily Fisher	<i>Emily Fisher</i>	5015 SW Greenwood Cir. Tualatin, OR
3. Sarah Chizum	<i>Sarah Chizum</i>	19650 SW 56th Ct. Tualatin, OR
4. Molly Fisher	<i>Molly Fisher</i>	5015 SW Greenwood Cir. Tualatin, OR
5. Maggie Blum	<i>Maggie Blum</i>	5015 SW Wichita St Tualatin, OR
6. Ali Mengis	<i>Ali Mengis</i>	19270 SW 57th Ave. Tualatin, OR
7. Stephanie Clark	<i>Stephanie Clark</i>	9295 SW Palouse Ln Tualatin, OR 97062
8. Nina Yang	<i>Nina Yang</i>	11080 SW Koller St. Tualatin, OR
9. Sarah Fulkerson	<i>Sarah Fulkerson</i>	8760 SW Pamiko Ct Tualatin, OR 97062
10. Anna Hildebran	<i>Anna Hildebran</i>	10500 SW Barnoch Ct. Tualatin, OR 97062
11. Lauren Butz	<i>Lauren Butz</i>	17785 SW 81 Pl Durham, OR 97224
12. ERIKA WELSH	<i>Erika Welsh</i>	17695 SW Cheneme Way Tualatin, OR
13. Lauren Jones	<i>Lauren Jones</i>	6040 SW Jamaica Ct. Tualatin, OR 97062
14. Rebecca Koessler	<i>Rebecca Koessler</i>	8525 SW Marcopa Dr
15. Kathleen Mangrove	<i>Kathleen Mangrove</i>	5770 SW Calusa Ln

CITY OF TUALATIN
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DATED: _____

MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

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NAME	SIGNATURE	ADDRESS
1. Greg James		5890 SW Omaha Ct Tualatin 97062
2. Craig Koessler		8525 SW MARICOPA DR TUALATIN
3. Jim Fisher		5015 SW Greenwood Tual.
4. Alan Koessler		8525 SW MARICOPA DR TUAL.
5. John Koessler Marilyn James	Marilyn James	5690 SW Omaha Ct Tualatin
6. Julie Fisher	Julie Fisher	5015 SW Greenwood Tualatin
7. Phary Welsch	Mary Welsch	17695 SW Cheyenne WA
8. Tina Freel		10485 SW Meier Dr Tualatin
9. Don Freel		10485 SW Meier Dr Tualatin
10. DAN GIBSON DON		22980 SW 57th Pl Tualatin OR 97062
11. JEFF MERRIS		19270 SW 57th Tualatin 97062
12. Bob Bluhm		5265 SW Wichita St. Tualatin 97062
13. Pat Shangraw	Pat Shangraw	5776 SW Colusa Pl Tualatin 97062
14. Nancy Bocchi	Nancy Bocchi	5564 SW Hogarty Pl Rd 97062
15. Erica Bocchi	Erica Bocchi	" "

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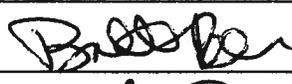
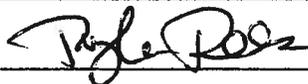
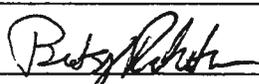
COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: _____

DEAR TUALATIN CITY COUNCIL:

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

THIS NEW PROJECT WILL CREATE NEEDED JOBS, PROVIDE SUPPORT FOR LOCAL SMALL BUSINESSES AND ALL WITHOUT THE NEED FOR PUBLIC FUNDING. WE REQUEST THAT YOU SUPPORT THIS PROPOSAL.

NAME	SIGNATURE	ADDRESS
1. Kelly Robertson		P.O. Box 1814 Tualatin, OR 97066
2. Mike Reiss		19185 SW Mobile Pl Tualatin, OR 97066
3. Debbie Reiss	Debbie Reiss	19185 SW Mobile Pl Tualatin, OR 97066
4. Brett Reiss		19185 SW Mobile Pl Tualatin, OR 97066
5. Tammy Reiss		19185 SW Mobile Pl Tualatin, OR 97066
6. Jeff Mengis	1	19220 SW 57 th Ave Tualatin, OR 97066
7. Susie Mengis		19220 SW 57 th Ave Tualatin, OR 97066
8. Rick Riser/Howe		19170 SW Tualatin Ave & Tualatin, OR
9. Roselle Riser/Howe		19170 SW Tualatin Ave & Tualatin, OR
10. Betsy Roberts		P.O. Box 1814 Tualatin, OR 97066
11. Jim Fisher		5015 SW Greenwood Cr Tualatin, OR 5
12. Julie Fisher		5015 SW Greenwood Cr. Tualatin, OR
13. Tracy Pirtle		8409 SW BLAKE ST Tualatin, OR 4
14. Michael Sidoff		24011 SW 65 th Tualatin, OR 7
15. Bonnie Sidoff		24011 SW 65 th Tualatin, OR



**Zupancic
Group**
Real Estate Counsel and Developers

CITY OF TUALATIN
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MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

May 4, 2009

Doug Rux
Community Development Director
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

Re: CUP Application No. 09-01 (Stafford Hills Racquet and Fitness Club)
Response to Issues Raised at April 27th Hearing

Dear Doug:

We continue to listen to, understand and learn from neighbors relating to concerns expressed about SHR&FC. We also appreciate the questions and concerns expressed by members of the City Council at our April 27th CUP Hearing.

This letter, which we request be included in the record, summarizes our constructive responses to the issues and concerns raised at the April 27th Hearing. It is our hope that this response is further evidence of our good faith and desire to be a good neighbor.

1. Increased Buffer on East Boundary. We are willing to increase the buffer along the east boundary, to 20 feet at the parking lot and 25 feet at the Activity Building, as shown on the attached site map. This mitigation will substantially increase visual and sound protection for our neighbors to the east. This change will also allow for a greater preservation of existing trees in this expanded buffer.
2. Concrete Panel Fence. We are willing to install, at our expense, a concrete panel fence or equal along the eastern boundary north of the Activity Center. We agree to meet the fence approval criteria of TDC 73.050 and the objectives and standards set forth in TDC 73.210 and 73.220. This attractive divider will provide significantly increased sound and visual protection between SHR&FC and our neighbors.
3. Parking. We are willing to (1) eliminate the parking east of the Activity Center, (2) reduce the number of total parking stalls to 122 and (3) relocate designated staff parking to the west of the outdoor courts. In addition, we are willing to reorient the center core parking to run north - south which reduces light impacts on our neighbors to the east. Of course, we will prepare a Parking Management Plan as recommended by Staff.
4. Lighting. We are willing to specify parking lot lighting that (1) is mounted as low as possible, (2) includes backing that prevents light "spillage" onto adjoining properties and (3) turns off to the extent not needed for reasonable protection of health and safety. We will include lighting that will not endanger wildlife or emit direct observable light in quantities substantially greater than that typically found within the vicinity.
5. Roll Up Doors on Tennis Building. We are willing to require that Tennis Building roll up doors on the east side of the Tennis Building remain closed before 8:00 am and after

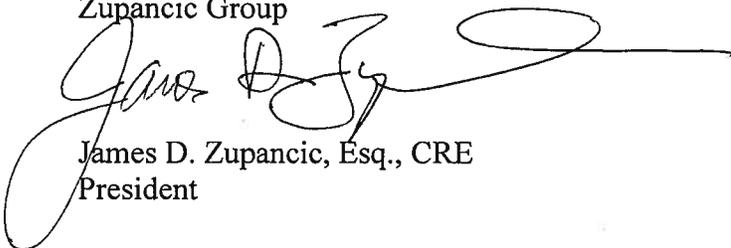
- 8:00 pm to the extent necessary to confine light and noise within the building, as may be reasonably requested by an adjoining impacted property owner residing on Mobile Place.
6. Reduce Tennis Building Size. In order to accommodate the increased buffer along the eastern boundary, we are willing to reduce the size of the Tennis Building a total of approx. 4100 sq. ft., which reduces building mass.
 7. Protection of the Environment. We share the neighbors' appreciation and reverence for the environment and offer that this site's wetlands, along with the proximity to Brown's Ferry Park, is much of what makes it especially attractive for this use. We pledge to work with the Wetlands Conservancy and the Audubon Society of Portland to assist in the preservation of natural resources including waterfowl and other natural habitat. Further, we have submitted under separate cover the recently obtained Service Provider Letter from Clean Water Services which outlines the restoration requirements associated with the area to the west of the development. We intend to offer members of SHR&FC educational information concerning the wetlands and promote respect for, and enjoyment of, the surrounding beauty of this site. And, in response to Mr. Rasmussen's concerns about the ducks, we are willing to work with the City Operations and Parks Departments to add pavement markings at the "Duck Crossing" signs on Nyberg Lane, if deemed necessary by the City, to help protect these ducks from vehicular traffic. In short, we believe that our restoration of wetlands and protection of the environmental sensitivities of the site will actually enhance the neighborhood and add to the enjoyment of the neighborhood.

With these responses, we trust that we have constructively addressed all of the remaining reasonable questions or concerns. If we have omitted any, it is not intentional. Please advise and we will be happy to respond.

In conclusion, I would like to reaffirm that we have provided evidence substantiating that all of the requirements of the Tualatin Development Code have been met and that we have met all requirements to qualify for approval of this Conditional Use Permit, namely:

1. This use is listed as a conditional use in the underlying planning district.
2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.
3. The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned offered by the use.
4. The proposed use will not alter the characteristics of the surrounding area in any manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying planning district, and
5. The proposal satisfies the objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

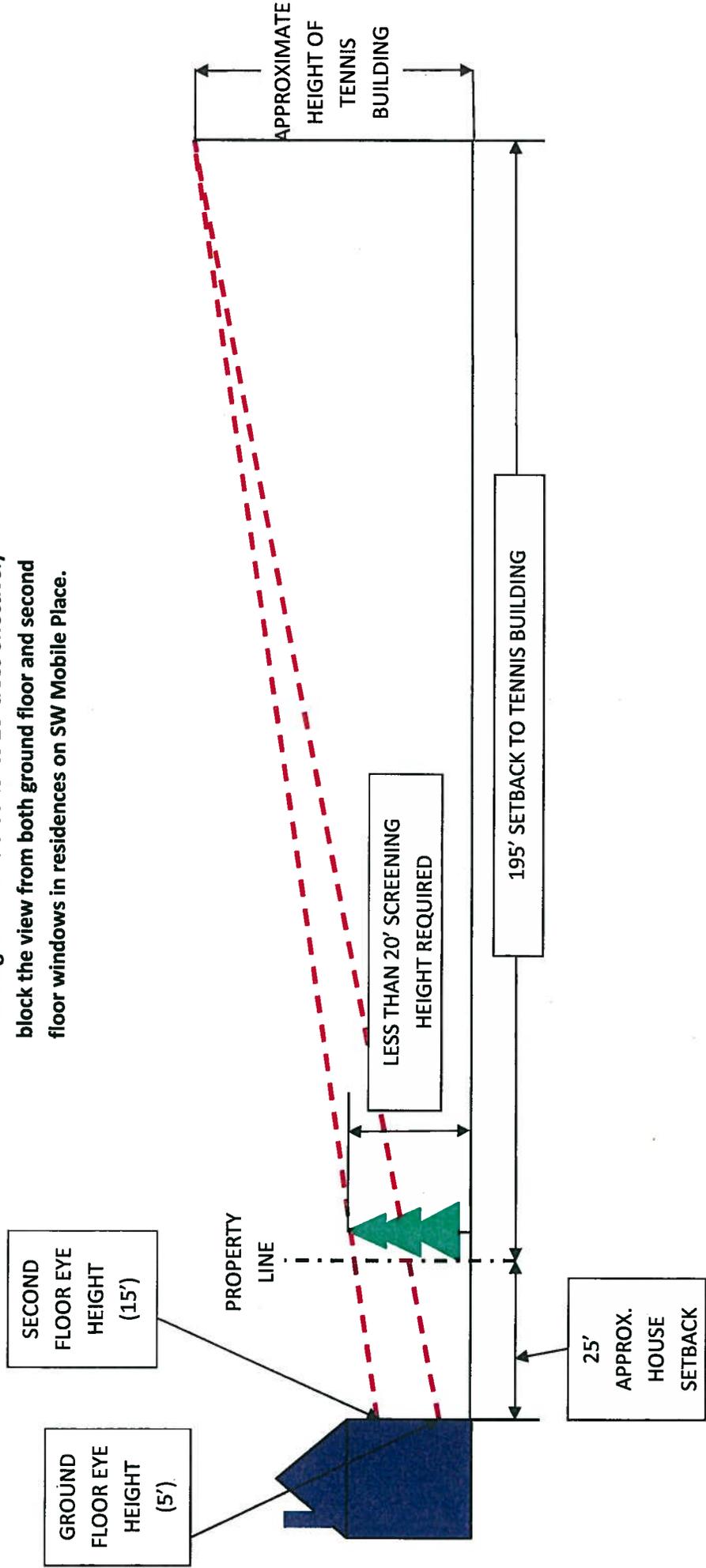
Cordially,
Zupancic Group



James D. Zupancic, Esq., CRE
President

VIEWING ANGLES AND TREE HEIGHTS

This diagram shows that 18' to 20' trees effectively block the view from both ground floor and second floor windows in residences on SW Mobile Place.





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MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

May 1, 2009

Doug Rux
Community Development Director
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

Re: CUP Application No. 09-01 (Stafford Hills Racquet and Fitness Club)
Transportation Issues

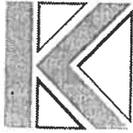
Dear Doug:

Attached is a letter dated May 1, 2009 from Kittelson and Associates that I request be incorporated into the record of the above referenced CUP application. It addresses numerous transportation issues raised in our April 27th hearing, either by express question or by implication.

Concerning Willowbrook, we are more than willing to confer with Willowbrook relating to the scheduling of any special events so as to avoid overlap that may exacerbate traffic conditions on Nyberg Lane. We will not object to such a condition.

Thank you,
Zupancic Group

James D. Zupancic, Esq., CRE
President



KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

610 SW Alder Street, Suite 700, Portland, OR 97205 P 503.228.5230 F 503.273.8169

May 1, 2009

Project #: 9700.0

Jim Zupancic, Esq. CRE
Zupancic Group
5335 Meadows Rd., Suite 161
Lake Oswego, OR 97035

RE: Stafford Hills Racquet & Fitness Club

Dear Jim:

This letter provides answers to the seven transportation questions you asked related to the proposed development of the Stafford Hills Racquet & Fitness Club (SHR&FC).

1. Are the SHR&FC traffic projections on Nyberg Lane within the limits assumed by the forecasts used in the preparation of the Tualatin Transportation System Plan?

Yes. The Tualatin Transportation System Plan anticipated between 5,000-6,000 vehicles per day on Nyberg Lane in the 20 year planning horizon. The year 2028 total traffic volumes (which include build-out of the proposed racquet & fitness club) projected in the SHR&FC traffic impact study result in approximately 5,400 vehicles per day on Nyberg Lane.

2. Will the projected SHR&FC peak hour trip generation, when added to the background volumes on Nyberg Lane, result in acceptable levels of service at the study area intersections?

Yes. As indicated in our study, all intersections within the study are projected to operate at acceptable levels of service (based on City, ODOT, and Washington County standards) through the 20 year planning horizon.

3. Assuming that the SHR&FC site (zoned RL) and the Brown's Ferry Park site (zoned RML) were built out to their maximum development potential with PERMITTED uses, under current zoning, is the projected peak hour trip generation for SHR&FC LESS THAN the sum of the projected peak trip generation from those combined permitted uses less the actual peak trip count from Brown's Ferry Park? For the SHR&FC site you should assume 32 manufactured home units (5 acres x 6.4 units per acre). For the Brown's Ferry Park site you should assume 340 manufactured home units (28.33 acres x 12 units per acre).

As indicated on page 28 of the February 2009 SHR&FC traffic impact study, the proposed racquet & fitness club is estimated to generate between 75 to 100 weekday p.m. peak hour

trips. The development of 372 manufactured home units at the subject sites would generate approximately 195 weekday p.m. peak hour trips¹.

4. Is the fact that the site will generate more traffic than a low density residential development any basis for denial of the conditional use?

Clearly not. If that were the case there would be no reason to conduct a detailed traffic analysis to address the impact of the proposed project. The City of Tualatin, Washington County, and ODOT have established specific transportation standards/requirements that must be addressed. For this project these standards/requirements have been addressed and all are met. Making land use decisions based solely on whether the site generates additional traffic is not only inconsistent with the City's development code; it would be bad public policy and contrary to many of the objectives set forth in both the City and Metro's long range plans.

5. Will this project create traffic impacts similar to Willowbrook?

No. The characteristics of Willowbrook are entirely different. Below is a brief overview of Willowbrook²:

- Willowbrook operates 6 weeks per year, from the last week in June through the first week in August.
- Willowbrook reports that they had a daily average of 450 children last year. Their high was 562. Their low was 350.
- During the a.m. drop off period (8:20-9:15) they estimate that they see between 150-200 cars. This camper/car ratio indicates a high level of carpooling (siblings, neighbor kids, etc.).
- There are three main pick-up times noon, between 2:30-3:00 and between 3:15-3:45. They see between 150-200 cars spread out over this period of time.
- Council has approved the temporary closure of the bicycle lane on Nyberg Lane (from the park to 57th Avenue) for evening performances for many years. Bikes are detoured through the park on paths built to bikeway standards. The closure this year will be from 5:00 p.m. to 9:30 p.m. on Wednesdays, Thursdays, and Fridays from the last week in June through the first week in August. There are a total of 18 potential dates, but a couple of those dates won't have performances so won't see a closure. There averages about 30-40

¹ *Trip Generation. 7th Edition.* Institute of Transportation Engineers.

² Willowbrook information provided by the City of Tualatin Community Services Department.

cars parking on Nyberg Lane per event, sometimes more, sometimes less, depending on the day.

The transportation impacts associated with Willowbrook result from a combination of 1) a lack of sufficient on-site parking, 2) inadequate drop-off/pick-up areas, and 3) arrivals/departures of visitors during a very compressed time period. None of these issues will occur with the SHRF&C as there will be adequate on-site parking and circulation for patrons/staff, there is sufficient at their driveway on Nyberg Lane, and the arrivals/departures are much more evenly distributed throughout the day.

6. How will SHRF&C interface with Willowbrook to ensure that traffic on Nyberg Lane is not unreasonably impacted?

The traffic increase from the normal day to day operations of the proposed racquet & fitness club are low enough that they will not significantly change the characteristics along Nyberg Lane during Willowbrook events. That said, it is clear that the SHRF&C should coordinate their special events such that they do not overlap with Willowbrook. Further, Willowbrook operation could benefit greatly from a professionally prepared traffic management plan that would address parking and circulation during peak events.

7. Is there any reason this project should not be approved based on transportation considerations?

No, as indicated previously, the project meets all the requirements set forth by the City of Tualatin, Washington County, and the Oregon Dept of Transportation.

I trust this additional information adequately answers your additional questions. Please let me know if I can provide any additional information.

Sincerely,
KITTELSON & ASSOCIATES, INC.



Mark A. Vandehey, P.E.
Principal



CITY OF TUALATIN
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MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

May 1, 2009

Doug Rux
Community Development Director
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

Re: CUP Application No. 09-01 (Stafford Hills Racquet and Fitness Club)
Support of CUP Application by Tualatin Residents

Dear Doug:

One of the comments made during the April 27th hearing was how many local residents outside of Tualatin supported this project.

Under separate cover today, you will receive a petition signed by more than fifty (50) residents of Fox Hills urging the City Council to approve this application. In addition, attached are supportive email comments from additional Tualatin residents and a FAQ sheet provided to neighbors. We ask that this information be added to the record.

Cordially,
Zupancic Group

James D. Zupancic, Esq., CRE
President

Residents of Tualatin Email Comments in Support of SHR&CF

Audrey MacKenzie4600 SW Trail Rd, Tualatin, OR 97062

Friday, December 5, 2008

Way to go on the Racquet Club!! I've been a member of Mt. Park, but on inactive status and have wanted to rejoin, but have not because of inconvenience of its location to me. Great idea! Will look forward to playing tennis there.

Betsy Robertson2122 SW 65th Ave, Tualatin, OR 97062

Wednesday, March 4, 2009

Looking forward to another club in the area. It's nice to have choices!

Colleen WestTualatin - no address listed

Friday, February 6, 2009

I am interested in membership in you new Racquet and Fitness Club. Please send me information as it becomes available.

Thanks,

Colleen West

Dick Messenger17590 SW Fulton Dr., Tualatin, OR 97062

Sunday, January 11, 2009

I look forward to becoming a charter member of Stafford Hills Racquet and Fitness Club!

Elizabeth PayneTualatin, Or - no address listed

Thursday, April 23, 2009

I am a Pilates instructor and tennis player that lives a mile from where the new club will stand. I am VERY excited to have this facility coming to the neighborhood. What a great addition to the area!

Eloise AndrewsTualatin, Or - no address listed

Friday, February 13, 2009

We are excited for the opportunity of joining Stafford Hills Racquet and Fitness Club. Please keep us up to date on membership sign ups.

Forrest Hall10978 SW Oneida St., Tualatin, OR 97062

10978 SW Oneida St Tualatin, Oregon 97062

Tuesday, February 24, 2009

looking forward to playing at club where I don't have to drive 20 miles to play tennis. I would also be interested in serving on a planning committee for the new club if that option is open, as I have played in the USTA as well as being a captain for 20 years. In 2006 I was selected as the PNW Men's Captain of the Year...Looking forward to some fun tennis at Stafford Hills.

Greg McCarty10983 SW Brown St., Tualatin, OR 97062

Tuesday, February 24, 2009

Sounds like a very nice facility. Does anyone have any idea of what memberships will cost? I don't see how it could be any less than Club Sport, but let's hope.

Jenny Peters

Tualatin, Or - no address listed

Friday, February 27, 2009

This sounds so exciting. We play tennis and have been looking for something that we can do as a family! There is such a limited source for indoor tennis and combining that with a fitness center, pool...so fun.

John Cava

22275 SW 102nd pl., Tualatin, OR 97062

Tuesday, December 9, 2008

I can't wait for this new club!!

Sally Douglas

Tualatin

Sunday, February 15, 2009

That sounds awesome! Please send me information about joining. My whole family loves tennis, Swimming and working out.

Tim & Pat Brink

7146 SW Delaware St., Tualatin, OR 9062

Thursday, February 26, 2009

This is very exciting and look forward to a new club.

Tom Meier

20001 SW Teton Ave., Tualatin, OR 97062

Tuesday, January 13, 2009

This is really great news.

Stafford Hills Racquet and Fitness Club

FAQ

1. How many tennis courts will be offered?
A. 7 indoor and 4 outdoor courts.
2. Will fitness classes and personal training be offered?
A. Yes.
3. Will there be a pool?
A. Yes. There will be one outdoor pool and one kiddie pool.
4. Will child care services be offered?
A. Yes. Child care plus fitness and recreational classes for kids will be offered.
5. How much will this all cost?
A. Rates have not yet been set, but will be very reasonable and competitive.
6. Will this generate unwanted local traffic?
A. No. A thorough professional traffic engineering report shows only a 3 to 5% increase in traffic on 57th Avenue. Nyberg Lane will also not be measurably impacted and will be well within limits planned by the city.
7. Will the development be too large for the site?
A. No. It will cover only about 1/3 of the site.
8. Will wetlands be adversely impacted?
A. No. In fact, additional wetlands will be created via a wetlands restoration project. Waterfowl habitat will be increased and it is expected that even more waterfowl will be attracted to the area.
9. Will this facility impact Willowbrook Arts Program?
A. No. Collaboration will ensure that traffic will be held to a minimum by coordinating schedules.

ATTACHMENT C

CUP-09-01: Submittals to the Record-List & Summaries

Applicant's Rebuttal materials submitted for the record of CUP-09-01 through May 12, 2009 (5:00 pm.)

May 11, 2009 Applicant's Rebuttal Letter from the Zupancic Group with Aerial Photos of "comparable" tennis facilities and copy of 11-sheets of the May 4, 2009 Petition of Support for the SHR&F Club (includes 8 sheets received by City and cited in the May 4, 2009 list above).



**Zupancic
Group**
Real Estate Counsel and Developers

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MAY 11 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

May 11, 2009

Mr. Doug Rux
Community Development Director
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

HAND DELIVERED

Re: CUP 09-01 Stafford Hills Racquet and Fitness Club
Rebuttal to Post-Hearing Comments

Dear Doug:

This rebuttal is focused on the recent critical comments submitted for the record and the primary question before the City Council – whether to approve the Conditional Use Application and, if so, what are the appropriate conditions? Initially, however, I would like to offer four important observations.

1. **Community Support.** Since announcement of this private recreational club, our office has been inundated with emails, letters, and telephone calls, expressing effusive support for the proposed Club. Prominent members of the Tualatin Community have shared that they feel the Club will enhance the overall community, provide a much needed amenity and offer a family-centered recreational opportunity that will showcase many of the admirable qualities of Tualatin. In addition, 101 members of the Fox Hills Community have independently submitted a petition asking the City Council to approve this Conditional Use Permit. These and other expressions underscore the exceptional breadth and depth of community support for this use, including from the Tualatin High School Tennis Program.

2. **Substantial Plan Changes.** We respect the right of all citizens to remonstrate, and in particular, those residents who live closest to the proposed recreational facility. Throughout our numerous communications and neighborhood meetings, we have respectfully listened to and learned from our neighbors and have made substantial modifications to address the concerns they have expressed. That respect and understanding has not always been reciprocated. We acknowledge that the plan has improved as refinements have been made. We note that of the over 800 households in the Fox Hills Neighborhood, over 98 % are either in support or neutral concerning the proposed use. Less than 2% of Fox Hills residents can be called objectors. Even a majority of the residents who live on Mobile Place are either in support or neutral in regards to this application.

3. **Transitional Property.** Because Tualatin is now almost fully developed, tensions are naturally created when *any* development is proposed adjacent to an existing neighborhood. This parcel is considered “transitional”, that is, it lies between a residential neighborhood, a public park, apartments, commercial and future hospital properties. As such, a recreational facility is a perfect use to serve as a transition or bridge into different or more intense uses. The breadth of potential uses allowable in the RL District including residential, recreational, churches, schools, parks, and public services, allows flexibility for the City Council to permit nonresidential uses within the RL District, particularly on such transitional properties as this.

4. **NIMBY.** And lastly, objectors evidence a very strong “NIMBY” factor. Ironically, the home which Marla and I now own at 5916 Nyberg Lane in Tualatin was built and occupied significantly before the construction of the houses on Mobile Place. If our predecessors would have taken the same “NIMBY” approach as the objectors, none of the homes on Mobile Place would exist today.

Turning to the question before the City Council: “Does the application comply with the approval criteria contained in TDC 32.030?” Staff has very capably provided its analysis in support of the Staff recommendation that this application should be approved with reasonable conditions. Of the five (5) applicable criteria, it appears that objectors focus most critically on criterion numbers 2 and 4.

Criterion Number 2: Are the characteristics of the site “suitable” for the proposed use?

Suitability is not a subjective standard. We submit as rebuttal, reference to numerous other comparable recreational facilities that not only function, but flourish in residential locations throughout the SW Metro area. For example: The Irvington Club, Eastmoreland Racquet Club, Mountain Park Racquet Club, Lake Oswego Indoor Tennis Center, Charbonneau Tennis Club and the Racquet Club, have all served their respective residential communities for decades in a manner that has been unobtrusive and complementary to the nearby neighborhoods and greater communities. No better evidence of suitability could be offered than by reference to substantially similar facilities that are considered attractive amenities in their respective communities. Better yet, our site is not within the residential area but is on the periphery as a transitional property. This criterion is met.

Criterion Number 4: “Does this proposed use alter the character of the surrounding area in a way that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying Planning District?”

Primary uses in the RL District include residential, recreational, churches, schools, parks and public services to support the foregoing. Does this proposed use substantially limit, impair or preclude those uses? The applicant has submitted volumes of documents and supporting evidence in the record to provide:

- Substantial evidence that the traffic impacts are relatively nominal, acceptable and well within transportation plan limits.
- Setbacks and vegetation buffers substantially exceed typically required dimensions.

- Light pollution will be prevented by low-mounted restrictive light fixtures designed to light common areas with no spill over onto adjoining properties.
- Sound will be attenuated to the neighbors by a panel concrete fence system.
- Parking exceeds TDC requirements and is adequate to meet the anticipated demand.

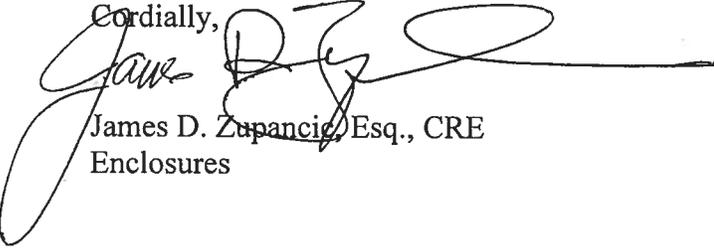
Objectors offer inflammatory assertions of unwanted speculative impact (noise, water, traffic, ect.), but no actual evidence of such impacts. On the contrary, applicant has provided substantial evidence showing that there will not be substantial limitations, impairment or impacts that preclude other primary uses.

The key issue before the Council is whether or not substantial evidence exists to support a finding that this criterion is met. The applicant concurs with staff that this criterion is met and submits that the overwhelming weight of evidence in the record leads to this conclusion.

We implore the City Council to see past the emotion of the protests and approve this application. "No development" of this site is not an option for us. We are not independently wealthy people who can just hold empty land. The bottom line is that this use is arguably the highest and best use for this parcel. While NIMBY is understandable, it is not a valid basis for opposing a reasonable Conditional Use Permit when the criteria are clearly met.

In conclusion, Marla and I reaffirm our commitment to make Stafford Hills Racquet and Fitness Club a wonderful addition to the Tualatin Community. We have been very involved members of this greater community for over 20 years, and we appreciate, value and respect the culture and the history of this area. We pledge to the City Council our desire to provide a pleasant family-oriented recreational facility, create many new family wage jobs and operate this new recreational facility in a manner that will enhance the immediate neighborhood and greater Tualatin community. We believe that even the objectors will come to appreciate this amenity. We respectfully ask for your support of this Conditional Use Application with the addition of reasonable conditions. We request that the Council adopt the approving resolution and supporting findings of fact at its May 26, 2009 meeting.

Cordially,

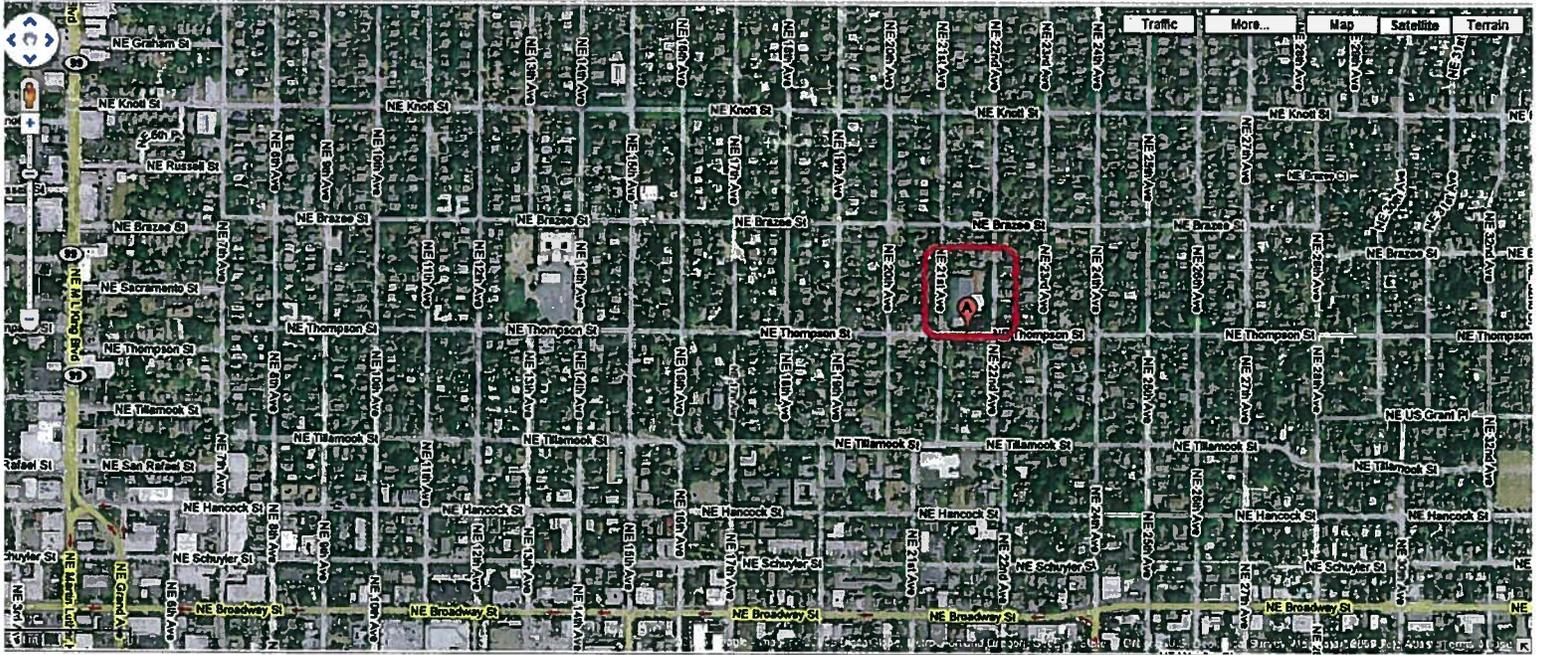


James D. Zupancic Esq., CRE

Enclosures

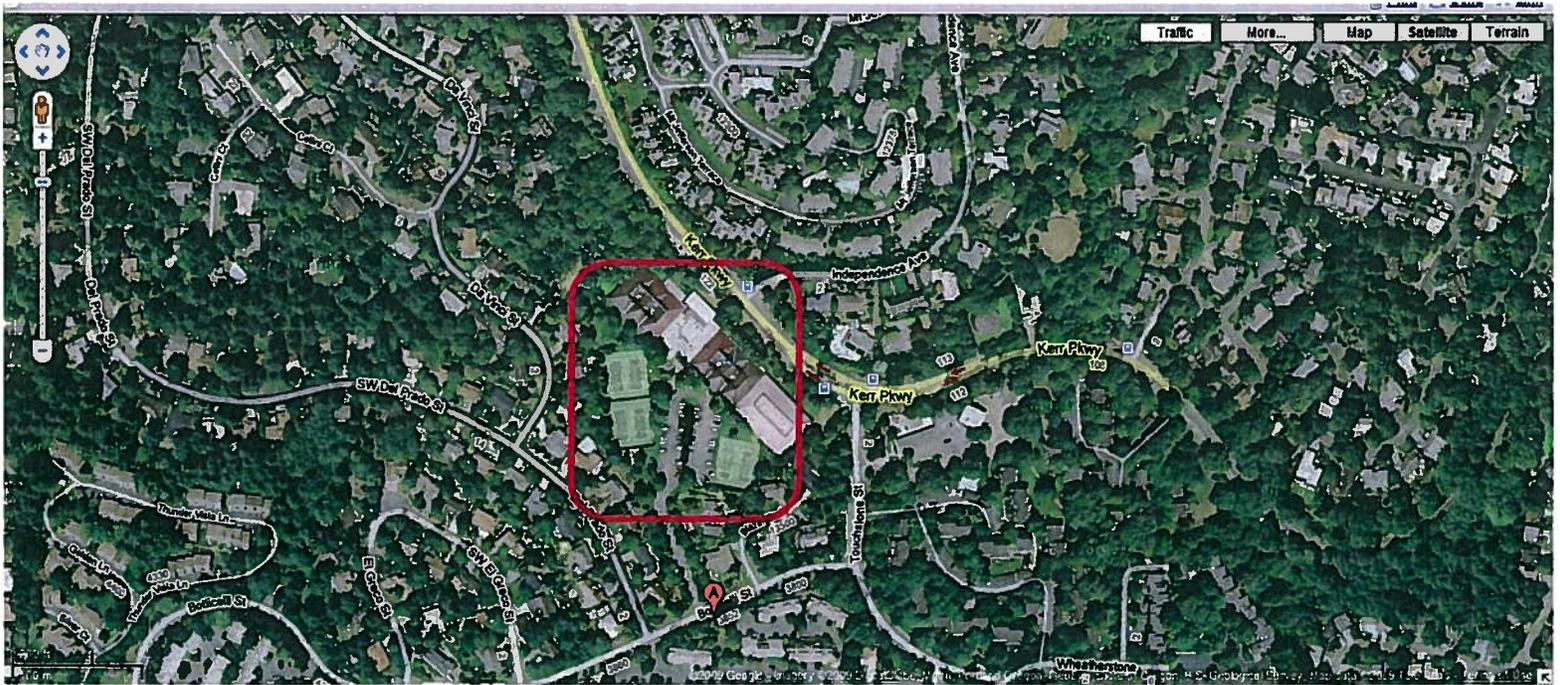
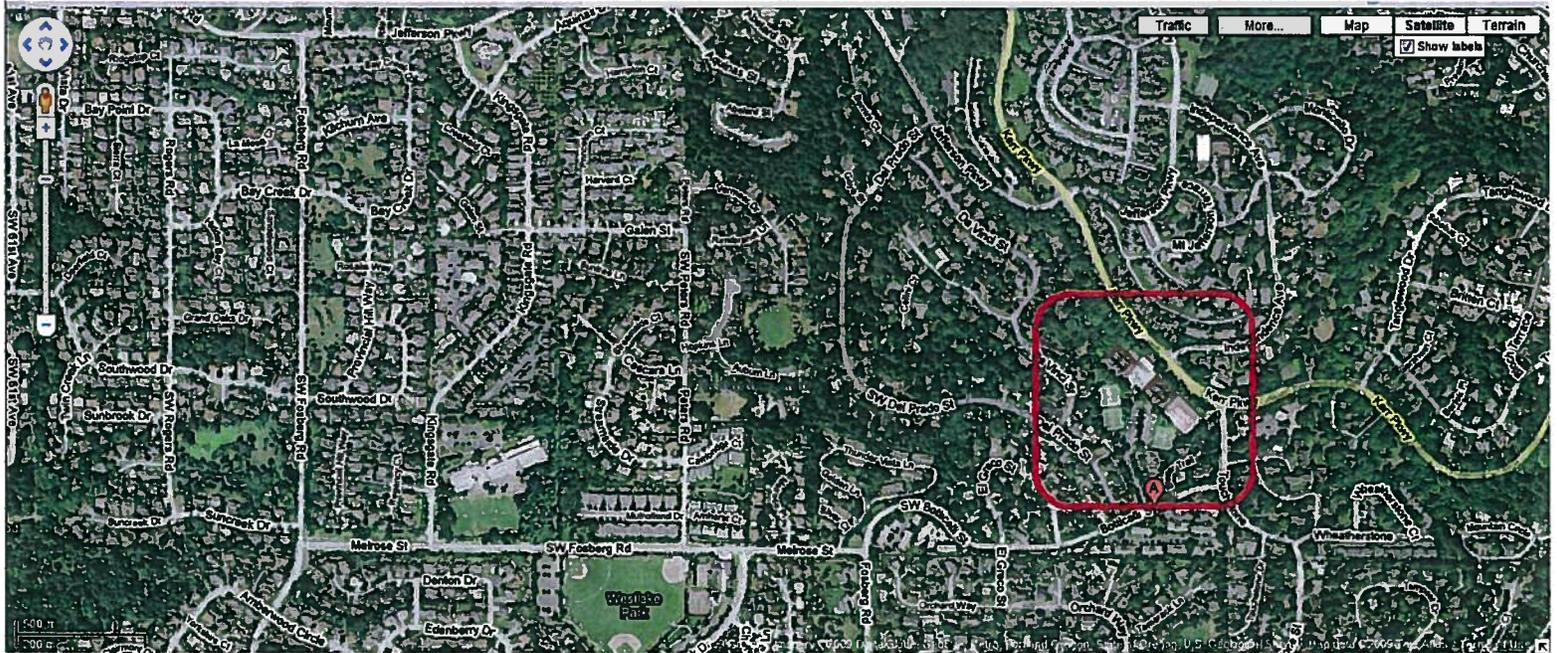
The Irvington Club

2131 NE Thompson
Portland, OR



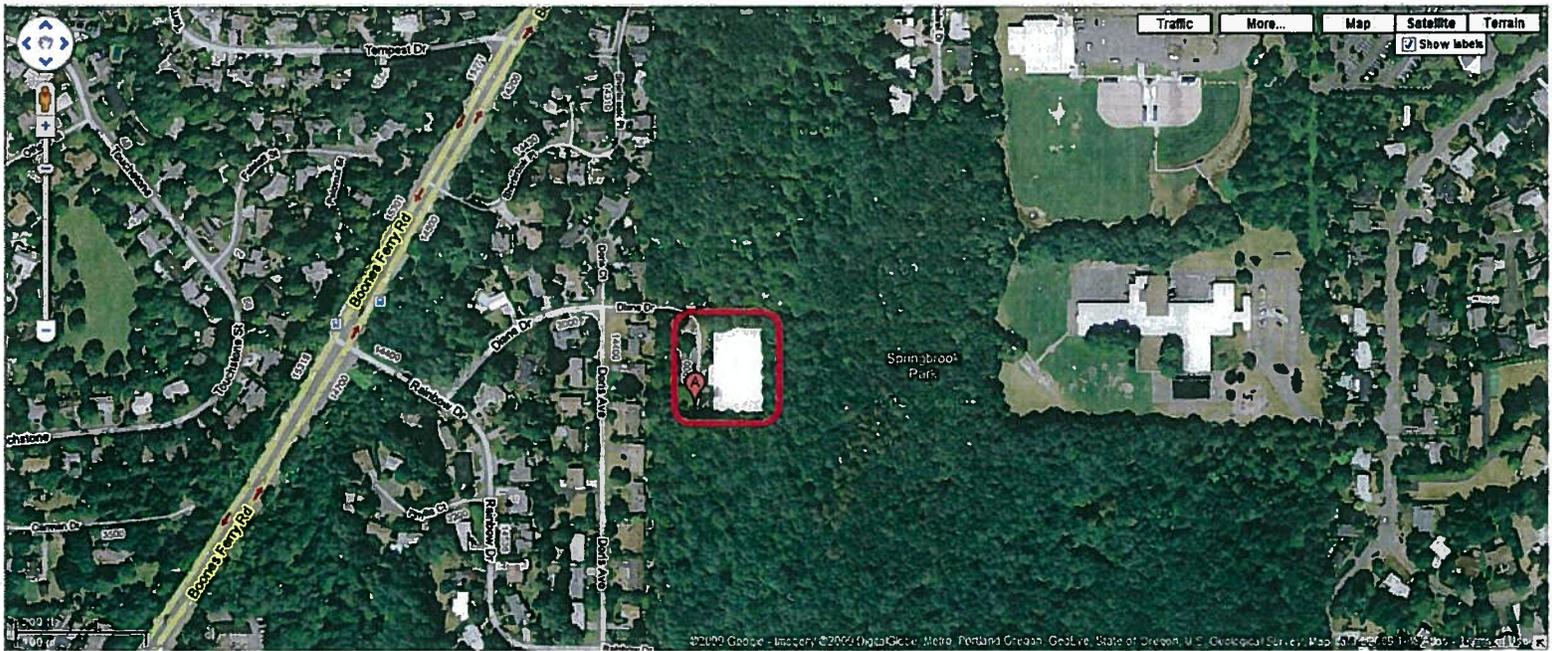
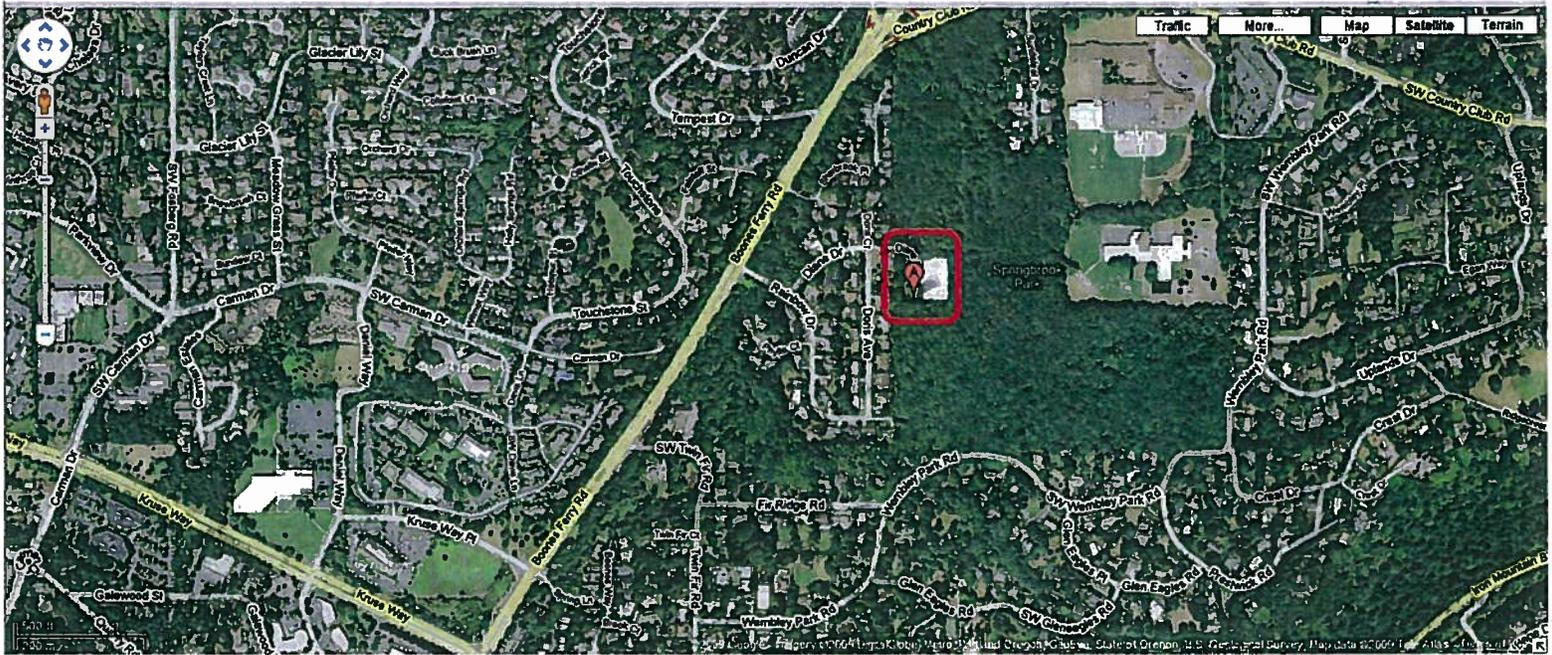
Mountain Park Racquet Club

3 Botticellie Villa
Lake Oswego, OR



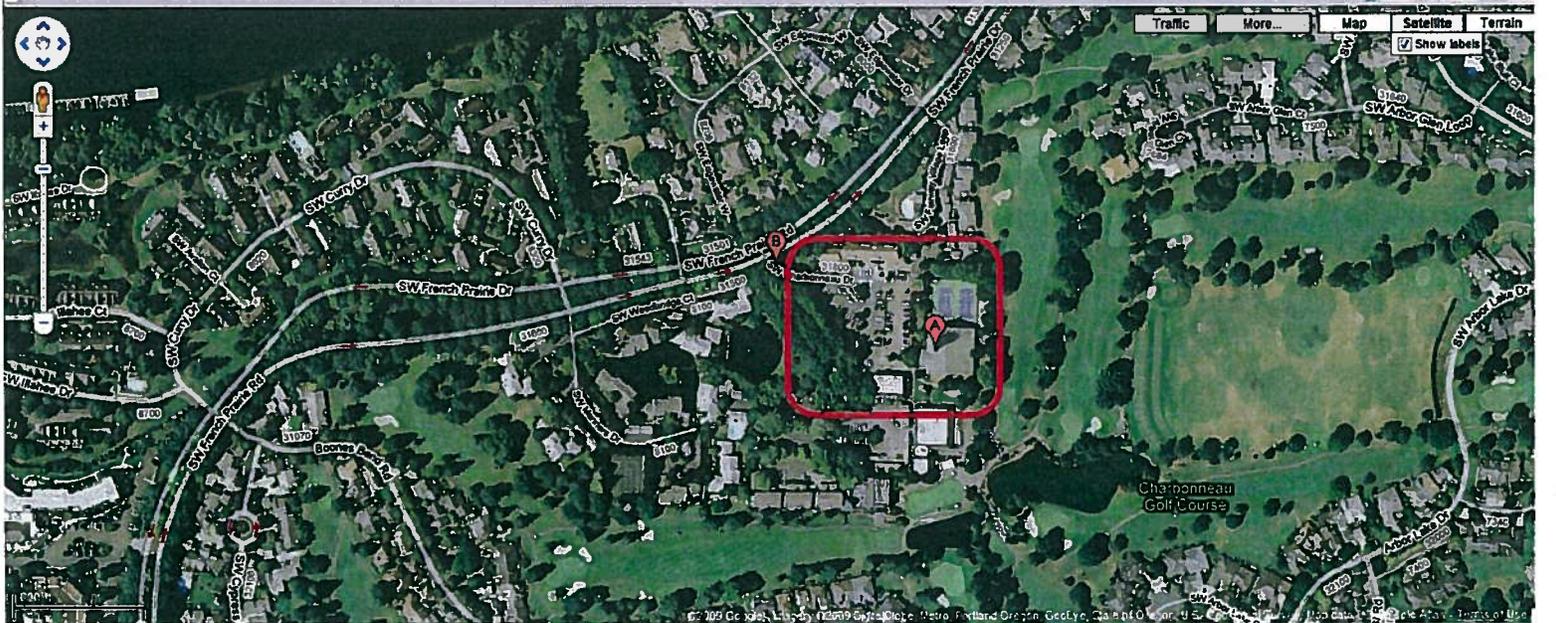
Lake Oswego Indoor Tennis Center

2900 Diane Drive
Lake Oswego, OR



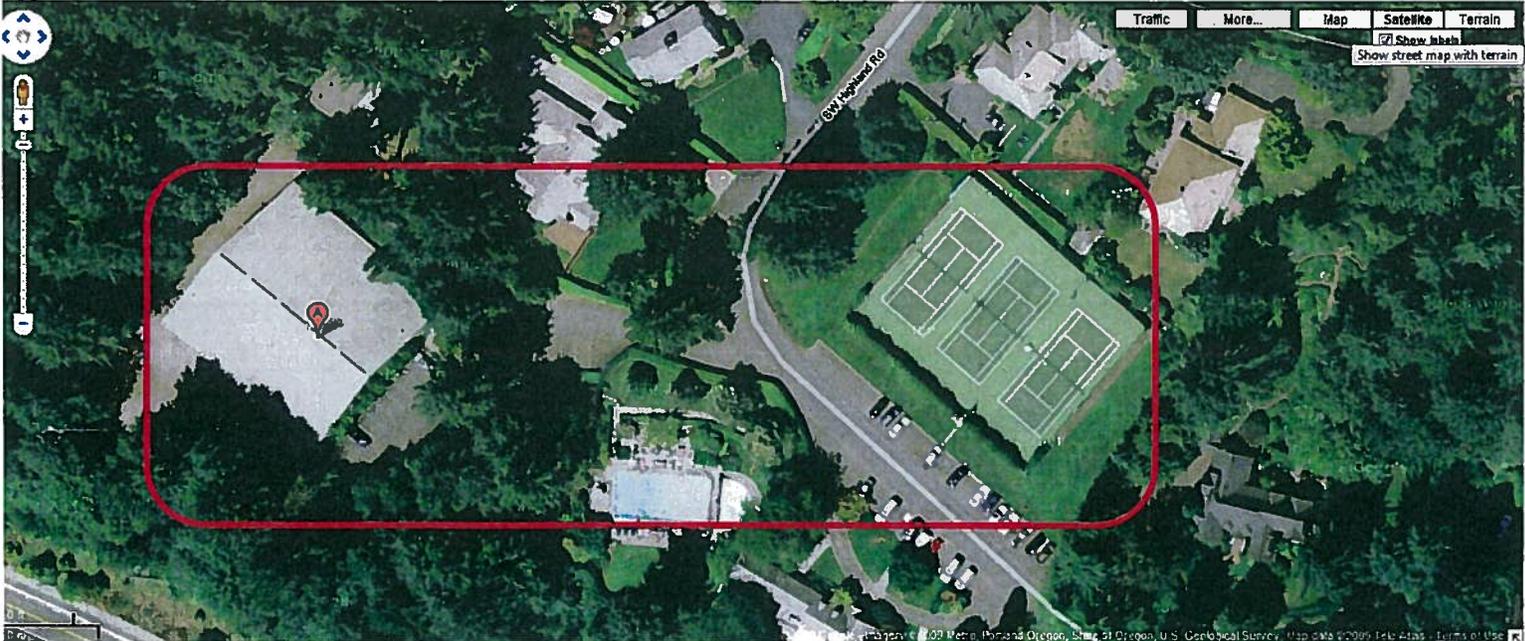
Charbonneau Tennis Club

332000 Charbonneau Drive
Wilsonville, OR



The Racquet Club

1859 SW Highland Rd.
Portland, OR





CITY OF TUALATIN
REC'D

MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

FAX COPY PAGE

Tualatin High School
TIMBERWOLVES
22300 SW Boones Ferry Rd.
Tualatin, OR 97062



Mark Martens – Athletic Director: 503-431-5661
Syd Rabe – Athletic Secretary: 503-431-5660
Athletic Event Line: 503-431-5662
Fax: 503-431-5642

Date: 5 / 4 / 09
To: Will Harder
From: D. RUSTON
Fax #: 503-692-0147

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Comments: _____

MAY 04 2009

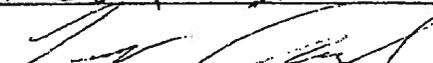
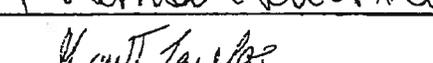
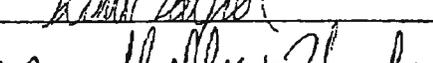
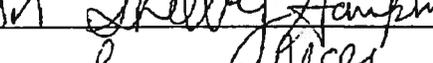
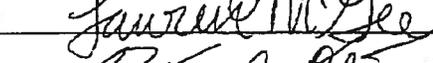
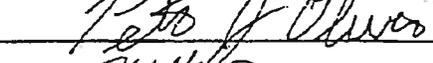
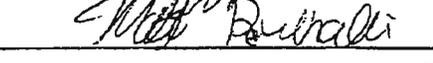
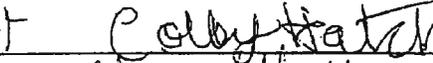
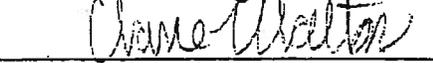
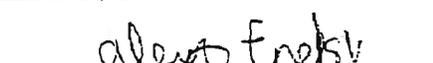
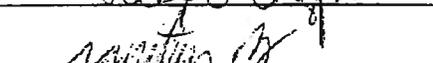
COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: 5/4/09

DEAR TUALATIN CITY COUNCIL:

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

THIS NEW PROJECT WILL CREATE NEEDED JOBS, PROVIDE SUPPORT FOR LOCAL SMALL BUSINESSES AND ALL WITHOUT THE NEED FOR PUBLIC FUNDING. WE REQUEST THAT YOU SUPPORT THIS PROPOSAL.

NAME	SIGNATURE	ADDRESS
1. Max Marlett		19530 SW 57 th AVE
2. Emily Austin		19200 SW 51 AVE
3. Will Peters		20307 SW 71 st AVE
4. Tanner Cheek		Sequoia Ridge
5. Hannah Hawkinson		5567 SW Joshua St.
6. Grant Taylor		715 SW Delaware
7. Shelby Hawkinson		5567 SW Joshua St
8. Lauren McGee		19026 SW Chesapeake Dr.
9. Peter Oliver		19240 SW 56 th Place
10. Matt Derhalli		22040 SW 106 th PL
11. Colby Hatchett		8566 SW natcher st
12. Claire Walton		5254 SW Greenwood Pl.
13. Alexa English		5185 SW Greenwood Circle
14. Jonathan Ny		5700 SW Wichita St Trunk
15. Aiden Larson		4780 SW natcher st

CITY OF TUALATIN
RECEIVED

DATED: _____

MAY 04 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

DEAR TUALATIN CITY COUNCIL:

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NAME	SIGNATURE	ADDRESS
1. Jane Lemieux	Jane L	22041 SW 106th Ave Tualatin
2. Eric Rommel	Eric Rommel	10165 SW Lister Ct. Tualatin
3. Mark Roth	Mark Roth	22450 SW 107th Ave Tualatin
4. Pirke Feltz	Pirke Feltz	22050 SW Martinuzzi Ave Tualatin
5. Preston Hildebrand	Preston Hildebrand	9195 SW Tower Dr
6. Jason Nguyen	Jason Nguyen	12579 SW Blakely St
7. Tyler Hagushi	Tyler Hagushi	5372 SW Tolson St
8. Kelvin Rommel	Kelvin D. Rommel	10165 SW Lister Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 SW 107th Tualatin
11. Catherine Calder Feltz	Catherine Feltz	22050 SW Martinuzzi Ave Tualatin
12. Guide Platteau	Guide Platteau	22535 SW Chilkat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 104th CT Tualatin OR 97149
14. _____	_____	_____
15. _____	_____	_____

DATED: _____

CITY OF TUALATIN
RECEIVED

MAY 04 2009

DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT
PLANNING DIVISION

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NAME	SIGNATURE	ADDRESS
1. <u>Gary Hickey</u>	<u>Gary Hickey</u>	<u>22535 SW Chukkat Terr.</u>
2. <u>Ronald H. Garst</u>	<u>Ronald H. Garst</u>	<u>26340 SW Grohans Ferry Rd.</u>
3. <u>Doston Wokes</u>	<u>Doston Wokes</u>	<u>14650 SW 103rd St.</u>
4. <u>Doug Feltz</u>	<u>Doug Feltz</u>	<u>22050 SW Marazion Ave</u>
5. <u>Preston Hiefield</u>	<u>Preston Hiefield</u>	<u>9195 SW Iowa Drive</u>
6. <u>Mack Stilson</u>	<u>Mack Stilson</u>	<u>2173 SW Av. leave Ct</u>
7. <u>De H.</u>	<u>De H.</u>	<u>9195 SW Iowa Dr. Tualatin OR 97063</u>
8. <u>Gillian Stratton</u>	<u>Gillian Stratton</u>	<u>9195 SW Iowa Dr. Tualatin OR 97063</u>
9. <u>Janet M.</u>	<u>Janet M.</u>	<u>5700 SW Wichita St. Tualatin OR 97063</u>
10. <u>David McKean</u>	<u>David McKean</u>	<u>22685 SW Vermilion dr.</u>
11. <u>Tanner Milton</u>	<u>Tanner Milton</u>	<u>9820 SW Choctaw</u>
12. <u>Chris Pritchard</u>	<u>Chris Pritchard</u>	<u>91441 SW Arapaho R.D.</u>
13. <u>Nirban Senthirajah</u>	<u>N. Senthirajah</u>	<u>22740 SW Marston dr.</u>
14. <u>Brinda Buck</u>	<u>Brinda Buck</u>	<u>5373 SW Joshua St Tual. OR 97062</u>
15. <u>Andrew Shin</u>	<u>Andrew Shin</u>	<u>14924 SW Chardonnay ave</u>

DATED: _____

CITY OF TUALATIN
RECEIVED

MAY 04 2009

DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT
PLANNING DIVISION

yes

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

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NAME	SIGNATURE	ADDRESS
1. Kelly Gramden	<i>Kelly Gramden</i>	22980 SW ERID PL TUALATIN, OR
2. Emily Fisher	<i>Emily Fisher</i>	5015 SW Greenwood Cir. Tualat
3. Sarah Chizum	<i>Sarah Chizum</i>	19650 SW 56th Ct. Tualat OR
4. Molly Fisher	<i>Molly Fisher</i>	5015 SW Greenwood Cir. Tualat OR
5. Maggie Blum	<i>Maggie Blum</i>	5105 SW Wichita St Tualat
6. Ali Mengis	<i>Ali Mengis</i>	19270 SW 57th Ave. Tualat OR
7. Stephanie Clark	<i>Stephanie Clark</i>	9245 SW Palouse Ln Tualatin, OR 97062
8. Nina Yang	<i>Nina Yang</i>	11086 SW Kuller St. Tualat, OR
9. Sarah Fulkerson	<i>Sarah Fulkerson</i>	8700 SW Pennick Ct Tualatin, OR 97062
10. Anna Hildebran	<i>Anna Hildebran</i>	10500 SW Barnoch Ct. Tualatin, OR 97062
11. Lauren Butz	<i>Lauren Butz</i>	17785 SW 81 PL Durham, OR 97224
12. ERIKA WELSH	<i>Erika Welsh</i>	17695 SW Cheyenne Way Tualatin, OR
13. Lauren Jones	<i>Lauren Jones</i>	6046 SW Jomaha Ct. Tualatin, OR 97062
14. Rebecca Koessler	<i>Rebecca Koessler</i>	8525 SW Mancosa Dr
15. Kathleen Shangoan	<i>Kathleen Shangoan</i>	5770 SW Galena Ln

DATED: _____

DEAR TUALATIN CITY COUNCIL:

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

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NAME	SIGNATURE	ADDRESS
1. <u>Carey Jones</u>	<u>[Signature]</u>	<u>5890 SW Omaha Ct Tualatin</u>
2. <u>Craig Koessler</u>	<u>[Signature]</u>	<u>8525 SW MARICOPA DR TUALATIN</u>
3. <u>Jim Fisher</u>	<u>[Signature]</u>	<u>5015 SW Greenwood Tr 91,</u>
4. <u>Alan Koessler</u>	<u>[Signature]</u>	<u>8525 SW MARICOPA DR TUALATIN</u>
5. <u>John Koessler Marilyn James</u>	<u>[Signature]</u>	<u>5690 SW Omaha Ct Tualatin</u>
6. <u>Julie Fisher</u>	<u>[Signature]</u>	<u>5015 SW Greenwood Tualatin</u>
7. <u>Mary Wark</u>	<u>[Signature]</u>	<u>17695 SW Cheyenne Way</u>
8. <u>Tina Freel</u>	<u>[Signature]</u>	<u>10485 SW Meier Dr Tualatin</u>
9. <u>Don Freel</u>	<u>[Signature]</u>	<u>10485 SW Meier Dr Tualatin</u>
10. <u>DAN GRAN DON</u>	<u>[Signature]</u>	<u>22980 SW ERIO PL Tualatin OK 9702</u>
11. <u>JEFF MERRIS</u>	<u>[Signature]</u>	<u>19270 SW 57th Ave Tualatin 9702</u>
12. <u>Bob Bluhm</u>	<u>[Signature]</u>	<u>5205 SW Wichita St. Tualatin 9702</u>
13. <u>Pat Shangraw</u>	<u>[Signature]</u>	<u>5776 SW Calusuelth Tualatin 9702</u>
14. <u>Nancy Bocchi</u>	<u>[Signature]</u>	<u>5564 SW Proserpine Pl Rd 9702</u>
15. <u>Erica Bocchi</u>	<u>[Signature]</u>	<u>" "</u>

DATED: _____

DEAR TUALATIN CITY COUNCIL:

*of the
Tualatin*

YES, AS A RESIDENT OF THE FOX HILLS NEIGHBORHOOD, WE SUPPORT THE APPROVAL OF A FAMILY-CENTERED RECREATIONAL FACILITY (TENNIS/AQUATICS/FITNESS/CHILD CARE) TO BE LOCATED ACROSS FROM BROWN'S FERRY PARK, WITH REASONABLE SAFEGUARDS FOR THE ENVIRONMENT, THE NEIGHBORHOOD AND NEARBY RESIDENCES.

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2. Emily Fisher	<i>Emily Fisher</i>	5015 SW Greenwood Cir. Tualatin, OR
3. Sarah Chizum	<i>Sarah Chizum</i>	19650 SW 56th Ct. Tualatin, OR
4. Molly Fisher	<i>Molly Fisher</i>	5015 SW Greenwood Cir. Tualatin, OR
5. Maggie Blum	<i>Maggie Blum</i>	51105 SW Wichita St. Tualatin, OR
6. Ali Mengis	<i>Ali Mengis</i>	19270 SW 57th Ave. Tualatin, OR
7. Stephanie Clark	<i>Stephanie Clark</i>	4345 SW Palouse Ln Tualatin, OR 97062
8. Nina Yang	<i>Nina Yang</i>	11080 SW Kuller St. Tualatin, OR
9. Sarah Fullersen	<i>Sarah Fullersen</i>	8700 SW Palouse Ct Tualatin, OR 97062
10. Anna Hildebran	<i>Anna Hildebran</i>	10500 SW Barnoch Ct. Tualatin, OR 97062
11. Lauren Butz	<i>Lauren Butz</i>	17785 SW 81 Pl Durham, OR 97224
12. ERIKA WELSH	<i>Erika Welsh</i>	17445 SW Cherynne Way Tualatin, OR
13. Lauren Jones	<i>Lauren Jones</i>	6040 SW Omaha Ct. Tualatin, OR 97062
14. Rebecca Hoessler	<i>Rebecca Hoessler</i>	4525 SW Maricopa Dr
15. Kathleen Mangrove	<i>Kathleen Mangrove</i>	5770 SW Calypso Ln

DATED: _____

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NAME	SIGNATURE	ADDRESS
1. <u>Craig Fisher</u>	<u>Craig Fisher</u>	<u>22535 SW Chilkat Terr.</u>
2. <u>Ronald H. Garst</u>	<u>Ronald H. Garst</u>	<u>26340 SW Evans Ferry Rd.</u>
3. <u>Deston Wokes</u>	<u>Deston Wokes</u>	<u>14650 SW 103rd St.</u>
4. <u>Doug FETTIS</u>	<u>Doug FETTIS</u>	<u>22050 SW MARDIAN²¹ Ave</u>
5. <u>Preston Hiefield</u>	<u>Preston Hiefield</u>	<u>9195 SW Iowa Drive</u>
6. <u>Mack Stilson</u>	<u>Mack Stilson</u>	<u>2173 SW Arleave Ct</u>
7. <u>Joe H.</u>	<u>Joe H.</u>	<u>9195 SW Iowa Dr Tualatin OR 97063</u>
8. <u>Gillian Stratton</u>	<u>Gillian Stratton</u>	<u>9195 SW Iowa Dr. Tualatin OR</u>
9. <u>Justin M.</u>	<u>Justin M.</u>	<u>5700 SW Wichita St Tualatin OR 97062</u>
10. <u>David McKeen</u>	<u>David McKeen</u>	<u>22685 SW Vermilion dr.</u>
11. <u>Tanner Milton</u>	<u>Tanner Milton</u>	<u>9820 SW Choctaw</u>
12. <u>Chris Pritchard</u>	<u>Chris Pritchard</u>	<u>91441 SW Arapaho R.D.</u>
13. <u>Nishan Senthirajah</u>	<u>N. Senthirajah</u>	<u>22740 SW Meridian dr</u>
14. <u>Brenda Buck</u>	<u>B. Buck</u>	<u>5373 SW Joshua St Tual. OR 97062</u>
15. <u>Andrew Shin</u>	<u>Andrew Shin</u>	<u>14524 SW Chardonnay ave</u>

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NAME	SIGNATURE	ADDRESS
1. June Lemieux	June L	22041 SW 106th Ave Tualatin
2. Eric Rommel	Eric Rommel	10165 SW Lister Ct. Tualatin
3. Mark Roth	Mark Roth	22450 SW 107th Ave. Tualatin
4. Pierre Feltz	Pierre Feltz	22050 SW Martinuzzi Ave Tualatin
5. Preston Hildebrand	Preston Hildebrand II	9195 SW Iowa Dr
6. Jason Nguyen	Jason Nguyen	12579 SW Blakely St
7. Tyler Hugeski	Tyler Hugeski	5372 SW Johnson St
8. Kelvin Rommel	Kelvin D Rommel	10165 SW Lister Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 S.W. 107th Tualatin
11. Catherine Calder Feltz	Catherine Feltz	22050 SW Martinuzzi Ave Tualatin
12. Linda Blitch	Linda Blitch	22535 SW Chickat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 104th CT Tualatin OR 97140
14.		
15.		

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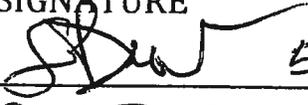
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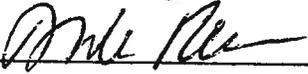
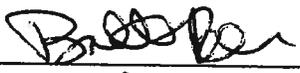
NAME	SIGNATURE	ADDRESS
1. SCOTT DAVIS		5795 SW Sequoia st Tualatin, OR
2. Coleen DAVIS		5795 SW Sequoia st. Tualatin, OR
3.		
4.		
5.		
6.		
7.		
8.		
9.		
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NAME	SIGNATURE	ADDRESS
1. Kelly Robertson		P.O. Box 1814 Tualatin, OR 97062
2. Mike Reiss		19185 SW Mobile Pl Tualatin, OR 97062
3. Debbie Reiss	Debbie Reiss	19185 SW Mobile Pl Tualatin, OR 97062
4. Brett Reiss		19185 SW Mobile Pl Tualatin, OR 97062
5. Taylor Reiss		19185 SW Mobile Pl Tualatin, OR 97062
6. Jeff Mengis	1	19220 SW 57 th Ave Tualatin, OR 97062
7. Susie Mengis		19220 SW 57 th Ave Tualatin, OR 97062
8. Rick Riser Howe		19170 SW Tualasa and Tualatin, OR
9. Roskelle Riser Howe		19170 SW Tualasa and Tualatin, OR
10. Betsy Robertson		P.O. Box 1814 Tualatin, OR 97062
11. Jim Fisher		5015 SW Greenwood Cr Tualatin, OR
12. Julie Fisher		5015 SW Greenwood Cr. Tualatin, OR
13. Tracy Pinta		8409 SW Blaine St Tualatin, OR
14. Michael Sidoff		24011 SW 65 th Tualatin, OR
15. Bonnie Sidoff		24011 SW 65 th Tualatin, OR

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COMMUNITY DEVELOPMENT
PLANNING DIVISION

DATED: 5/4/09

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NAME	SIGNATURE	ADDRESS
1. Deandra Davis	Deandra Davis	5170 SW Natchez S
2. Jamie Andrews	Jamie Andrews	21235 SW 70th Ave
DUP 3. Emily Fisher	Emily Fisher	5015 SW Greenwood Ci.
4. Daniel Gimes	Daniel Gimes	19717 SW 57th Ave
5. Matt Nichols	Matt Nichols	15000 981 SW 40th
6. Tom [unclear]	Tom [unclear]	5873 S. [unclear]
7. Cameron France	Cameron France	10573 SW Crown St.
8. Abby Ward	Abby Ward	5773 SW Calusa Ln
9. Krista Collins	Krista Collins	19005 SW Chesapeake Dr
10. Erin Ennis	Erin Ennis	5013 SW Greenwood
11. Brian Phillips	Brian Phillips	5525 SW Amica St
12. Tony Vilaro	Tony Vilaro	5525 SW Omaha Ct
13. Kelsey Barnes	Kelsey Barnes	19120 SW 61st Place
14. Emily Winger	Emily Winger	5320 SW Natchez St
15. Dylan Moore	Dylan Moore	5573 SW Natchez St

RESOLUTION NO. _____

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR THE STAFFORD HILLS RACQUET & FITNESS CLUB AS A PRIVATE CLUB USE AND FOR ADDITIONAL BUILDING HEIGHT IN THE LOW-DENSITY RESIDENTIAL (RL) PLANNING DISTRICT AT 5916 SW NYBERG LANE (TAX MAP 21E19C, TAX LOT 900) (CUP 09-01).

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on April 27, 2009, and continued on May 26, 2009, upon the application of Zupancic Group, requesting a Conditional Use Permit to allow 1. The Stafford Hills Racquet & Fitness Club (SHR&F Club) as a private club use in the Low Density Residential (RL) Planning District at 5916 SW Nyberg Lane; 2. Increased building height from the maximum 35 ft. in a RL Planning District to a height of up to 40 ft.; 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 [Vote _-]; 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 reports, dated April 27, 2009 and May 26, 2009, marked "Exhibit C," which is 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 of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

Section 1. The City Council agrees with the staff report CUP-09-01 to allow a private club use and increase building height up to 40 ft. with the following conditions:

1. To ensure an adequate visual buffer between the Legacy Health Systems property to the proposed SHR&F Club outdoor/covered courts and indoor tennis building, the proposed club facility shall submit an Architectural Review plan that shows a buffer of evergreen and deciduous plantings on the south perimeter of the development area that extend from planter grade to 10 ft. in height to provide screening of the outdoor courts and include trees that will reach a minimum mature height of 30 ft. or more to provide a buffer to the indoor tennis building rooftop.
2. To ensure that the SHR&F Club buildings with the proposed increased building height is adequately buffered to the residences east of the site, the proposed athletic club facility shall submit an Architectural Review plan that shows a buffer of evergreen and deciduous plantings on the east perimeter of the development area that that extend from planter grade to a minimum height of 12 ft. and include trees that have a minimum planted size of 12 ft. or 3" caliper and will reach a minimum mature height of 30 ft. or more.
3. The SHR&F Club shall establish a parking management program that will restrict on-site parking before 8 am from parking stalls within 100 ft. of the SHR&F Club east property line.
4. Activities in the SHR&F Club buildings and on-site shall end by 10:00 p.m. and that the buildings and parking areas be closed by 10:30 p.m.
5. To ensure there is adequate on-site parking and to avoid spill-over parking onto neighboring residential streets, a Parking Management Plan for the SHR&F Club use shall be submitted with an Architectural Review application. The Parking Management Plan shall contain provisions for tournament and event parking that may include limits on attendance, mechanisms for restricting SHR&F Club visitor parking on public streets, and providing off-site parking in approved parking areas.

- 6. To ensure that outdoor lighting does not create glare to the adjoining public street, to the natural wetland to the west of the development area and onto adjacent properties, the proposed private club facility shall submit an Architectural Review plan that shows exterior building and site lighting will not shine or create glare in a manner that impairs the use of a property by residents or wildlife.

INTRODUCED AND ADOPTED this 26th day of May, 2009.

CITY OF TUALATIN, Oregon

By _____
Mayor

ATTEST:

By _____
City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden

CITY ATTORNEY