



MEMORANDUM CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council
FROM: Sherilyn Lombos, City Manager 
DATE: November 16, 2009
SUBJECT: Work Session for November 23, 2009

Work Session will begin at 5:00 p.m.

5:00 p.m. (10 min) – Council / Commission Meeting Agenda Review.

Action requested: Council review the agenda for the November 23rd City Council and Development Commission meetings.

5:10 p.m. (60 min) – Central Urban Renewal District. Attached is a memo from Doug along with a financial analysis of extending the maximum indebtedness of the central district from our consultant Jeff Tashman. Mr. Tashman will be present to discuss the financial analysis. We will also discuss the timeline of this process, next steps and needed Council direction.

Action requested: Council direction on the financial analysis and next steps for the Central Urban Renewal District renewal.

6:10 p.m. (25 min) – Land Acquisition & Trails Update. At a work session in September, you asked Paul to return with an update on land acquisition and trail development. Paul is prepared to give such an update.

Action requested: No specific direction is requested; this item is informational.

6:35 p.m. (25 min) – Tree Preservation Policy for Annexation of New Land. The last time Council discussed tree preservation, you directed that we look into the issue of regulating tree preservation on lands that may be annexed into the city. Staff has done some research of other cities and is prepared to discuss that research.

Action requested: Direction from the Council on a policy for tree preservation for lands to be annexed into Tualatin.

Upcoming Council Meetings & Work Sessions: Attached is a three-month look ahead for upcoming Council meetings and work sessions. If you have any questions, please let me know.

Dates to Note: Attached is the updated community calendar for the next three months.

As always, if you need anything from your staff, please feel free to let me know.



MEMORANDUM

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator 

FROM: Doug Rux, Community Development Director 

DATE: November 23, 2009

SUBJECT: CENTRAL URBAN RENEWAL DISTRICT MAXIMUM INDEBTEDNESS FINANCIAL ANALYSIS

ISSUE BEFORE THE COMMISSION:

Commission consideration and direction on draft financial analysis for increasing the Central Urban Renewal District (CURD) maximum indebtedness value.

POLICY CONSIDERATIONS:

The policy considerations for Central Urban Renewal District (CURD) maximum indebtedness financial analysis include:

- Are the financial scenarios within an acceptable range given the Commission's July 13, 2009 direction of a list of possible projects totaling \$61,007,000?
- Are the assumptions for development ranging from low, medium, high reasonable?

BACKGROUND:

- ORS 457.190 requires that all urban renewal plans have a stated maximum indebtedness amount.
- The Tualatin Development Commission and City Council are engaged in an evaluation of the Central Urban Renewal District Plan to determine if the maximum indebtedness amount should be increased.
- Currently the maximum indebtedness amount is \$27,705,384. Estimates are this amount will be reached in June 2010. At that time the District would no longer collect division of taxes and the district would close down in approximately 2011/2012.
- To increase the maximum indebtedness amount, a process called a Substantial Amendment is required.

MEMORANDUM: CURD Maximum Indebtedness

November 23, 2009

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- Urban renewal programs by definition are to remove blight conditions as defined in ORS 457.010.
- To establish a new maximum indebtedness value, an evaluation is in process that began in October 2007. Attachment A is a timeline that recaps activities that have occurred since October, where the process is currently, and future steps until June 2010.
- On April 8, 2008, the Commission reviewed a list of projects to remove blight conditions. The Commission evaluated this list of 77 projects through a dot exercise and shortened the list to 46 projects to move to the Planning Level Cost Estimating stage.
- Planning Level Cost Estimates were prepared for this list of projects. The estimated dollar value of the projects was approximately \$245,586,100. Estimated land acquisition costs for buildings, art and gateways at that time could add an additional \$7.8 million.
- The Urban Renewal Advisory Committee met on July 17 and August 7, 2008 to review the shortened project list created by the Commission on April 8, 2008. URAC's charge was to shorten the project list to approximately \$100 million. URAC was able to shorten the list to approximately \$110 million. Some overarching comments from URAC members included:
 - The Commission met again on October 16, 2008 and went through another interactive exercise reviewing the shortened list of possible projects with the challenge of reducing the list down to approximately \$100 million. The Commission shortened the potential list to approximately \$163-\$166 million.
 - URAC met on February 19, 2009 and reviewed the shortened list from the Commission's October 16, 2008 discussion with staff providing a broad overview on the refined costs indicating some project costs increased while others went down due to scope changes.
 - On April 13, 2009 the Commission discussed existing project priorities listed in the CURD. The outcome of the discussion was to fund the SW Tualatin-Sherwood Road Pedestrian/Landscape project (\$2.5 million) and to modify the CURD Plan to include Train Horn Noise Mitigation (\$1.3 million).
 - The Commission evaluated and discussed projects generated from the October 16, 2008, March 2, 2009, April 13, 2009 and May 26, 2009 Work Sessions on July 13, 2009 and developed a project list encompassing a value of \$61,007,000 in 2009 dollar value. That list is included as Attachment B.

DISCUSSION:

Based on the project list referenced above the Commission contracted with Mr. Jeff Tashman of Tashman Johnson, LLC to conduct a financial analysis of the potential tax increment revenue within the CURD. This analysis looked at a 20 year horizon and factored various development scenarios noted as low, medium and high. The variations in the projections reflect the intensity of future development (density, building height, structured parking).

MEMORANDUM: CURD Maximum Indebtedness

November 23, 2009

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The scenarios were derived from recent and past work conducted by staff and presented at various times to the Commission or City Council. This includes the Main Street Workshop conducted in June 2009, Local Aspirations acknowledged by the City Council in April 2009, the Town Center Plan from 2005 and discussions with various property owners (Emami, Nyberg, PacTrust, ZIAN, etc.) over the past 5+/- years.

Attachment C is the memorandum from Mr. Tashman outlining his analysis of tax increment revenues and borrowing capacity. Mr. Tashman will be present to present this material and explain the details of the analysis.

In addition to this memorandum, supplemental information will be distributed prior to the November 23, 2009 meeting outlining the cost of the Potential Project List (Attachment B) factoring in inflation for these projects and a hypothetical timeline when the projects could be constructed. A reconciliation of the revenue potential and project cost expenditures will need to occur.

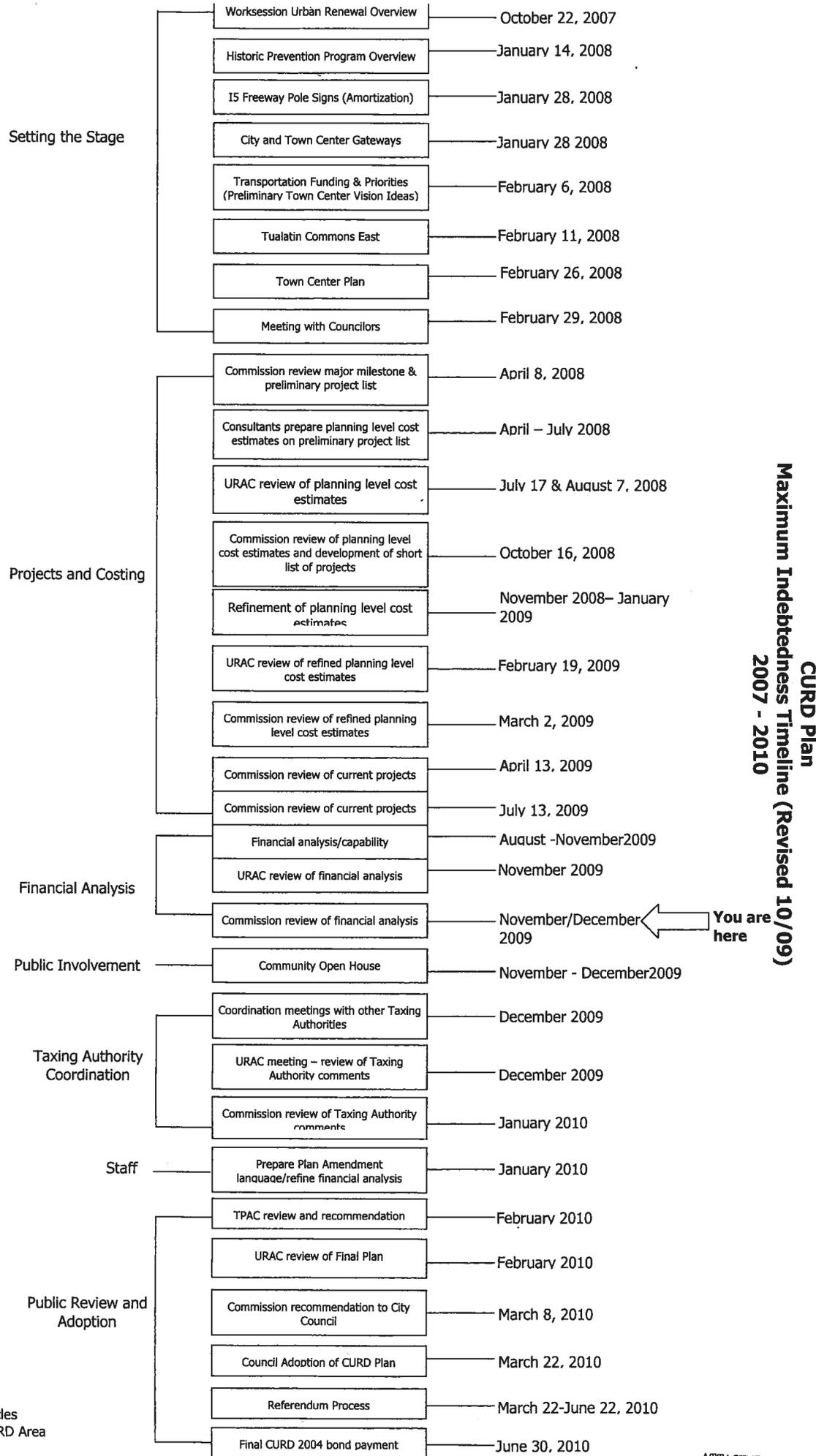
The next step in the evaluation process is a meeting on December 7, 2009 to determine a final project list based on revenue capability. Following that meeting is public outreach on the project list and coordination meetings with the overlapping taxing districts during December 2009 and January 2010. By the end of January 2010 the list of projects and revenue projections need to be completed to prepare revisions to the CURD Plan to go through the review process through advisory committees (Urban Renewal Advisory Committee and Tualatin Planning Advisory Committee) followed by public hearings in March by the Commission and City Council.

RECOMMENDATION:

Staff recommends the Commission provide direction to staff.

Attachments:

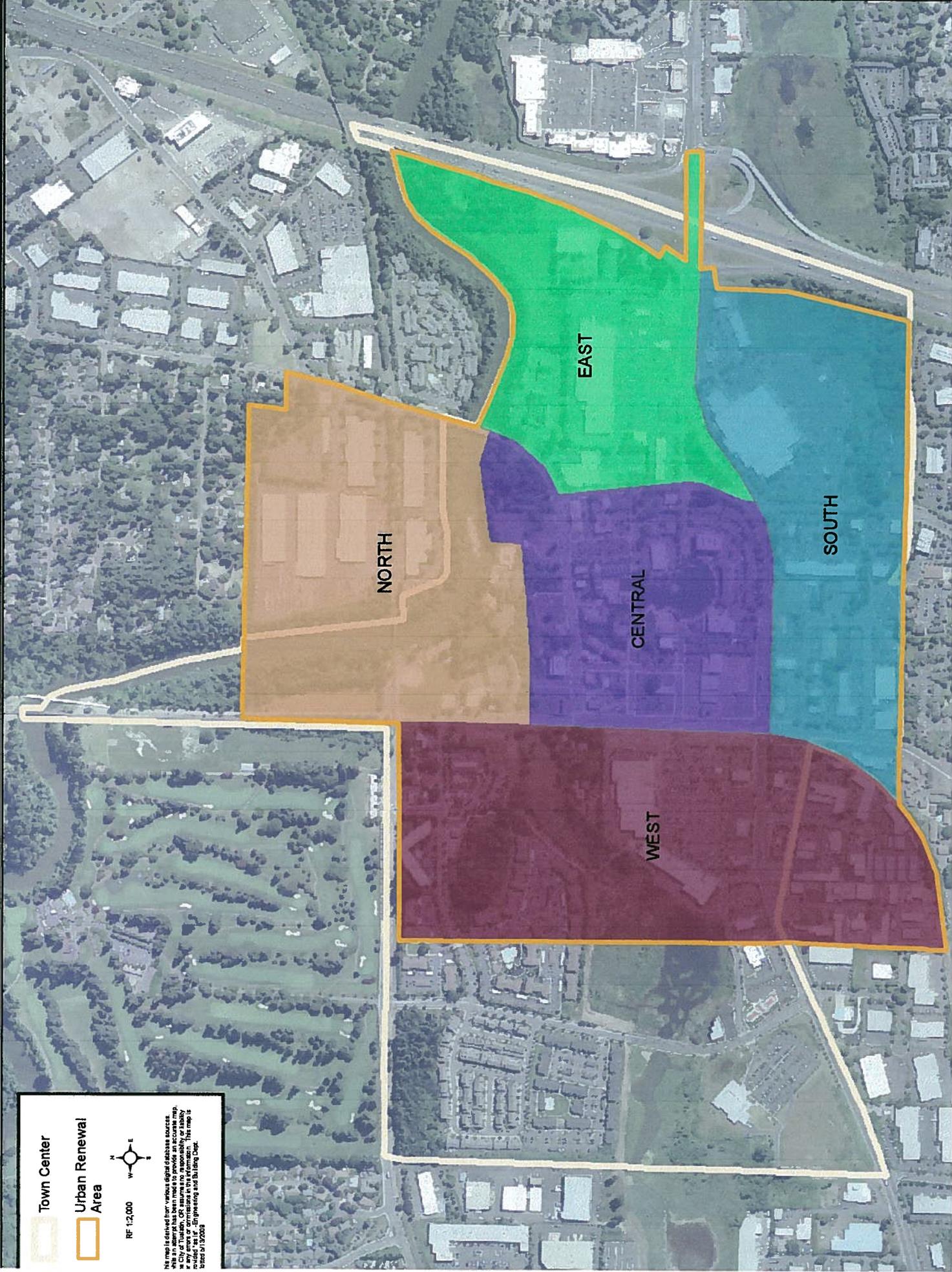
- A. Project Timeline
- B. Potential Project List from July 13, 2009
- C. Tashman Johnson Memorandum November 11, 2009



*News Letter Articles
 *Meeting with CURD Area Business Groups

POTENTIAL CURD PROJECTS 11/23/2009

AREA	NUMBER	PROJECT	COST	TDC	OTHERS
Central	11j	East Commons	\$ 4,000,000	\$ 4,000,000	\$ 0
Central	1	Commons Landmark	\$ 1,090,000	\$ 1,090,000	\$ 0
Central	*	West Commons Sanitary Sewer	\$ 100,000	\$ 100,000	\$ 0
Central	9	Red Parking Lot Garage	\$ 14,050,000	\$ 5,000,000	\$ 9,050,000
East	6	Eastside Downtown	\$ 11,810,000	\$ 8,762,000	\$ 3,048,000
East	3	Tualatin River Pedestrian Trail	\$ 5,100,000	\$ 4,100,000	\$ 1,000,000
East	10	Pedestrian Bridge (Tualatin River or Commons Lake)	\$ 2,390,000	\$ 1,390,000	\$ 1,000,000
East	13	Eastside Downtown Parking Garage	\$ 11,950,000	\$ 5,975,000	\$ 5,975,000
East	9	I-5 Pedestrian Trail	\$ 7,500,000	\$ 6,500,000	\$ 1,000,000
North	5	Boones Ferry Road	\$ 11,760,000	\$ 5,880,000	\$ 5,880,000
North	7	Tualatin Road Extension	\$ 33,340,000	\$ 16,670,000	\$ 16,670,000
General		General Aesthetic Projects	\$ 500,000	\$ 500,000	\$ 0
General	26	Signal Coordination	\$ 980,000	\$ 490,000	\$ 490,000
General		Incentive Fund	\$ 500,000	\$ 500,000	\$ 0
General		City Center Feasibility Study	\$ 50,000	\$ 50,000	\$ 0
		TOTAL	\$105,120,000	\$ 61,007,000	\$ 44,113,000



Town Center

Urban Renewal Area

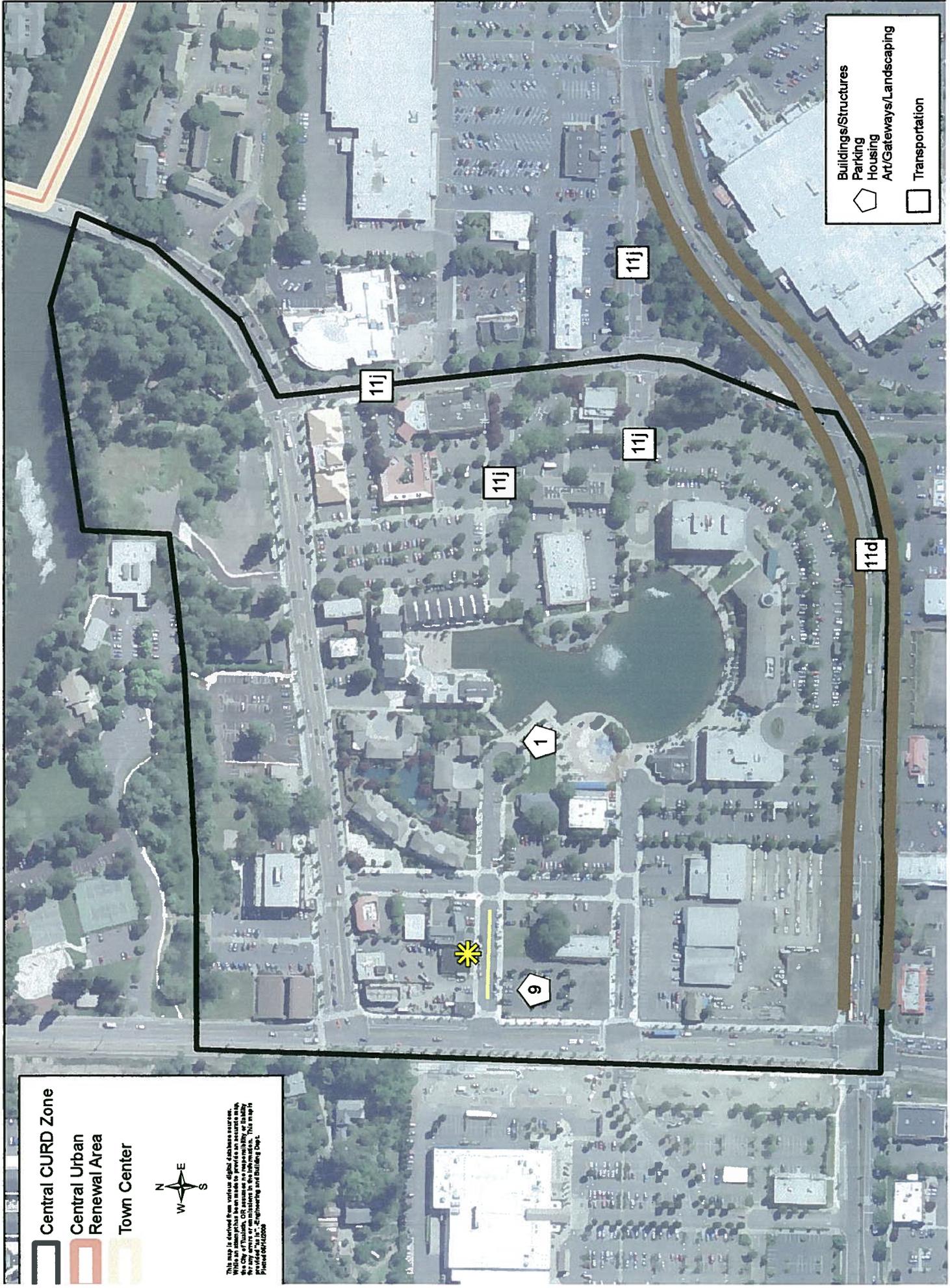
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This map is derived from various digital database sources. While no attempt has been made to provide an accurate map of the City of Tualgis, OR, assurance is given as to the accuracy of any data or information contained herein. This map is based on 1/2008.

Proposed Community Project - Round 5 (Central CURD Zone)

Aerial Photo: June 2008



- Central CURD Zone
- Central Urban Renewal Area
- Town Center

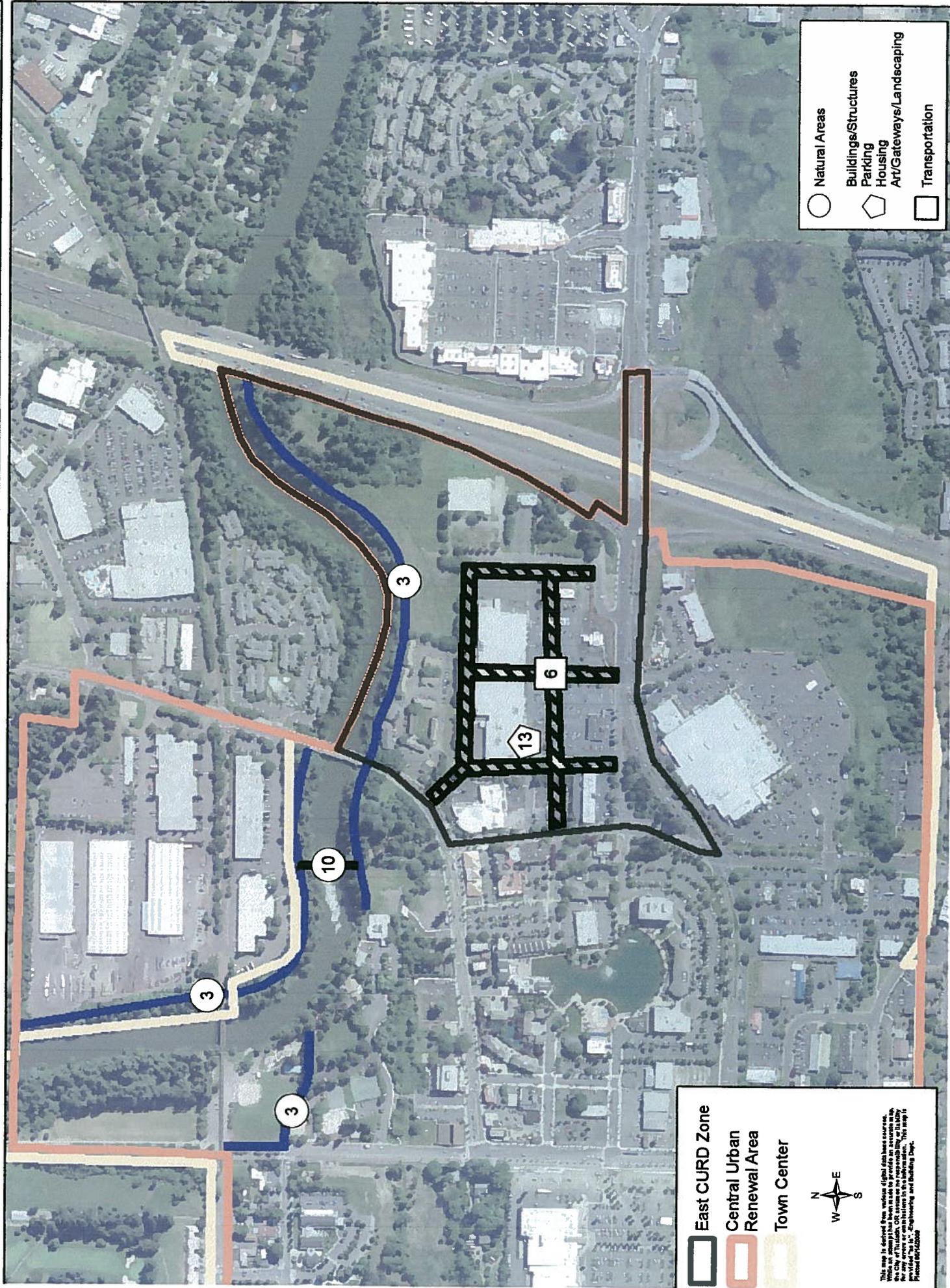


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- Buildings/Structures
- Parking
- Housing
- Art/Gateways/Landscaping
- Transportation

Proposed Community Project - Round 5 (East CURD Zone)

Aerial Photo: June 2008



- Natural Areas
- ▭ Buildings/Structures
- ▭ Parking
- ▭ Housing
- ▭ Art/Gateways/Landscaping
- ▭ Transportation

- ▭ East CURD Zone
- ▭ Central Urban Renewal Area
- ▭ Town Center

This map is derived from various digital data base sources. While an attempt has been made to provide an accurate map, the City of Tualsis OR assumes no responsibility for its liability or use. For more information, please contact the City of Tualsis Planning and Building Dept. Project 04/12/08

Proposed Community Project - Round 5 (West CURD Zone)

Aerial Photo - June 2008



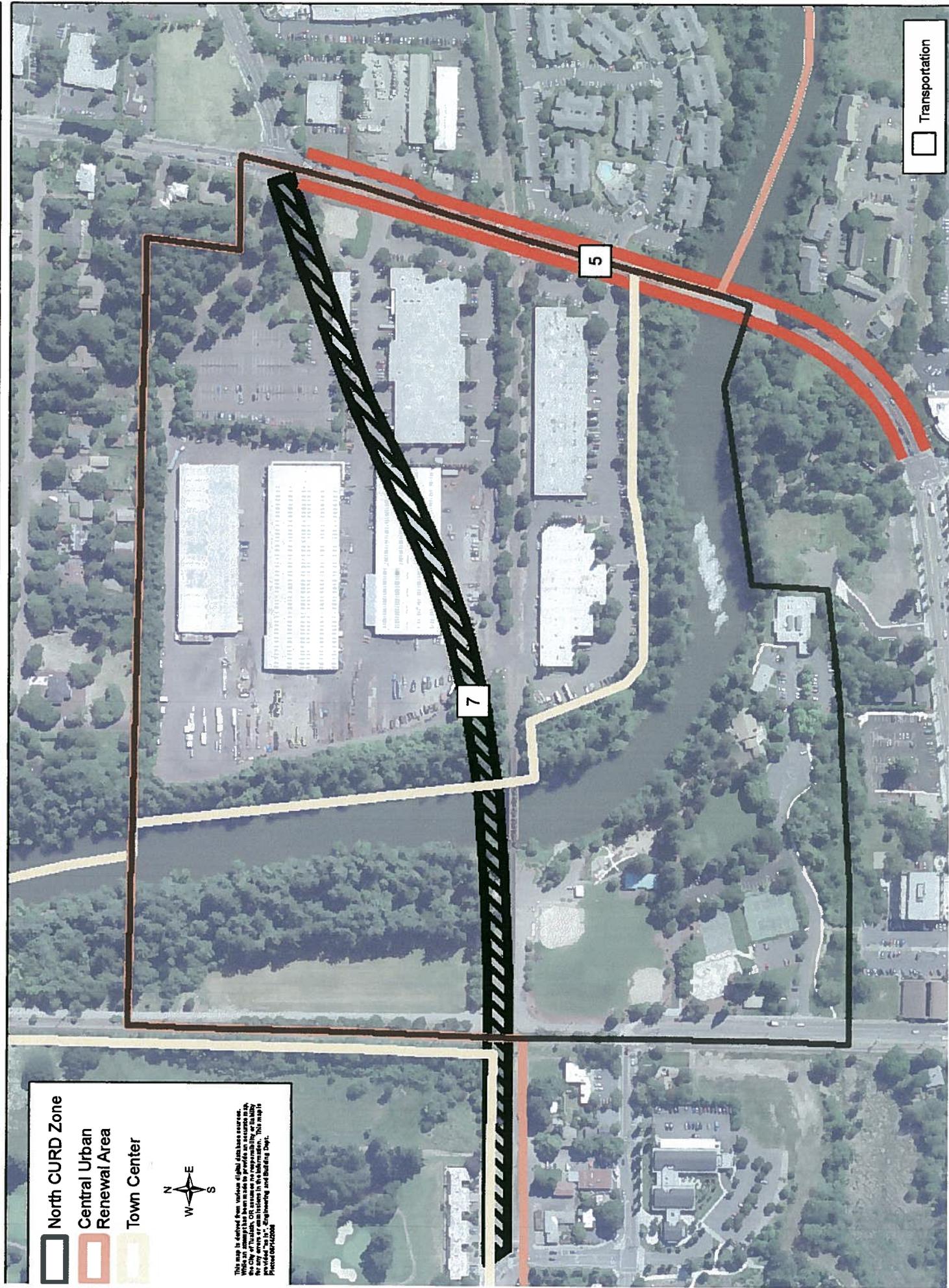
-  West CURD Zone
-  Central Urban Renewal Area
-  Town Center



This map is derived from various digital data sources. The City of Tualgis, OR assumes no responsibility for any errors or omissions in the information. This map is the property of Engineering and Planning Dept. Project 08-14-2008

Proposed Community Project - Round 5 (North CURD Zone)

Aerial Photo - June 2003



-  North CURD Zone
-  Central Urban Renewal Area
-  Town Center

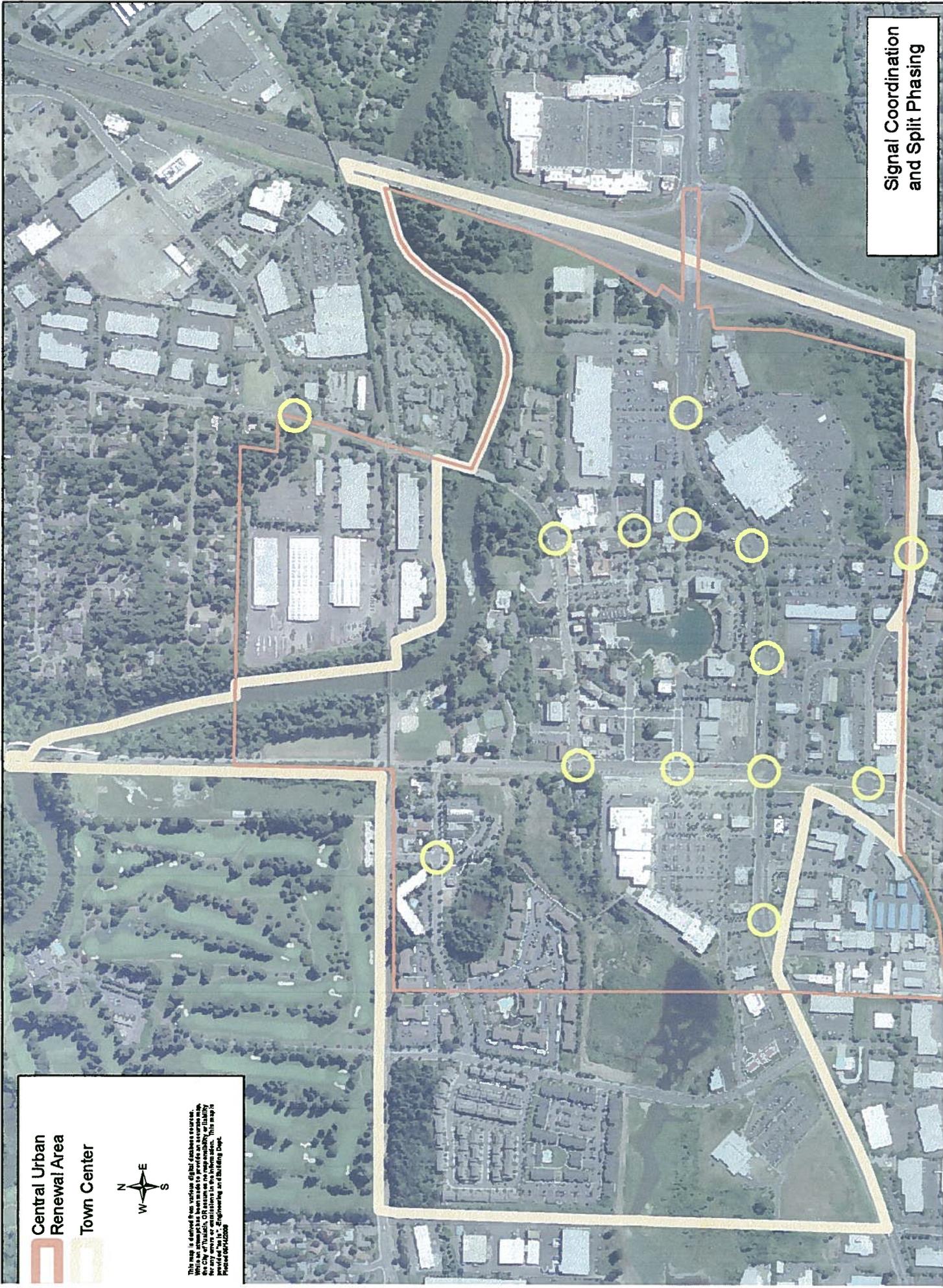


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 Transportation

Proposed Community Project - Round 5 (General Aesthetic - Miscellaneous Investments)

Aerial Photo: June 2008



Signal Coordination
and Split Phasing

- Central Urban Renewal Area
- Town Center



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, no warranty or representation is made by the City of Tualagi. This map is provided "as is" by Engineering and Planning Dept.



MEMORANDUM

TO: Doug Rux

FROM: Jeff Tashman

SUBJECT: Draft Projections of Tax Increment Revenues for Possible Tualatin Central Urban Renewal Plan Amendment

DATE: 11 November 2009

This memo summarizes draft projections of tax increment revenues and borrowing capacity for a possible amendment of the Tualatin Central Urban Renewal Plan (“Central”). By law, tax increment revenues – the property taxes on growth in assessed value in an urban renewal area – must be used to pay principal and interest on debt. (There are many forms of debt, both short term and long term.) Therefore the financial limit on an urban renewal plan is considered its “maximum indebtedness” and the amendment of Central that may be considered by the Council would increase this maximum indebtedness. The current maximum indebtedness of Central is \$27,705,384.

We have prepared “low,” medium,” and “high” scenarios of the debt capacity of Central that differ in the scale of development of selected redevelopment sites. By scale we mean height, density and use of structured or surface parking. We project that the total 20 year borrowing capacity (long term and short term) of Central – and the amount of possible increases in maximum indebtedness - under the assumptions described below would be:

High	\$87,522,000
Medium	\$76,377,418
Low	\$69,722,217

The methodology and assumptions used for these projections are as follows. We have provided staff with the Excel spreadsheet model that underlies the projections.

I. METHODOLOGY

The borrowing capacity under tax increment financing depends on the projected tax increment revenues and assumed financing terms – interest rate, term or length of borrowing and “coverage” (the amount by which annual revenues have to exceed the debt payment obligations (“debt service”) for that year. The tax increment revenues depend on the growth in assessed value in the Urban Renewal Area (“incremental assessed value”). The amount of tax increment revenues equals this growth times the applicable property tax rate (“consolidated rate”).

This fiscal year, ending June 30, 2010 (“FYE”), the incremental assessed value is over \$180 million and, with a consolidated rate of just over \$13.00 per \$1,000, Central generates tax increment revenues of over \$2.3 million. (Central, as an “Existing Urban Renewal Plan” could have used the “special levy” for additional funds. If Central is amended to increase its maximum indebtedness it will no longer have the ability to use the special levy.)

FY Ending June 30	2010
Total Assessed Value	\$194,288,400
Incremental Assessed Value	180,221,311
Base Assessed Value	14,067,089
Consolidated Rate	13.0625
Tax Increment Revenues	\$2,354,141

A. Projected Incremental Assessed Value

To project future incremental assessed value we had to project appreciation in existing property values and the assessed value of new development. For appreciation we used a percentage growth in the assessed value of existing property, subject to the 3% limit. This percentage has to take into account that not all property increases by 3%. The assessed values of some industrial real property, all personal property and all utility property are typically limited by their real market value and will increase or decrease only with the changes in their real market value.

We analyzed the relationship between assessed value and real market value for all of the tax accounts in Central. The table below shows the amount of assessed value in various categories of percent of real market value (e.g. the “40 – 50” category is for property that is assessed at between 40% and 50% of its real market value).

Table 1: Assessed Value by Percent of Real Market Value

<40	40-50	50-60	60-70	70-80	80-90	90-100	Total
7,632,420	77,328,580	45,227,180	16,938,950	10,092,240	7,803,600	29,265,430	194,288,400
4%	40%	23%	9%	5%	4%	15%	100%

DRAFT PROJECTIONS OF TAX INCREMENT REVENUES, CENTRAL URBAN RENEWAL PLAN

We assumed that all assessed value below 90% of real market value would not appreciate and all other property would increase by the full 3%. This results in a 2.5% appreciation rate on the total assessed value in Central. The appreciation rate did not change with the three scenarios.

For new development we used two approaches to predicting assessed value. The first was using staff estimates for the projects currently under construction or which are imminent and which have not yet become property taxable. Where there were ranges in the estimates, we spread the range across the three scenarios.

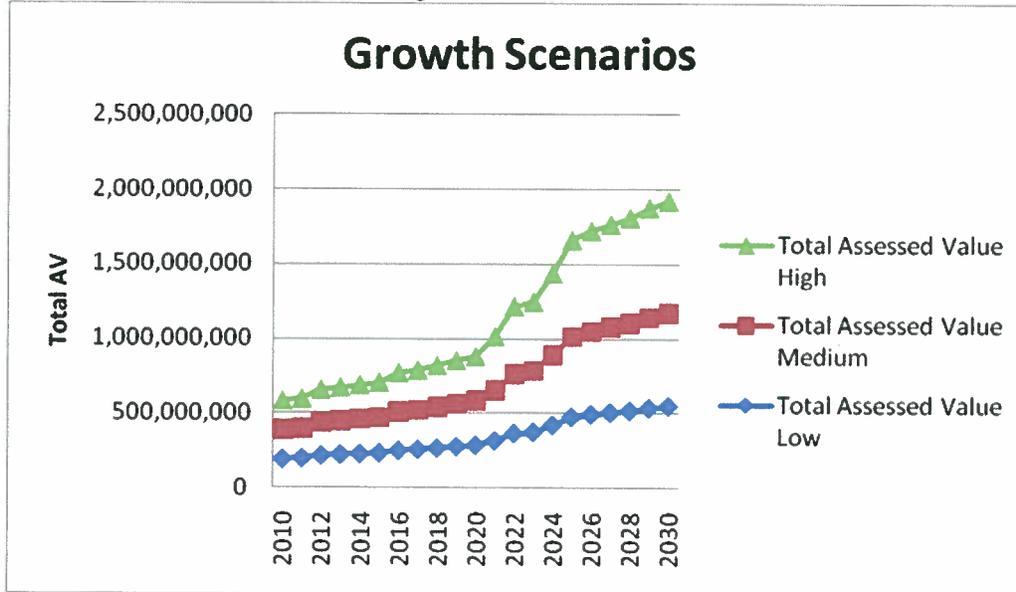
The second approach involved taking the Town Center Plan as guidance for sites shown as redeveloped projected uses and what uses were anticipated. We then did original site analysis to come up with low, medium and high levels of redevelopment for those sites. Generally the low development scenario consisted of single story development with surface parking; the medium was two story development with surface parking and the high was two story development with two levels of structured parking.

These initial lists of uses by amount (“development programs”) was reviewed by staff and refined for this draft. We then projected real market values for these uses over time. We obtained comparable analysis for 2009 for retail space, office space, condominiums and apartments. We used our professional judgment for restaurant space and assisted living units. These real market values were inflated over time at a rate less than 3% per year. Though historic levels of real market value increases in the 1990’s and earlier in the 2000’s were much higher, it appears to be a consensus that those growth rates will not be seen again anytime soon.

We then converted the real market values into assessed values, again to reflect the provisions of Ballot Measure 50. Most real property is assessed for property taxes at a percentage of its real market value. When new development is assessed, the assessor appraises its real market value and then applies a ratio to convert the real market value to assessed value. This is called the Changed Property Ratio (“CPR”). Because we project increases in the real market value of existing property of less than 3% per year, we projected the CPR’s will gradually increase over time.

The three scenarios of growth in assessed value are shown in the graph below.

Figure 1. Low, Medium and High Growth Scenarios



The “frozen base” assessed value was subtracted from the total assessed value to calculate the incremental assessed value.

B. Consolidated Tax Rate

The consolidated tax rate is applied to the incremental assessed value to calculate the tax increment revenues. This rate does not include any levy rates for General Obligation (GO) Bonds or Local Option Levies approved by voters prior to October 5, 2001. This rate does not change if Central is amended to increase its maximum indebtedness.

To project the future consolidated tax rates we consulted debt service schedules for those bonds approved before the above date and projected when and how those levies would change (generally decrease) over time. By FYE 2015 we project that the consolidated rate will consist of only the total of the permanent rates, which is \$11.6326 per \$1,000. This rate is substantially lower than the consolidated rate used prior to FYE 1998 which reflected the provision of Ballot Measure 50.

II. TAX INCREMENT REVENUES AND BORROWING CAPACITY

The tax increment revenues resulting from the projected increases in assessed value and decreases in the consolidated rate must be used to make payments on debt. To analyze the borrowing capacity of these revenue streams we projected a mix of long and short term debt. The financial assumptions for these projections did not change with the scenarios and are as follows:

DRAFT PROJECTIONS OF TAX INCREMENT REVENUES, CENTRAL URBAN RENEWAL PLAN

Financial Assumptions	
Coverage (Ratio between projected revenues and annual debt service)	1.25
Term in Years	15
Annual Interest Rate	5.0%

All tax increment revenues not used for payment on long term debt were assumed to be used for short term debt, i.e. balances in the tax increment revenue funds are converted to debt using one day or "Du Jour" bonds. (The name "Du Jour" was an inspiration of Marilyn Matthias, a long time former finance director for the City of Tualatin.)

Under these scenarios the repayment of all maximum indebtedness under each scenario can be repaid in FYE 30.

III. IMPACT OF 2009 STATUTORY CHANGE (HB 3056)

HB 3056 from the 2009 Regular Session of the Oregon Legislature will apply to a substantial amendment of Central if the amendment is to increase the maximum indebtedness. (Without an increase in maximum indebtedness, the tax increment financing of Central will terminate on June 30, 2010 because the maximum indebtedness will have been issued and repaid by then.)

The law contains limits on increases in maximum indebtedness that can occur without the approval of the overlapping taxing districts that levy 75% of the permanent rate taxes within Central. The limit is 20% of the original maximum indebtedness, but that limit can be increased by adjusting the original maximum indebtedness to reflect inflation. The original maximum indebtedness of Central is \$27,705,384. The changes in maximum indebtedness that would result from the scenarios exceed the 20% limit even as adjusted for inflation, so agreement or "concurrence" of the relevant taxing districts will be required for the amendment.

The statute also requires "sharing" of the tax increment revenues once annual revenues exceed 10% of the maximum indebtedness. Under the projections described here annual revenues do not reach the required level until very late in the twenty year period. (For the low scenario this is reached in FYE 30, for the medium scenario FYE 29 and 30, and for the high scenario not at all.)

The taxing districts that in combination represent over 75% of the permanent rate taxes are the City of Tualatin, the Tigard Tualatin School District and either Washington County or the Tualatin Valley Fire and Rescue District.

IV. CONCLUSIONS

The table on page one shows the total borrowing capacity of the three scenarios. Some key observations on these projections are:

- Because Measure 50 limits increases in assessed value of existing property, growth in incremental assessed value depends on new development.
- The assessed value of new development directly depends on the nature of the use and the intensity of development. The values of key properties change dramatically with the increase in intensity. As shown in the chart on page one, the differences in the scenarios are large.
- The borrowing capacity does not change as much as might be thought with the different scenarios. This is because some of the highest assessed value redevelopments are not projected to occur until toward the end of the twenty year period, and the tax increment revenue stream is stopped after twenty years as requested by staff.



MEMORANDUM

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager 

FROM: Doug Rux, Community Development Director 
Colin Cortes, Assistant Planner 

DATE: November 23, 2009

SUBJECT: TREE PRESERVATION REGULATIONS – FUTURE ANNEXATIONS (PTA-09-04)

ISSUE BEFORE THE COUNCIL:

The issue before the Council is a review of tree preservation regulations, specifically regarding properties that might annex into the City in the future.

POLICY CONSIDERATIONS:

- Should the City adopt a policy on tree removal prior to annexation?
- How would tree preservation in the context of annexation fit with existing tree preservation regulations?

BACKGROUND:

The City has regulated tree removal since 1987 when the City began to require developers to plant street trees. Council direction regarding review of tree regulation began with Phase 1, which led to Plan Text Amendment PTA-06-01 of the Tualatin Community Plan to clarify both the City's comprehensive plan goal related to tree preservation and the planning district tree preservation standards. Phase 2 focused on street trees and culminated in PTA-08-04, which the Council approved on March 23, 2009 to strengthen regulations protecting street trees. This satisfied Objective 2.5 of the Strategic Management Plan (2009).

The Council discussed this issue again on August 24, 2009 and directed staff to research other cities in the metro area on tree preservation in the context of annexation. This memo presents the research results.

GOALS:

I. *Tualatin Strategic Management Plan (2009):*

The relevant objectives in the Strategic Management Plan (2009) are:

Goal No. 2

Manage development, redevelopment, and projected change that will occur within the city to maintain Tualatin's quality and what the citizens value as a community.

Two-year Performance Objective 6 (Objective 2.6).

Adopt phase III of the tree program (new development – protecting stands of groves and trees, cutting restrictions, heritage tree program). May have some overlap with 5.5.

Goal No. 5

Preserve Tualatin's unique and important natural features and resources.

Two-year Performance Objective 5 (Objective 5.5).

Review the development code to ensure preservation of green spaces and trees in development and redevelopment areas (suggest possible amendments to City Codes).

Goal No. 7

Seek marked achievements and maintain established green sustainability standards and criteria.

Two-year Performance Objectives:

2 (Objective 7.2). Define what environmental sustainability means and is in the City's operations.

3 (Objective 7.3). Review the city's codes for opportunities to insert sustainability.

5 (Objective 7.5). Take advantage of what other groups and programs are doing relative to environmental sustainability issues.

II. *Tualatin Tomorrow Community Vision & Strategic Action Plan (September 2009):*

Strategy PRN 9: City of Trees.

Promote continued and ongoing recognition of Tualatin as a "City of Trees" through active preservation activities and expansion of its tree canopy.

Strategy GLC 10: Community Information.

Work to maximize community resources to keep community members informed through regular, consistent, dedicated sources of information.

DISCUSSION:

Staff researched whether and if so how other cities in the metro area regulate trees on properties to be annexed into the limits of a given city. The eight surveyed cities were Beaverton, Gresham, Hillsboro, Lake Oswego, Sherwood, Tigard, West Linn, and Wilsonville. The results are as follows. (See Attachment A for a comparative table of regulations that exist.)

1. *Beaverton*

No such regulations exist.

2. *Gresham*

No such regulations exist.

3. *Hillsboro*

No such regulations exist.

4. *Lake Oswego*

Yes, such regulations exist. The City of Lake Oswego allows a property owner to submit an annexation application if the owner has removed no trees within the year prior to submittal that would not have qualified for removal had the trees been subject to the tree regulations of Lake Oswego. The resolution calls out five tree species listed below yet applies to any and all species of trees of a minimum diameter at breast height (DBH):

<i>Common Name</i>	<i>Caliper or DBH</i>
Western red cedar	1 ft
Douglas-fir	1 ft, 6 in.
Oregon white oak	8 in.
Ponderosa pine	1 ft
Western yew	5 in.
Other deciduous and horticultural tree species	1 ft, 8 in.
Other conifer and evergreen tree species	1 ft, 6 in.

If a property owner removes unqualified trees within a year prior to submittal of an annexation application, the owner must replace a removed tree with one similar to the removed one, including size; maintain it for at least three years prior to annexation; and, pay a restoration fee.

5. *Sherwood*

Yes, such regulations exist. The City of Sherwood requires that if a property owner removes trees within a year prior to submittal of an annexation application, the owner must mitigate the removal.

6. *Tigard*

No such regulations exist.

7. *West Linn*

Yes, such regulations exist. The City of West Linn calls out three tree species – native dogwood, Pacific madrone, and Oregon white oak – yet applies to any and all species of trees. If a property owner removes trees within a year prior to submittal of an annexation application, the owner must either (1) replace a removed tree with one similar to the removed one – including size – and maintain it for at least two years prior to annexation, or (2) pay a fee.

8. *Wilsonville*

Yes, such regulations exist. The text of Wilsonville's resolution has a disclaimer that the policy is advisory rather than regulatory, and that the Wilsonville City Council may ignore the resolution when examining a particular annexation submittal. The policy directs Wilsonville to favorably consider an annexation submittal if the property owner has complied with the tree regulations of Wilsonville as if the property had been within city limits since the resolution was adopted and became effective on July 16, 2007.

Similar regulations could affect a number of properties around Tualatin. While most unincorporated property is at the edge of the City's planning area boundary, several unincorporated properties are surrounded by existing city limits. The Southwest and South Tualatin Concept Plan areas will also be subject to annexation into the City in the coming years. As part of expressing local aspirations for urban and rural reserves, the Council looked to an urban reserve designation for the portion of the Stafford Basin within Washington County, an area bound by I-5, SW 65th Avenue, and SW Frobase Road. Attachment B is a series of five maps of that give an idea of the tree cover that a local ordinance would affect. The areas are Tualatin, Southwest Tualatin, South Tualatin, and the Washington County portion of the Stafford Basin. Because some of these areas contain commercial groves, the Council might want to consider an ordinance that takes into account trees grown for commercial purposes.

Given potential annexations and the regulations of other cities, staff could return with an ordinance requiring tree preservation that mirrors the regulations of Lake Oswego and West Linn.

RECOMMENDATION:

Staff recommends that Council provide direction to staff.

Attachments:

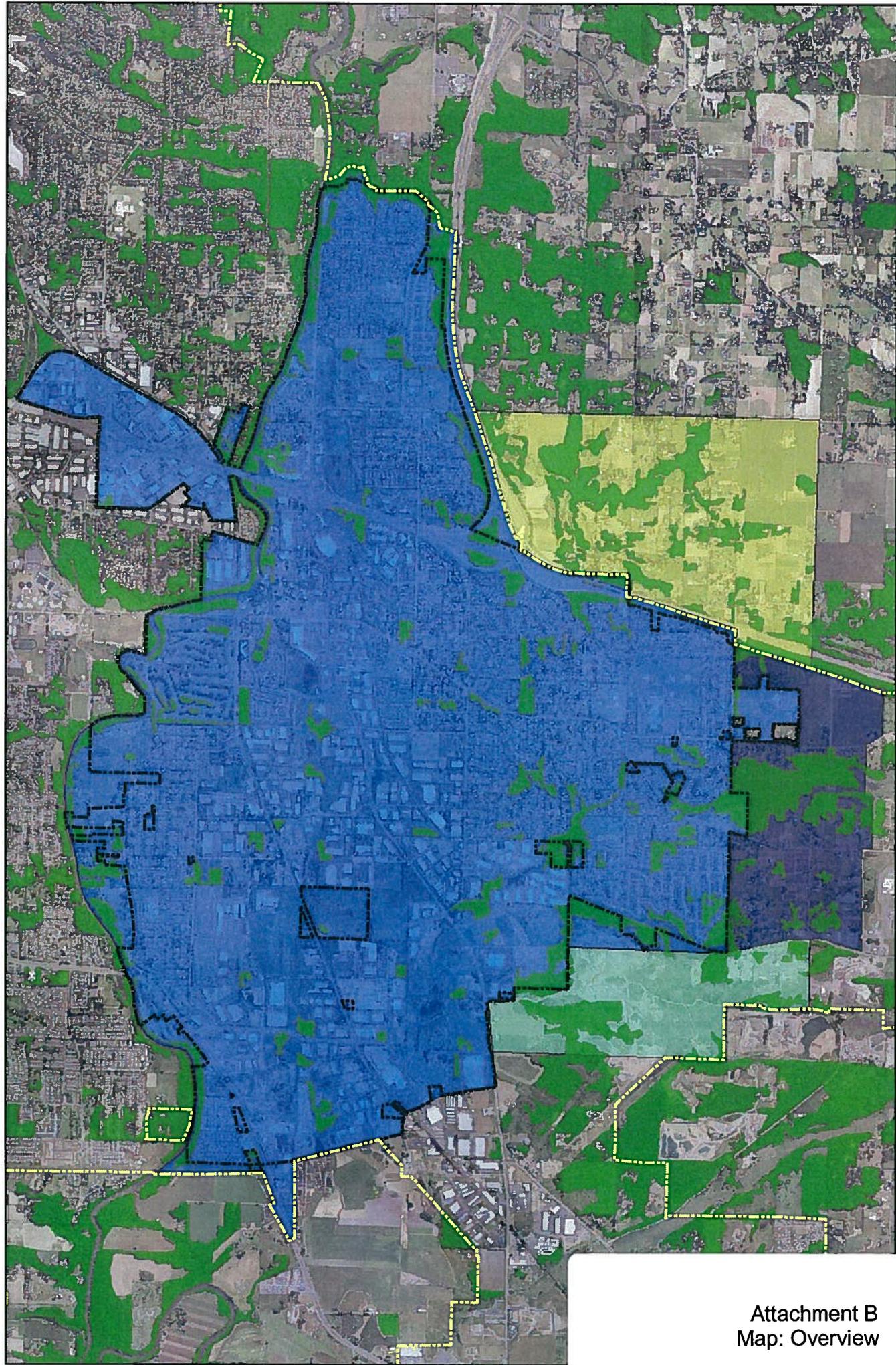
- A. Comparative Table of Annexation Tree Regulations
- B. Map: Overview
- C. Map: Tualatin
- D. Map: Southwest Tualatin
- E. Map: South Tualatin
- F. Map: Stafford Area
- G. Lake Oswego Resolution No. 04-38
- H. West Linn Resolution No. 06-09
- I. Wilsonville Resolution No. 2025

PTA-09-04 ATTACHMENT A:

COMPARATIVE TABLE OF ANNEXATION TREE REGULATIONS

The table below compares Lake Oswego, West Linn, and Wilsonville. (As of this writing, Sherwood had not provided a copy of its regulations.)

<i>City</i>	<i>Lake Oswego</i>	<i>West Linn</i>	<i>Wilsonville</i>
Past Time Period	1 year prior	1 year prior	On or after July 16, 2007
Tree Species	All with five emphasized	All with three emphasized	All except hazelnut (filbert)
Tree Caliper (DBH)	8 to 20 in. based on species	6.37 to 12.10 in. based on species	Replacement must be at least 2 in. DBH
Mitigation: (1) Replacement	Replace a removed tree with one similar to the removed one	Replace a removed tree with one similar to the removed one	In general, one for one replacement with replacements at least 2 in. DBH
Mitigation: (2) Fee	Yes	If (3) not exercised, then yes.	Other than application fee, fee only if removal without permit
Mitigation: (3) Time Frame	Min. care of 3 years prior to reconsideration of annexation	If (2) not exercised, then min. care of 3 years prior to reconsideration of annexation	In general, within a year of removal of original tree



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the user should verify the accuracy of the information for their intended use. The user should consult the appropriate local, state, and federal agencies for more information. The map is provided "as is" without warranty of fitness for any particular purpose. (Product 1/1/2008)

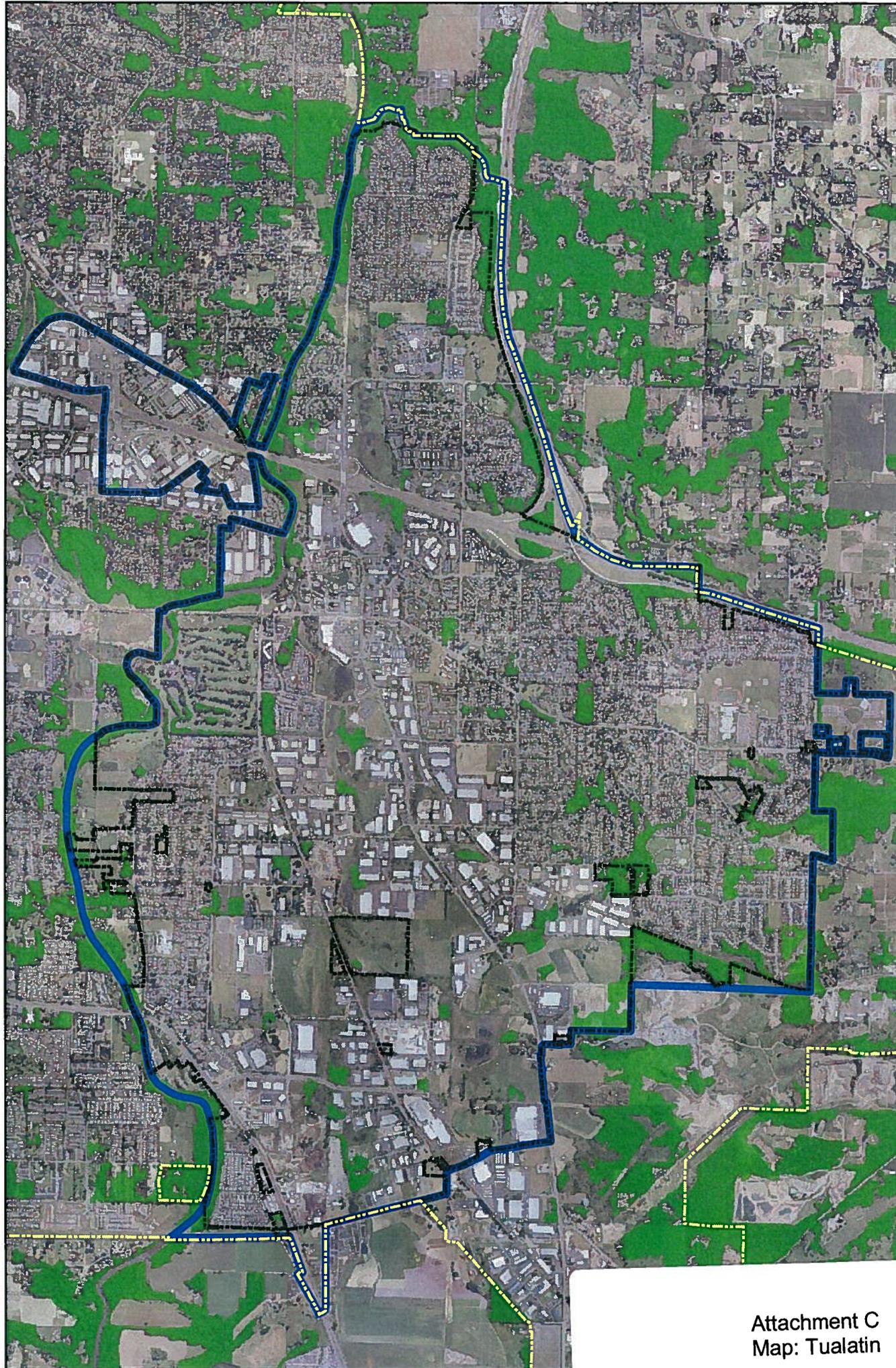
RF 1:38,000

N
E
W
S

Planning Area Boundary
 SW Tualatin Boundary
 South Tualatin Boundary
 Forest
 Stafford Area Boundary
 Urban Growth Boundary
 City Boundary

Attachment B
Map: Overview

PTA 09-04 - Planning Area Boundary



Attachment C
Map: Tualatin

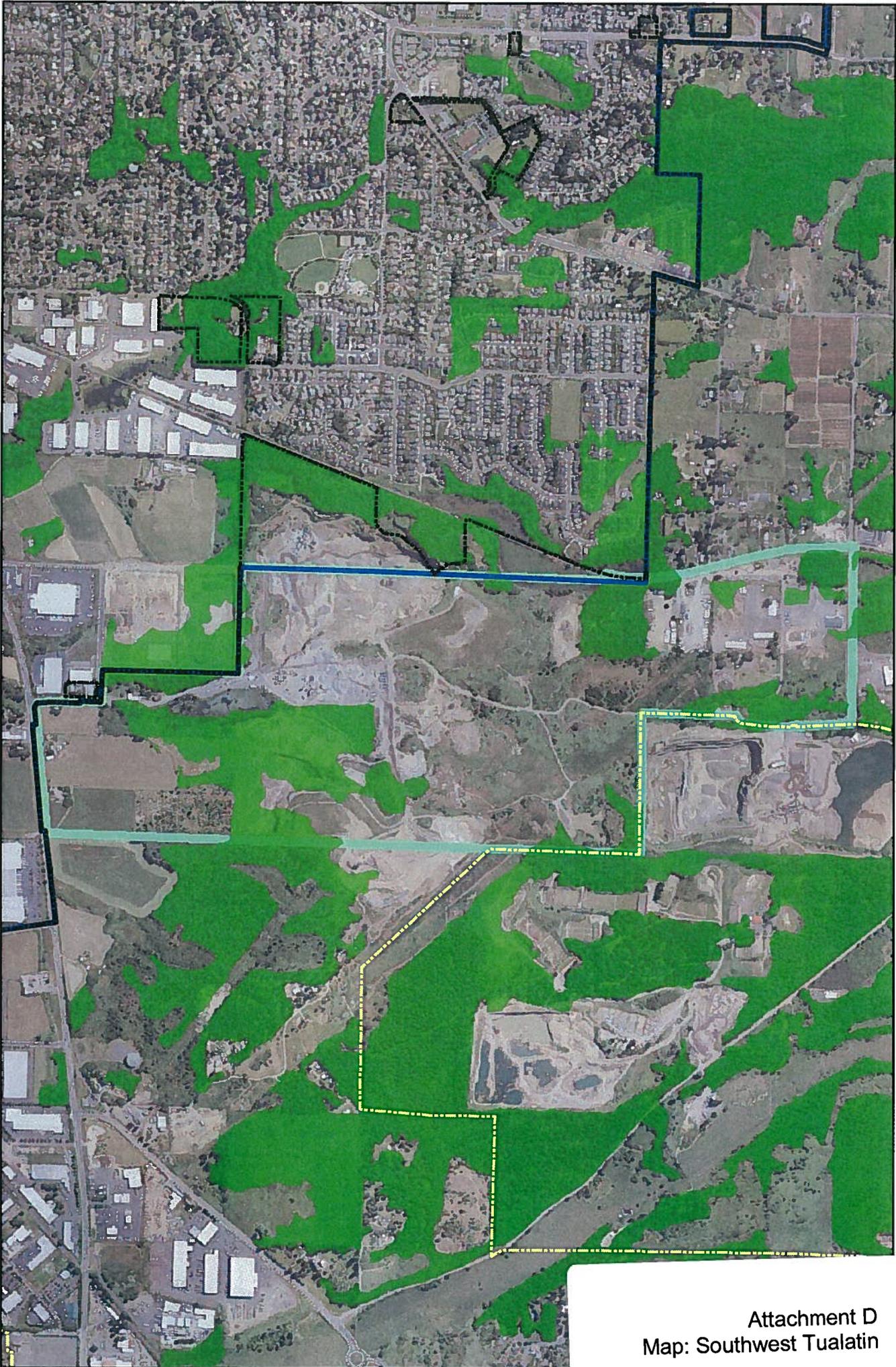
Planning Area Boundary  **City Boundary** 

Forest  **Urban Growth Boundary** 

RF 1:34,000



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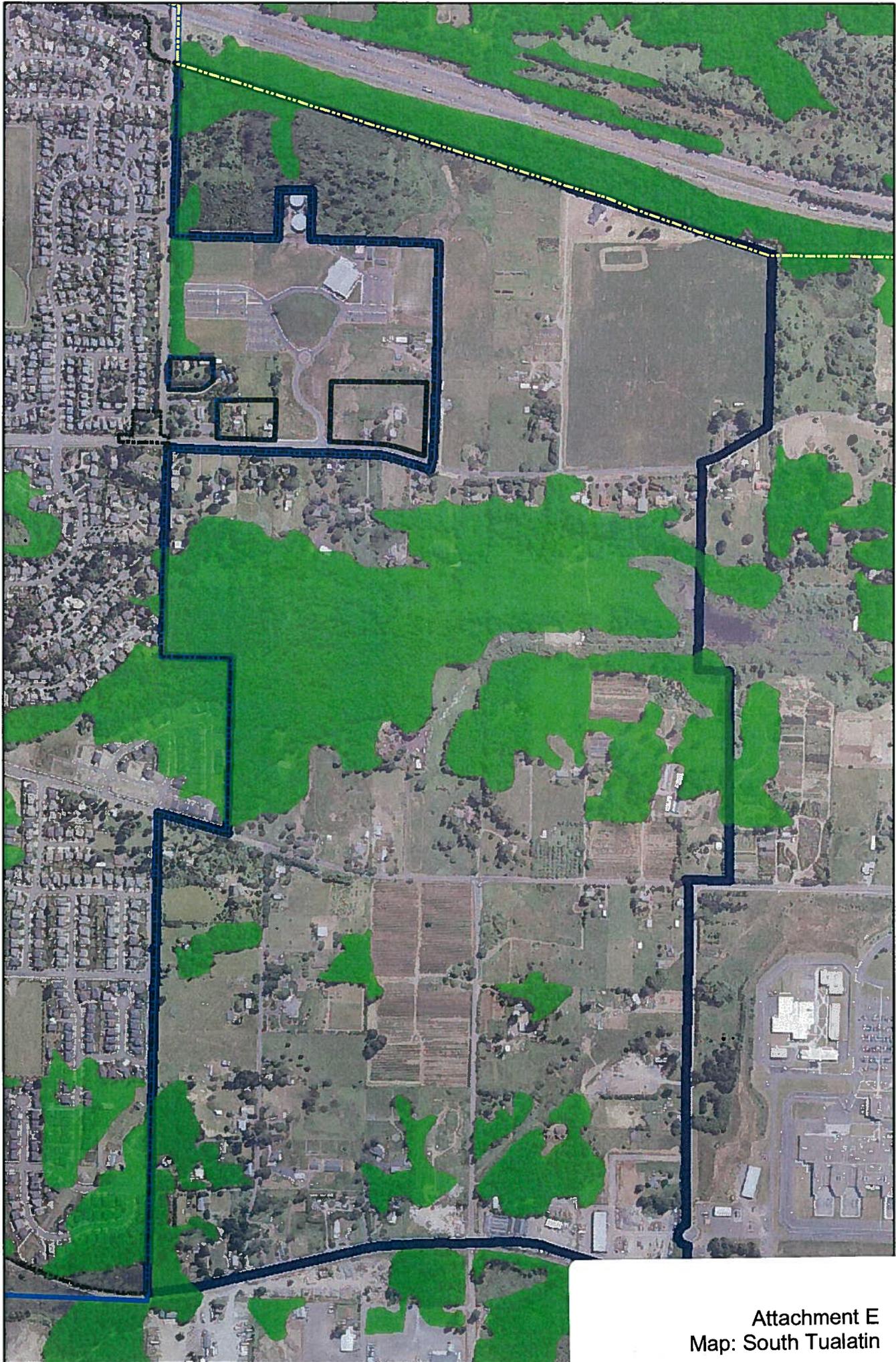


RF 1:15,000

-  SW Tualatin Boundary
-  City Boundary
-  Urban Growth Boundary
-  Forest
-  Planning Area Boundary

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the user should verify the accuracy of any data for any specific use. The map is provided "AS IS".

Attachment D
Map: Southwest Tualatin



Attachment E
Map: South Tualatin

South Tualatin Boundary
 City Boundary
 Urban Growth Boundary
 Forest

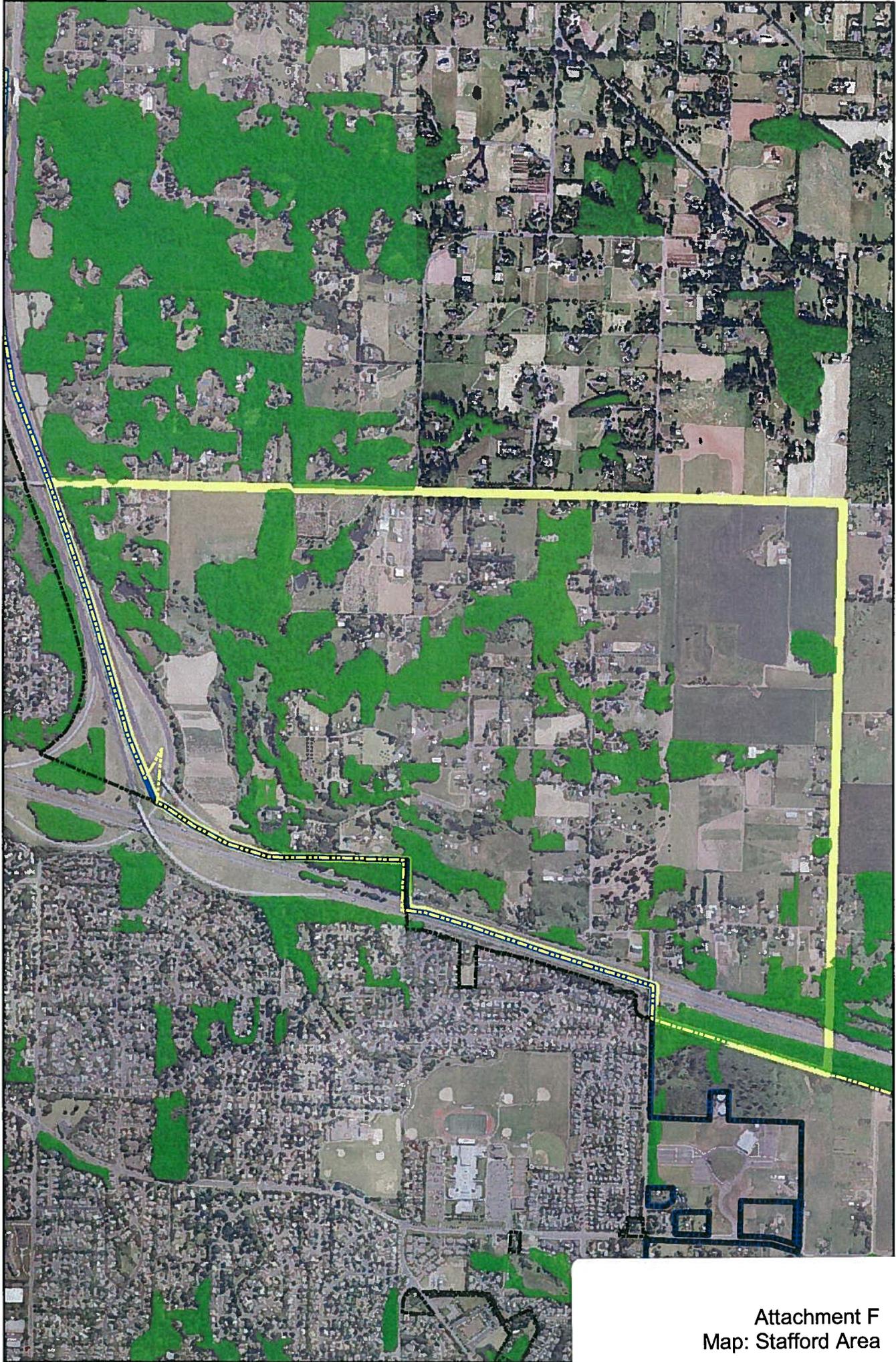
City Boundary
 Urban Growth Boundary

Forest



RF 1:9,500

This map is derived from existing digital database content. While an attempt has been made to provide an accurate map, the City of Tualatin, OR cannot be held responsible for any errors or omissions. It is recommended that users verify the accuracy of this map by consulting with a Professional Engineer.



RF 1:16,500

-  Stafford Area Boundary
-  Planning Area Boundary
-  City Boundary
-  Forest
-  Urban Growth Boundary

Attachment F
Map: Stafford Area

This map is derived from various digital database sources. While every effort has been made to ensure the accuracy of the information, the map is provided as a general guide and is not intended to be used for any other purpose. The map is not a warranty, representation, or guarantee of any kind. The map is provided as is and the user assumes all responsibility for its use. Printed 11/17/2016.

RESOLUTION 04-38

A RESOLUTION OF THE LAKE OSWEGO CITY COUNCIL ADOPTING POLICIES DISCOURAGING DESTRUCTION OF NATURAL RESOURCES PRIOR TO ANNEXATION

WHEREAS the City of Lake Oswego has adopted regulations protecting environmentally sensitive natural resources and significant trees within the City; and

WHEREAS on occasion property owners have removed or degraded natural resources prior to filing a petition to annex property to the City in order to maximize development opportunities; and

WHEREAS the Urban Services Boundary defines Lake Oswego's ultimate growth area, within which the City will be the eventual provider of the full range of urban services; and

WHEREAS the City Council finds that it is in the public interest to discourage the practice of removing significant trees and degrading sensitive natural areas on properties within the unincorporated portions of the Urban Services Boundary.

BE IT RESOLVED by the Lake Oswego City Council that:

Section 1. The City Council hereby adopts the "Policies Discouraging Destruction of Natural Resources and Significant Trees Prior to Annexation" attached to this Resolution as Exhibit A and incorporated by this reference;

Section 2. This Resolution shall be effective upon passage.

Considered and enacted at the meeting of the City Council of the City of Lake Oswego on the 18th day of May, 2004.

AYES: Mayor Hammerstad, Graham, Hoffman, Peterson, Turchi, McPeak, Rohde

NOES: none

EXCUSED: none

ABSTAIN: none



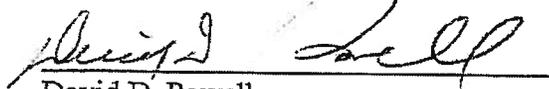
Judie Hammerstad, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



David D. Powell
City Attorney

POLICIES DISCOURAGING DESTRUCTION OF NATURAL RESOURCES AND SIGNIFICANT TREES PRIOR TO ANNEXATION

Purpose: To encourage property owners interested in petitioning the City for annexation to preserve and protect natural resources and significant trees prior to annexation.

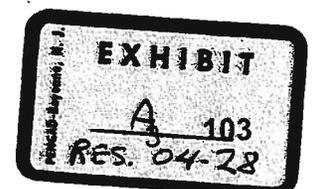
Background: The City of Lake Oswego has inventoried, evaluated, mapped and developed a protection program for hundreds of acres of stream corridors, wetlands and tree groves within its planning area (LOC Article 50.16). This planning area includes lands outside the City limits but within the City's Urban Services Boundary. In this unincorporated area, the City and other jurisdictions have agreed that the City is the most logical future provider of urban services and, according to state law, should plan for land use and transportation needs in those areas. It is anticipated that, at some point in the future, properties within the City's Urban Services Boundary will eventually seek annexation, typically for future development purposes or to receive City services.

On several occasions, the City has received petitions to annex properties within the unincorporated areas of the Urban Service Boundary on which trees have been cut, vegetation removed and streams degraded. Although these actions may not have been regulated by the County, in some cases they would violate City natural resource protection requirements.

Removal of natural resources contributes to erosion and water quality issues resulting in degradation of wildlife habitat and siltation buildup in waterways. When such properties are subsequently annexed, the City may become obligated to develop programs and expend funds to mitigate the negative effects of natural resource removal.

These types of actions gain additional importance in light of the listing of salmonid species under the Endangered Species Act in the Tualatin and Willamette Rivers and their tributaries, which receive storm water runoff and other drainage from within the City. In addition, several creeks within the northerly portion of the unincorporated Urban Services Boundary are tributaries of Tryon Creek, which is a fish-bearing stream. The County, the City and private citizens should work together to ensure that their programs and activities are "salmon safe."

Removal of significant trees, whether or not within a protected tree grove, can have a negative effect upon aesthetics and natural processes, and should be discouraged in areas subject to annexation unless the criteria for tree removal under the City Code have been met.



I. Policy for parcels from which trees of a certain size and species have been removed:

The City Council declares that it will decline a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 if a tree of a size and species listed in the procedures below has been removed from the property following the date of this policy under circumstances that, in the determination of the City Manager, would not have warranted issuance of a permit for the removal of the tree under the criteria of the Lake Oswego Tree Code, unless the property owner:

- Mitigates for the removal of the tree to the satisfaction of the City Manager by planting a tree of the same or similar species, 15 to 20 feet tall and with a trunk size of 5 to 12 inch caliper dbh, on the same property in approximately the same location as the removed tree;
- Successfully maintains the replacement tree for at least three years prior to annexation, and commits to maintain the mitigation for at least two years following annexation; and
- Pays a restoration fee into the City of Lake Oswego Tree Fund in the amount of the value of the removed tree.

Compliance with this policy shall not be deemed to assure that the City Council will approve the annexation petition. This policy shall not be construed as preventing the Council from exercising its full discretionary authority in granting or denying petitions for annexation as otherwise permitted by Oregon law.

This policy applies to annexations that are initiated or requested by the owners of the property to be annexed and that require the consent of owners electors under ORS Chapter 222. It does not apply to annexations by election under ORS Chapters 222 or 195 or to non-consensual “island” annexations.

This policy applies notwithstanding the election requirements of Section 57 of the Lake Oswego Charter, which requires a City-wide vote prior to annexation of parcels within certain portions of the Stafford Area. If the owners of a parcel in that area initiate or request annexation contrary to this policy, the City Council will decline to refer the proposed annexation for a vote under Section 57.

Procedure:

1. Upon receipt of an annexation petition, the City Manager will determine whether a tree of a species and size greater than or equal to that listed below has been removed from the site following the date of this policy:

<u>Species</u>	<u>Common Name</u>	<u>Size (dbh)</u>
Quercus garryana	Oregon white oak	08"
Pseudotsuga menziesii	Douglas-fir	18"
Thuja plicata	Western red cedar	12"
Pinus Ponderosa	Ponderosa pine	12"
Other Deciduous and horticultural tree species		20"
Other evergreen and conifer trees		18"
Western Yew	Taxus Brevifolius	05"

2. If the City Manager determines that such a tree has been removed, the City Manager shall then allow the property owner an opportunity to establish, to the satisfaction of the City Manager, that the circumstances of the removal would have warranted issuance of a tree removal permit under the criteria of the Lake Oswego Tree Code.
3. If the City Manager determines that the property owner has established that the circumstances of the removal would have warranted issuance of a tree removal permit, the City Manager shall inform the Council that the property owner has complied with this policy.
4. If the City Manager determines that the property owner has failed to establish that the criteria for a tree removal permit would have been met, annexation shall be declined unless the property owner:
 - a. Plants a replacement tree of the same or a similar species (as determined by the City Manager), 15 to 20 feet tall and with a trunk size of 5 to 12 inch caliper dbh, in approximately the same location on the property as the removed tree. The height and trunk size within the above ranges shall be determined by the City Manager, considering the type of tree, its growth rate, availability of replacement trees at various sizes, and the size of the removed tree. The tree shall be planted according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by the City Council;
 - b. Successfully maintains the replacement tree for at least three years prior to annexation (Successful maintenance includes, without limitation, immediate replacement of any

replacement tree that dies or otherwise declines during the maintenance period); and

- c. Pays a restoration fee into the City of Lake Oswego Tree Fund in the amount of the value of the removed tree as determined to the satisfaction of the City Manager in accordance with the methods set forth in the "Guide for Plant Appraisal" published by the International Society of Arboriculture, or such other method as may be deemed appropriate by the City Manager.

In addition to the pre-annexation requirements of Sections 4 a, 4 b and 4 c, above, annexation of the property shall be conditioned upon the following:

- d. The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation (tree replacement), at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;
- e. The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
- f. The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
- g. The property owner provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover

the costs of restoration and maintenance of the required mitigation during the two-year period.

5. Any person who owns property within the unincorporated portion of the City's Urban Services Boundary and who proposes to remove a tree may apply for certification by City staff that the proposed removal would qualify for a Lake Oswego Tree Removal Permit if the property were within the City's boundaries. Upon a subsequent annexation petition, the certification shall satisfy the property owner's burden under paragraph 2 of this policy with relation to the removal of the tree. An applicant for a certification under this paragraph shall pay the same fee as established for the corresponding tree removal permit.
6. The City Council will not approve annexation of property where the requirements of this policy have not been met, unless the City Council elects, in its discretion, to exempt the property from this policy.

II. Policy for parcels with resources that are inventoried or for which a determination is pending:

The City Council declares that it will decline a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 when:

(1) the parcel has previously been inventoried pursuant to the ESEE analysis performed by the City pursuant to the requirements of Statewide Planning Goal 5 and determined to have natural resources that would have been protected if located within the City, or the parcel is designated on the Lake Oswego Natural Resource Inventory Update Map as having natural resources for which there is a pending determination as to whether the criteria for such protection are met, and

(2) the natural resources on the parcel have been removed or otherwise degraded beyond that which would have been clearly permitted under the City natural resource regulations,

unless the property owner mitigates the effects of the natural resource removal by restoring the site to the condition which would exist if the site had complied with the City's natural resource regulations from the date of the inventory, or from the date of designation on the Lake Oswego Natural Resource Inventory Update Map, to the date of annexation, and unless the mitigation is successfully maintained by the property owner for a period of at least three years prior to annexation, and the property owner commits to

maintaining the mitigation for at least two years following annexation. If the property owner or other applicant for annexation cannot substantiate to the satisfaction of the City Manager the quality and quantity of natural resources that were on the site prior to the removal or degradation, the property owner must establish or enhance natural resources within the mapped natural resources area to a minimum quality and quantity determined by the City Manager, taking into consideration the data and analysis that resulted in the designation of the mapped natural resources area on the site.

In the case of annexation petitions for parcels with natural resources designated on the Lake Oswego Natural Resource Inventory Update Map, an analysis of the resources under the criteria of LOC 50.15.020 shall be completed by City staff at the applicant's expense prior to the City Council's consideration of the petition. If, in the determination of the City Manager, the resources meet the criteria for protection under the City's natural resources regulations, annexation will be declined pursuant to this policy unless mitigation occurs as provided above. If the City Manager determines that the resources do not meet the criteria for protection, this policy shall not apply.

Compliance with this policy shall not be deemed to assure that the City Council will approve the annexation petition. This policy shall not be construed as preventing the Council from exercising its full discretionary authority in granting or denying petitions for annexation as otherwise permitted by Oregon law.

This policy applies to annexations that are initiated or requested by the owners of the property to be annexed and that require the consent of owners electors under ORS Chapter 222. It does not apply to annexations by election under ORS Chapters 222 or 195 or to non-consensual "island" annexations.

This policy applies notwithstanding the election requirements of Section 57 of the Lake Oswego Charter, which requires a City-wide vote prior to annexation of parcels within certain portions of the Stafford Area.) If the owners of a parcel in that area initiate or request annexation contrary to this policy, the City Council will decline to refer the proposed annexation for a vote under Section 57.

Procedure: To identify annexing parcels on which natural resources have been degraded and for which the City has conducted natural resources inventory and mapping, the following procedures shall apply:

1. Upon receipt of an annexation petition, City staff will determine whether the site contains inventoried natural resources or contains

resources designated on the Lake Oswego Natural Resource Inventory Update (NRIU) Map. If so, staff will visit the parcel(s) proposed for annexation and compare existing site conditions to the City's site inventory of natural resources, or to the NRIU Map.

2. If it appears that the functions and values of the natural resources on the site have been compromised since the parcel was inventoried or designated on the NRIU Map beyond that which would be clearly permitted under the City's natural resource regulations:
 - a. For inventoried resources, and for resources designated on the NRIU Map that have been determined to meet the criteria for protection under paragraph 2(b), staff will instruct the property owner to develop a mitigation and restoration plan that restores and protects the functions and values of the resource on-site to the same degree as if the site had been protected under the City's natural resource programs from the date of inventory to the date of annexation. The plan shall be prepared by a certified professional (restoration ecologist, biologist, ecologist, etc.) approved by the City Manager. If the property owner or other applicant for annexation cannot substantiate to the satisfaction of the City Manager the quality and quantity of natural resources that were on the site prior the removal or degradation, the mitigation plan must provide for the establishment or enhancement of natural resources within the mapped natural resources area to a minimum quality and quantity determined by the City Manager, taking into consideration the data and analysis that resulted in the designation of the mapped natural resources area on the site. (A property owner who wishes to establish a natural resource "baseline" following inventory and prior to any development activities which could degrade the natural resources is encouraged to contact the City's Natural Resource Coordinator to obtain an inventory of the quality and quantity of the natural resources existing on the site.) The mitigation plan shall be reviewed and either approved by the City Manager or the City Manager shall make recommendations for improvement to the mitigation plan.
 - b. In the case of parcels with natural resources designated on the NRIU Map, an analysis of the resources under the criteria of LOC 50.15.020 shall be completed by City staff at the applicant's expense. Following the analysis, the City Manager shall determine whether the resources meet the criteria for protection. If so, mitigation under paragraph 2(a) shall be required to the same extent as though the resources had been inventoried prior to the filing of the annexation petition.

3. If the property owner complies with the mitigation plan as approved by the City Manager prior to annexation, and maintains the mitigation for at least three years prior to annexation, the property owner shall be deemed to have restored the natural resources on the parcel sufficient to be eligible for annexation under this policy. Annexation of the property shall be conditioned upon the following:
 - a. The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation, at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;
 - b. The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
 - c. The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
 - d. The property owner provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover the costs of restoration and maintenance of the required mitigation during the two-year period.
4. The City Council will not approve annexation of property where the requirements of this policy have not been met, unless the City Council elects, in its discretion, to exempt the property from this policy.

III. Policy for parcels where water resources have been degraded in violation of state or federal law.

The City Council declares that it will decline a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 if, following the date of this policy, a water resource on the parcel has been filled, or has had material removed, or has otherwise been degraded, in violation of any state or federal law or regulation, unless the property owner:

- Pays in full all fines, civil penalties and other assessments imposed or otherwise required by any state or federal agency;
- Pays in full any damages awarded pursuant to the provisions of ORS Chapter 196 or pursuant to any similar or related statutes or regulations;
- Fully complies with any order of any state or federal agency related to the degradation of the water resource; and
- Complies with all mitigation or restoration requirements imposed or ordered by a state or federal agency, and successfully maintains the mitigation or restoration for at least three years prior to annexation and commits to maintain the mitigation for at least two years following annexation.

For the purposes of this policy, “water resource” shall mean any natural waterway including any bay, stream, lake, wetland or other body of water, whether navigable or non-navigable.

Compliance with this policy shall not be deemed to assure that the City Council will approve the annexation petition. This policy shall not be construed as preventing the Council from exercising its full discretionary authority in granting or denying petitions for annexation as otherwise permitted by Oregon law.

This policy applies to annexations that are initiated or requested by the owners of the property to be annexed and that require the consent of owners electors under ORS Chapter 222. It does not apply to annexations by election under ORS Chapters 222 or 195 or to non-consensual “island” annexations.

This policy applies notwithstanding the election requirements of Section 57 of the Lake Oswego Charter, which requires a City-wide vote prior to annexation of parcels within certain portions of the Stafford Area. If the owners of a parcel in that area initiate or request annexation contrary to this policy, the City Council will decline to refer the proposed annexation for a vote under Section 57.

Procedure:

1. Upon receipt of an annexation petition, City staff will determine whether the site contained a water resource prior to the date of this policy, and will visit the site to determine the current condition of the resource.

2. If it appears that, following the date of this policy, removal or fill has occurred, or that the functions and values of the water resource have otherwise been compromised, in violation of any state or federal law or regulation, and if the violation has not previously been reported to the appropriate state or federal agency, the violation shall be reported to the appropriate agency by City staff.
3. If it appears to staff that no violation has occurred and no report has been made, or if a report is made but the appropriate state or federal agency determines that no violation has occurred, the City Manager shall inform the City Council that the proposed annexation does not violate this policy.
4. If a report has been made, and the appropriate state or federal agency determines that a violation has occurred, the annexation petition shall be denied unless the property owner:
 - a. Pays in full all fines, civil penalties and other assessments imposed or otherwise required by any state or federal agency;
 - b. Pays in full any damages awarded pursuant to the provisions of ORS Chapter 196, or awarded pursuant to any similar or related statutes or regulations;
 - c. Fully complies, in the determination of the City Manager, with any order of any state or federal agency related to the degradation of the water resource; and
 - d. Fully complies, in the determination of the City Manager, with all mitigation or restoration requirements imposed or ordered by the state or federal agency, and successfully maintains the mitigation or restoration for at least five years prior to annexation.

In addition to the pre-annexation requirements of Sections 4 (a), 4 (b), 4 (c) and 4 (d), above, annexation of the property shall be conditioned upon the following:

- e. The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation, at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;

- f. The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
 - g. The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
 - h. The property owner provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover the costs of restoration and maintenance of the required mitigation during the two-year period.
5. The City Council will not approve annexation of property that does not comply with the preceding requirements, unless the Council elects, in its discretion, to exempt the property from this policy.

IV. Obligations Run with the Land.

Any obligation of the “property owner” under these policies shall “run with the land” and shall be an obligation of the owner of the property at the time required for performance of the obligation, regardless of any prior transfers of title.

V. Public Notice.

The City Manager shall publicize the adoption of these policies by providing notice to the news media, local realtors, local arborists and foresters, the Home Builders Association of Metropolitan Portland, the Clackamas County Planning Department, and to those Neighborhood Associations and County Planning Organizations whose boundaries include unincorporated areas within the City’s Urban Services Boundary. The City Manager shall encourage the Neighborhood Associations and County Planning Organizations to provide notice of these policies to their membership, and to any realtor that posts signage advertising a property for sale within the unincorporated area. The City Manager shall also provide written notice of these policies to the owners (as listed in the property tax assessment roll) of property within the unincorporated area that have inventoried natural resources, or that have resources designated on the Lake Oswego Natural Resource Inventory Update Map.

VI. Replacement of previous annexation policy.

These policies replace the Interim Policy on Annexation adopted by the City Manager on April 5, 2004.



RESOLUTION NO. 06-09

A RESOLUTION OF THE WEST LINN CITY COUNCIL ADOPTING POLICIES DISCOURAGING DESTRUCTION OF NATURAL RESOURCES PRIOR TO ANNEXATION

WHEREAS, the City of West Linn has adopted regulations protecting environmentally sensitive natural resources and significant trees within the City; and

WHEREAS, it is the City's policy to discourage owners from removing or degrading natural resources prior to filing an application to annex property to the City in order to maximize development opportunities; therefore,

BE IT RESOLVED by the West Linn City Council that:

Section 1. The City Council hereby adopts the "Policies Discouraging Destruction of Natural Resources and Significant Trees Prior to Annexation" attached to this Resolution as Exhibit A and incorporated by this reference;

Section 2. This Resolution shall be effective upon passage.

PASSED AND APPROVED this 13th day of February 2006.

Norman B. King
Norman B. King
Mayor

Attest:

Nancy A. Davis

EXHIBIT A

POLICIES DISCOURAGING DESTRUCTION OF NATURAL RESOURCES AND SIGIFICANT TREES PRIOR TO ANNEXATION

Purpose: To encourage property owners interested in petitioning the City for annexation to preserve and protect natural resources and significant trees prior to annexation.

Background: On previous occasions the City has received petitions to annex properties on which trees have been cut down, vegetation removed and streams degraded. Although the County may not have regulated these actions, in some cases they would violate City natural resource protection requirements.

Removal of natural features may contribute to erosion and water quality problems resulting in degradation of wildlife habitat and siltation buildup in waterways. When such properties are subsequently annexed, the City may become obligated to develop programs and expend funds to mitigate the negative effects of natural resource removal.

These types of actions gain additional importance in light of the listing of endangered species under the Endangered Species Act in the Tualatin and Willamette Rivers and their tributaries, which receive storm water runoff and other drainage from within the City. The County, the City and private citizens should work together to ensure that their programs and activities are "salmon safe."

Removal of significant trees – whether or not within a protected tree grove – can have a negative effect upon aesthetics and natural processes, and should be discouraged in areas subject to annexation unless the criteria for tree removal under the City Code have been meet.

Application: These policies apply to the City's consideration of annexation of properties within West Linn's portion of the Portland metropolitan area Urban Growth Boundary. These policies apply notwithstanding the election requirements of Section 3 of the West Linn Charter, which requires a City-wide vote prior to annexation of parcels outside the City. All references to City Manager shall be construed as including a person designated by the City Manager to implement and enforce these policies.

Compliance: Compliance with this policy shall not be deemed to assure that the City Council will approve an annexation petition, nor shall it be construed as preventing the Council from exercising its full discretionary authority in granting or denying petitions for annexation.

I. Policies for parcels from which trees of a certain size and species have been removed.

1. The City Council will decline a petition for annexation if a tree of a size and species listed in the procedures below has been removed from the property following the date of this policy under circumstances that, in the determination of the City Manager, would not have warranted issuance of a permit for the removal

of the tree under the criteria of the West Linn Municipal Code unless removal is mitigated in accordance with the following procedures.

2. Procedures:

- a. Upon receipt of an annexation petition, the City Manager will determine whether a tree of a species and size greater than or equal to that listed below has been removed from the site following the date of this policy:

Species	Common Name	Size (dbh)
Quercus garryana	Oregon white oak	6.37 inches (20" circum.)
Arbutus menziesii	Pacific madrone	6.37 inches (20" circum.)
	Native dogwood	6.37 inches (20" circum.)
	All other tree species	12.1 inches (38" circum.)

- b. If the City Manager determines that such a tree has been removed, the City Manager shall then allow the property owner an opportunity to establish to the satisfaction of the City Manager that the circumstances of the removal would have warranted issuance of a tree removal permit under the criteria set forth in the West Linn Municipal Code.
- c. If the City Manager determines that the property owner has established that the circumstances of the removal would have warranted issuance of a tree removal permit, the City Manager shall inform the Council that the property owner has complied with this policy.
- d. If the City Manager determines that the property owner has failed to establish that the criteria for a tree removal permit would have been met, annexation shall be declined unless the property owner satisfies conditions (1) and (2) below, or condition (3).
 - (1) Plants a replacement tree of the same or a similar species (as determined by the City Manager), 15 to 20 feet tall and with a trunk size of 5 to 12 inch caliper dbh (diameter at breast height), in approximately the same location on the property as the removed tree, or of a height and trunk size determined by the City Manager,

considering the type of tree, its growth rate, availability of replacement trees at various sizes, and the size of the removed tree. The tree shall be planted in accordance with established standards and practices of the city arborist;

- (2) Successfully maintains the replacement tree for at least three years prior to annexation (Successful maintenance includes, without limitation, immediate replacement of any replacement tree that dies or otherwise declines during the maintenance period); or
 - (3) Pays a restoration fee into the City of West Linn in the amount of the value of the removed tree as determined to the satisfaction of the City Manager in accordance with the methods set forth in the "Guide for Plant Appraisal" published by the International Society of Arboriculture, or such other method as may be deemed appropriate by the City Manager.
- e. In addition to the pre-annexation requirements of Sections 4 a-d above, annexation of the property shall be conditioned upon the following:
- (1) The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation (tree replacement), at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;
 - (2) The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
 - (3) The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
 - (4) The property owner shall provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover the costs of restoration and maintenance of the required mitigation during the two-year period.
3. Any person who owns property within the unincorporated portion of the City's Urban Growth Boundary and who proposes to remove a tree may apply for certification by

City staff that the proposed removal would qualify for a West Linn Tree Removal Permit if the property were within the City's boundaries. Upon a subsequent annexation petition, the certification shall satisfy the property owner's burden under paragraph 2 of this policy with relation to the removal of the tree. An applicant for a certification under this paragraph shall pay the same fee as established for the corresponding tree removal permit.

4. The City Council will not approve annexation of property where the requirements of this policy have not been met, unless the City Council elects, in its discretion, to exempt the property from this policy.

II. Policy for parcels with resources that are inventoried:

The City Council will decline a petition for annexation of a parcel when:

1. The parcel has previously been inventoried pursuant to the requirements of Oregon Land Use Goal 5 and determined to have natural resources that would have been protected if located within the City.
2. The natural resources on the parcel have been removed or otherwise degraded beyond that which would have been clearly permitted under the City natural resource regulations, unless the property owner mitigates the effects of the natural resource removal by restoring the site to the condition, which would exist if the site had complied with the City's natural resource regulations from the date of the inventory, and unless the mitigation is successfully maintained by the property owner for a period of at least three years prior to annexation, and the property owner commits to maintaining the mitigation for at least two years following annexation. If the property owner or other applicant for annexation cannot substantiate to the satisfaction of the City Manager the quality and quantity of natural resources that were on the site prior to the removal or degradation, the property owner must establish or enhance natural resources within the mapped natural resources area to minimum quality and quantity determined by the City Manager, taking into consideration the data and analysis that resulted in the designation of the mapped natural resources area on the site.
3. In the case of annexation petitions for parcels with natural resources designated on the West Linn Natural Resource Inventory Map, an analysis of the resources under the criteria of Oregon Land Use Goal 5 shall be completed by City staff at the applicant's expense prior to the City Council's consideration of the petition. If, in the determination of the City Manager, the resources meet the criteria for protection under the City's natural resources regulations, annexation will be declined pursuant to this policy unless mitigation occurs as provided above. If the City Manager determines that the resources do not meet the criteria for protection this policy shall not apply.
4. Procedure: To identify annexing parcels on which natural resources have been degraded and for which the City has conducted natural resources inventory and mapping, the following procedures shall apply:

- a. Upon receipt of an annexation petition, City staff will determine whether the site contains inventoried natural resources designated on the West Linn Natural Resource Inventory (NRI) Map. If so, staff will visit the parcel(s) proposed for annexation and compare existing site conditions to the City's site inventory of natural resources.
- b. If it appears that the functions and values of the natural resources on the site have been compromised since the parcel was inventoried or designated on the NRI Map beyond that which would be clearly permitted under the City's natural resource regulations:
- c. For inventoried resources, and for resources designated on the NRI Map that have been determined to meet the criteria for protection under paragraph 2(b), staff will instruct the property owner to develop a mitigation and restoration plan that restores and protects the functions and values of the resource on-site to the same degree as if the site had been protected under the City's natural resource programs from the date of inventory to the date of annexation. The plan shall be prepared by a certified professional (restoration ecologist, biologist, ecologist, etc.) approved by the City Manager. If the property owner or other applicant for annexation cannot substantiate to the satisfaction of the City Manager the quality and quantity of natural resources that were on the site prior the removal or degradation, the mitigation plan must provide for the establishment or enhancement of natural resources within the mapped natural resources area to a minimum quality and quantity determined by the City Manager, taking into consideration the data and analysis that resulted in the designation of the mapped natural resources area on the site. (A property owner who wishes to establish a natural resource "baseline" following inventory and prior to any development activities which could degrade the natural resources is encouraged to contact the City Arborist to obtain an inventory of the quality and quantity of the natural resources existing on the site. The mitigation plan shall be reviewed and either approved by the City Manager or the City Manager shall make recommendations for improvement to the mitigation plan.
- d. In the case of parcels with natural resources designated on the NRI Map, City staff at the applicant's expense shall complete an analysis of the resources under the Goal 5 criteria. Following the analysis, the City Manager shall determine whether the resources meet the criteria for protection. If so, mitigation shall be required to the same extent as though the resources had been inventoried prior to the filing of the annexation petition.
- e. If the property owner complies with the mitigation plan as approved by the City Manager prior to annexation, and maintains the mitigation for at least three years prior to annexation, the property owner shall be deemed to have restored the natural resources to the parcel sufficient to be eligible for annexation under this policy. Annexation of the property shall be conditioned upon the following:
 - (1) The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation, at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager

for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;

- (2) The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
 - (3) The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
 - (4) The property owner shall provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover the costs of restoration and maintenance of the required mitigation during the two-year period.
5. The City Council will not approve annexation of property where the requirements of this policy have not been met, unless the City Council elects, in its discretion, to exempt the property from this policy.

III. Policy for parcels where water resources have been degraded in violation of state or federal law.

1. The City Council will decline a petition for annexation of a parcel if following the date of this policy a water resource on the parcel has been filled, or has had material removed, or has otherwise been degraded, in violation of any state or federal law or regulation, unless the property owner:
 - a. Pays in full all fines, civil penalties and other assessments imposed or otherwise required by any state or federal agency;
 - b. Pays in full any damages awarded pursuant to the provisions of ORS Chapter 196 or pursuant to any similar or related statutes or regulations;
 - c. Fully complies with any order of any state or federal agency related to the degradation of the water resource; and
 - d. Complies with all mitigation or restoration requirements imposed or ordered by a state or federal agency, and successfully maintains the mitigation or restoration for at least three years prior to annexation and commits to maintain the mitigation for at least two years following annexation.

2. For the purposes of this policy, "water resource" shall mean any natural waterway including any bay, stream, lake, wetland or other body of water, whether navigable or non-navigable.
3. Procedure:
 - a. Upon receipt of an annexation petition, City staff will determine whether the site contained a water resource prior to the date of this policy, and will visit the site to determine the current condition of the resource.
 - b. If it appears that, following the date of this policy, removal or fill has occurred, or that the functions and values of the water resource have otherwise been compromised in violation of any state or federal law or regulation, and if the violation has not previously been reported to the appropriate state or federal agency, the violation shall be reported to the appropriate agency by City staff.
 - c. If it appears to staff that no violation has occurred and no report has been made, or if a report is made but the appropriate state or federal agency determines that no violation has occurred, the City Manager shall inform the City Council that the proposed annexation does not violate this policy.
 - d. If a report has been made, and the appropriate state or federal agency determines that a violation has occurred, the annexation petition shall be denied unless the property owner:
 - (1) Pays in full all fines, civil penalties and other assessments imposed or otherwise required by any state or federal agency;
 - (2) Pays in full any damages awarded pursuant to the provisions of ORS Chapter 196, or awarded pursuant to any similar or related statutes or regulations;
 - (3) Fully complies, in the determination of the City Manager, with any order of any state or federal agency related to the degradation of the water resource; and
 - (4) Fully complies, in the determination of the City Manager, with all mitigation or restoration requirements imposed or ordered by the state or federal agency, and successfully maintains the mitigation or restoration for at least five years prior to annexation.
 - e. In addition to the pre-annexation requirements above, annexation of the property shall be conditioned upon the following:
 - (1) The property owner shall execute an agreement with the City requiring the property owner to maintain the required mitigation, at his or her expense, in a manner consistent with this policy and to the satisfaction of the City Manager for a period of at least two years following the effective date of the annexation. The agreement shall also provide that, if the property owner fails to meet this obligation, the City may enter the property to restore and maintain the mitigation at the property owner's expense;

- (2) The property owner shall record a restrictive covenant against the property, in a form approved by the City Attorney, requiring the mitigation to be maintained for at least two years following the effective date of the annexation in a manner consistent with this policy and to the satisfaction of the City Manager, granting the City the right to enforce the restrictive covenant, and allowing recovery of attorney fees and other enforcement expense by the City;
 - (3) The property owner shall grant and record an easement, in the form approved by the City Attorney, allowing the City access to and use of the property for the purposes of restoring and maintaining the required mitigation during the two-year period; and
 - (4) The property owner shall provide the City with a bond, cash deposit or other security acceptable to the City Manager, in a sum deemed by the City Manager to be sufficient to cover the costs of restoration and maintenance of the required mitigation during the two-year period.
4. The City Council will not approve annexation of property that does not comply with the preceding requirements, unless the Council elects, in its discretion, to exempt the property from this policy.

IV. Obligations Run with the Land.

Any obligation of the "property owner" under these policies shall "run with the land" and shall be an obligation of the owner of the property at the time required for performance of the obligation, regardless of any prior transfers of title.

V. Public Notice.

The City Manager shall publicize the adoption of these policies by providing notice to the news media, local realtors, local arborists and foresters, the Home Builders Association of Metropolitan Portland, the Clackamas County Planning Department, and to those Neighborhood Associations and County Planning Organizations whose boundaries include unincorporated areas adjacent to the City. The City Manager shall encourage the Neighborhood Associations and County Planning Organizations to provide notice of these policies to their membership, and to any realtor that posts signage advertising a property for sale within the unincorporated area. The City Manager shall also provide written notice of these policies to the owners (as listed in the property tax assessment roll) of unannexed property within the City's portion of the Portland metropolitan area Urban Growth Boundary.

RESOLUTION NO. 2025

A RESOLUTION OF THE CITY OF WILSONVILLE ADOPTING A POLICY ENCOURAGING THE PRESERVATION OF SIGNIFICANT NATURAL RESOURCES AND TREES PRIOR TO ANNEXATION

WHEREAS, the City of Wilsonville has adopted regulations protecting environmentally sensitive natural resources and trees within the City; and

WHEREAS, on occasion property owners have removed or degraded natural resources within areas adjacent or near to the City in order to maximize development opportunities; and

WHEREAS, the City Council recognizes that most property owners are good stewards of their land and that these property owners seek to balance the long-term preservation and protection of sensitive natural resources with the development of their land; and

WHEREAS, the Urban Growth Boundary defines City of Wilsonville's ultimate growth area, within which the City will be the eventual provider of the full range of urban services; and

WHEREAS, the policy is strictly advisory in nature and the City Council retains complete discretion over annexation of lands without regard to the policy's application; and

WHEREAS, the City Council finds that it is in the public interest to encourage the preservation of significant trees and sensitive natural areas on properties within the unincorporated portions of Clackamas and Washington counties; and

WHEREAS, annexation decisions under ORS Chapter 222 may be based solely upon determination of what is in the public interest and may be made without reference to comprehensive plans and implementing ordinances; and

WHEREAS, the public interest in maintaining natural resources and making annexation decisions based upon preservation of such resources is facilitated by the policy adopted herein,

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. The City Council hereby adopts the "Policy Encouraging the Preservation of Significant Natural Resources and Trees Prior to Annexation" attached to this Resolution as Exhibit A and incorporated by this reference;

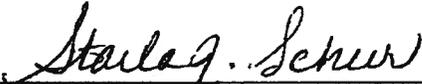
Section 2. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 16th day of July 2007, and filed with the Wilsonville City Recorder ~~this date.~~



CHARLOTTE LEHAN, Mayor

ATTEST:



Starla J. Schur, Deputy City Recorder

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Núñez	<u>Yes</u>
Councilor Knapp	<u>Yes</u>
Councilor Ripple	<u>Yes</u>

POLICY ENCOURAGING THE PRESERVATION OF SIGNIFICANT NATURAL RESOURCES AND TREES PRIOR TO ANNEXATION

Purpose: The intent of this policy is to encourage property owners interested in petitioning the City for annexation to preserve and protect significant natural resources and trees prior to annexation in a manner consistent with the City of Wilsonville Development Code. Through the application of consistent and equitable guidelines within the City limits and in future annexation areas, the preservation and protection of significant natural resources and trees for existing and future residents is facilitated.

The policy is strictly advisory in nature. The City Council retains complete discretion over annexation of lands without regard to the policy's application. The policy contains no prohibition against any activities involving the use of land, but merely informs property owners that their actions may affect review and approval of a future annexation request by the owner to the City Council.

The City Council recognizes that most property owners are good stewards of their land. In this context, "stewardship" of the land has the meaning of the individual's responsibility to manage their land with proper regards to the rights of others. This policy balances the long-term preservation and protection of significant natural resources and trees together with development of land to provide the following:

- a. To protect and preserve natural resources, open space, flood hazard areas, the Significant Resource Overlay Zone (SROZ), and the Willamette River Greenway;
- b. To protect, preserve, and provide proper maintenance and use of trees and woodlands in order to protect natural habitat and prevent erosion; and
- c. To protect and preserve a water resource, such as a river, stream, lake, wetland or other body of water whether navigable or non-navigable, that a state and/or federal agency has jurisdiction over.

I. Applicability of Policy.

- (1) The provisions of this policy apply to property owners interested in petitioning the City of Wilsonville for annexation. If a property owner is not interested in seeking annexation by the City of Wilsonville, the policy does not affect their property.
- (2) Two classes of parcels are addressed by this policy, which include:
 - a. Parcels within the Urban Growth Boundary:

As addressed in the following sections, the provisions of the policy apply to property owners interested in petitioning the City for annexation.

- b. **Parcels outside the Urban Growth Boundary:**
The policy is for informational and educational purposes. City staff is available to provide assistance to property owners in reviewing the guidelines of the policy.

II. Parcels from which trees of a certain size have been removed.

The City Council declares that it will more favorably view a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 (annexations petitioned by property owners or resident electors) if trees are preserved and protected under the criteria of the Wilsonville Tree Preservation and Protection Code following the date of this policy.

III. Parcels with significant natural resources that are inventoried or for which there may be a future determination.

The City Council declares that it will more favorably view a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 (annexations petitioned by property owners or resident electors) when:

- (1) The significant natural resources on the parcel have been preserved and protected consistent with the City natural resource regulations following the date of this policy; and
- (2) The parcel has previously been evaluated by the City and determined to have significant natural resources that would have been protected if located within the City limits, or the parcel has significant natural resources for which there may be a future determination as to whether significant natural resources are present.

IV. Parcels where water resources have been degraded in violation of state and/or federal law.

If state and/or federal laws have been violated regarding water resources following the date of this policy, the City Council declares that it will decline a petition for annexation of a parcel pursuant to ORS 222.125 or 222.170 (annexations petitioned by property owners or resident electors), unless the property owner:

- (1) Pays in full all fines, civil penalties and other assessments imposed or otherwise required by any state and/or federal agency;
- (2) Pays in full any damages awarded pursuant to the provisions of ORS Chapter 196 or pursuant to any similar or related statutes or regulations;

- (3) Fully complies with any order of any state and/or federal agency related to the degradation of the water resource; and
- (4) Complies with all mitigation or restoration requirements imposed or ordered by a state and/or federal agency, and successfully maintains the mitigation or restoration for at least five years following mitigation implementation.

Compliance with this section is mandatory because the City Council does not have the ability to waive these state and/or federal requirements. For the purposes of this policy, "water resource" shall mean any natural waterway including any river, stream, lake, wetland or other body of water, whether navigable or non-navigable.

V. General Provisions

1. Compliance with this policy will not be deemed to assure that the City Council will approve the annexation petition. This policy will not be construed as preventing the City Council from exercising its full discretionary authority in granting or denying petitions for annexation as otherwise permitted by Oregon law. Application of city and Metro land use requirements, for example is a separate matter.
2. This policy applies to annexations that are initiated or requested by the owners of the property to be annexed and that require the consent of owners or electors under ORS Chapter 222 (annexations petitioned by property owners or resident electors). It does not apply to annexations by election under ORS Chapters 222 or 195 or to non-consensual "island" annexations.
3. Exemptions. The City Council may choose not to approve annexation of property where the preceding provisions have not been met, unless the City Council elects, in its discretion, to exempt the property from this policy for any of the following reasons, such as:
 - a. Emergency procedures or emergency activities undertaken which are necessary for the protection of public health, safety and welfare, or measures to remove or abate hazards, including but not limited to fire hazards, and nuisances; or
 - b. The uses and activities are exempt from the City's natural resources or tree preservation and protection regulations; or
 - c. Forest uses and activities conducted in accordance with an established forest management plan or in compliance with approved forestry practices. Forest practices include the administrative rules as adopted by the Oregon Department of Forestry.

- d. Events, activities and uses caused by forces beyond the control of the property owner, or impacts to natural resources that have been mitigated using appropriate repair or restoration/enhancement methods; or
- d. In the City Council's judgment the public interest would be best served by approving the annexation or approving the annexation with conditional requirements.

VI. Obligations Run With the Land.

Any obligation of the "property owner" under these policies will "run with the land" and will be an obligation of the owner of the property at the time required for performance of the obligation, regardless of any prior transfers of title.

VII. Public Notice.

- (1) The City Manager will publicize the adoption of this policy by providing notice to the news media, local realtors, local natural resource consultants, the Home Builders Association of Metropolitan Portland, the Clackamas County Department of Transportation and Development, the Washington County Land Use and Transportation Department and to those neighborhood associations whose boundaries include unincorporated areas adjacent to the City limits. The City Manager will encourage the neighborhood associations and County Planning Organizations to provide notice of this policy to their membership and citizens, and to any realtor that posts signage advertising a property for sale within the unincorporated area. The City Manager will also provide written notice of these policies to the owners (as listed in the property tax assessment roll) of property within the unincorporated area that have significant natural resources designated on the Wilsonville Significant Resources Overlay Map.
- (2) Upon expansion of the Urban Growth Boundary, the City Manager will publicize the policy to affected property owners or parties in accordance with the procedure listed in this section.

**COMMUNITY DEVELOPMENT
STAFF REPORT**

Date: July 10, 2007
To: Honorable Mayor and City Council
From: Kerry Rappold, Natural Resources Program Manager
Subject: Resolution No. 2025: Annexation Policy for Natural Resources Preservation

Introduction:

Staff has prepared a policy that addresses the preservation of significant natural resources and trees on properties proposed for annexation. The policy establishes guidelines for property owners that petition the City of Wilsonville to be annexed. Through the application of consistent and equitable guidelines within the City limits and in future annexation areas, the City Council will assure the preservation and protection of significant natural resources and trees for existing and future generations.

The policy is strictly advisory in nature. The City Council retains complete discretion over annexation of lands without regards to the policy's application.

Background:

The rationale for developing the policy is partially predicated on situations that have occurred within the unincorporated areas on which trees have been cut, vegetation removed and streams degraded. In establishing the policy, the city seeks to work cooperatively with residents in future annexation areas to preserve and protect significant natural resources and trees in a manner consistent with the city's development code. Salmonid species listed under the Federal Endangered Species Act and the regulation of water quality issues under the Federal Clean Water Act provides another important reason for adopting the policy. When properties with resource degradation are subsequently annexed, the city may become obligated to develop programs and expand funds to mitigate the negative effects of natural resource removal and degradation.

Requirements for significant natural resources and tree protection are found in sections 4.139 and 4.600 of the city's development code, respectively. The Significant Resource Overlay Zone (SROZ), as addressed in Section 4.139, was developed pursuant to the requirements of Statewide Planning Goal 5. It included an inventory of significant natural resources, such as streams, riparian corridors, wetlands and upland forests. As part of the inventory, properties that were in the Urban Growth Boundary were included. Typically, only relatively minor impacts and encroachments to the SROZ are allowed by the development code.

The tree protection code, as addressed in Section 4.600, provides protection for individual trees. All trees greater than six (6) inches at d.b.h. (diameter at breast height) are protected under the development code. However, in many instances, it is possible to receive a tree removal permit

for the removal of one to three trees within a twelve month period. The removal of more than 3 trees usually entails a more involved process for application submittal requirements and the corresponding review.

Section IV of the proposed policy addresses properties where water resources have been degraded in violation of state or federal law. Water resources include any river, stream, lake, wetland or other body of water, whether navigable or non-navigable. It is the intent of this policy to ensure that violations are addressed, and compliance is achieved with state and federal law regarding these types of natural resources.

Description of Policy:

The policy is divided into seven sections: applicability of policy, trees of a certain size, significant natural resources, water resources, general provisions, obligations that run with the land, and public notice. Under sections II and III, references to the City's regulations for the protection and preservation of trees or natural resources are included. References to state and/or federal regulations are addressed under Section IV.

Upon adoption of the policy, staff, including arborists and natural resource professionals, will be available to work with property owners to help identify significant natural resources and trees and provide clarification on the process required for proposed uses or activities. Pursuant to Section I of the policy, properties currently within the UGB will receive the highest priority in regards to staff resources.

The policy is consistent with the authority and discretionary powers the City has to annex properties as prescribed in State law. Annexation decisions under Oregon Revised Statutes 222 may be based solely upon determination of what is in the public interest and may be made without reference to comprehensive plans and implementing ordinances. Pursuant to the policy, the City Council may exempt a property from the policy due to public interest concerns and other factors.

City Council Review of Policy:

The City Council reviewed the proposed policy at four separate work sessions in 2006: May 1st, July 31st, October 16th, and December 18th, and four separate work sessions in 2007: February 5th, February 21st, March 5th and May 7th. In addition a public hearing was held before the City Council on January 18th, and two public meetings in March and June. At the aforementioned work sessions and public hearing, City Council members identified revisions to the policy and received public input. The current version of the policy reflects the input provided by the City Council, staff and the public.

The most significant revisions to the policy were the following:

- 1) Shortened the length of the policy from 8 pages to 4 pages.

- 2) Section I (Preservation of significant natural resources and trees prior to annexation) was deleted and combined with the purpose statement.
- 3) Revised the purpose statement to clarify the intent of the policy is to apply consistent and equitable regulations within the City limits and in future annexation areas. In addition, wording was added that describes the advisory nature of the policy and the fact that the policy contains no prohibitions on property owner activities or uses.
- 4) Removed the background section due to its length and the redundancy of the information.
- 5) Revised wording in the policy to reflect a more positive tone, which included stating the City Council “will more favorably view a petition for annexation” where the natural resources have been protected consistent with the policy.
- 6) Added an “applicability” section to the policy. It describes the two-tiered system for properties inside and outside the Urban Growth Boundary.
- 7) Deleted “procedures and specific provisions” from sections II, III, and IV. The appropriate references to the Wilsonville Development Code in Sections II and III and the state and/or federal requirements in Section IV are still retained in the policy.
- 8) Removed all references to mitigation in sections II and III of the policy. Provisions for mitigation are stipulated in the referenced code sections for the SROZ and Tree Protection. This allows for the preservation of the significant natural resources and trees to be the primary emphasis of the policy, and not the opportunity to mitigate.
- 9) In Sections II and III, eliminated the certification procedures and the fees associated with this certification process. The fees probably act as a disincentive for property owner’s to comply with the policy.
- 10) Revised Exemptions under Section V (General Requirements) to indicate the City Council may exempt a property from the policy when “In the City Council’s judgment the public interest would be best served by approving the annexation or approving the annexation with conditional requirements.”
- 11) In Section V under Exemptions, added an exemption that allows property owners more latitude in regards to managing forest resources (i.e. consistent with the Forest Practices Act). This exemption reflects the different type and scale of forest management that occurs on rural property versus urban property.
- 12) In Section VII, included a statement that addresses noticing property owners about the policy when the Urban Growth Boundary is expanded. This additional notice reflects the bifurcated nature of the policy as it applies to properties inside and outside the UGB.

Public Outreach:

Staff prepared a brochure and notices that were used as part of the public outreach effort for the policy. The brochure is arranged in an easy to read question and answer format, which provides a brief description of the policy and outlines some of the more important requirements for affected property owners. Staff has also prepared a FAQ (i.e. frequently asked questions) fact sheet that includes “user-friendly” information about the policy.

The property owner mailing list included properties within one (1) mile of the City limits north of the Willamette River and within one-half (½) mile of the City limits south of the Willamette River. Almost one-thousand property owners received the brochure and notices for the policy. It was assumed, these properties are the most likely to be seeking annexation in the near future.

Notices were also sent to the planning departments in Clackamas and Washington counties, and the policy was discussed with county staff. Following adoption of the policy, a notice will be sent to the affected property owners, news media, local realtors, local natural resource consultants, the Home Builders Association, neighborhood associations (whose boundaries border unincorporated areas adjacent or near the City limits) and planning departments in Clackamas and Washington counties.

Two public meetings were held to gather input from the public about the proposed policy. At the first meeting on March 15th, there was considerable opposition expressed about the proposed policy. Based on the input from the public meeting and a discussion with the City Council at the May 7th work session, staff revised the policy’s content and length. The revised policy was presented to the public at a second meeting on June 16th. In general, the public reacted very favorably to the revised policy, and indicated staff had addressed many of their concerns about the previous policy.

A number of articles about the policy have been published in the Wilsonville Spokesman and the Oregonian. The policy, brochure and FAQ fact sheet are available for viewing on the city’s Web site. Staff has responded to numerous phone calls and e-mails about the policy, as well as speaking with property owners in person.

Based on the responses received from the public, the most common question, and misunderstanding about the policy related to whether the city was pursuing annexation of their property. Staff clarified the intent of the policy, and indicated annexations must follow a prescribed process that includes UGB expansion and subsequent requests for annexation.

Recommendation:

Approval of the accompanying resolution authorizing Staff to work with property owners to preserve significant natural resources and tree on properties proposed for annexation in the future.

PTA-09-04 ATTACHMENT D:

COMPARATIVE TABLE OF ANNEXATION TREE REGULATIONS

The table below compares Lake Oswego, West Linn, and Wilsonville. (As of this writing, Sherwood had not provided a copy of its regulations.)

City	Lake Oswego	West Linn	Wilsonville
Past Time Period	1 year prior	1 year prior	On or after July 16, 2007
Tree Species	All with five emphasized	All with three emphasized	All except hazelnut (filbert)
Tree Caliper (DBH)	8 to 20 in. based on species	6.37 to 12.10 in. based on species	Replacement must be at least 2 in. DBH
Mitigation: (1) Replacement	Replace a removed tree with one similar to the removed one	Replace a removed tree with one similar to the removed one	In general, one for one replacement with replacements at least 2 in. DBH
Mitigation: (2) Fee	Yes	If (3) not exercised, then yes.	Other than application fee, fee only if removal without permit
Mitigation: (3) Time Frame	Min. care of 3 years prior to reconsideration of annexation	If (2) not exercised, then min. care of 3 years prior to reconsideration of annexation	In general, within a year of removal of original tree

PTA-09-04 ATTACHMENT D:

COMPARATIVE TABLE OF ANNEXATION TREE REGULATIONS

The table below compares Lake Oswego, West Linn, and Wilsonville. (As of this writing, Sherwood had not provided a copy of its regulations.)

City	Lake Oswego	West Linn	Wilsonville
Past Time Period	1 year prior	1 year prior	On or after July 16, 2007
Tree Species	All with five emphasized	All with three emphasized	All except hazelnut (filbert)
Tree Caliper (DBH)	8 to 20 in. based on species	6.37 to 12.10 in. based on species	Replacement must be at least 2 in. DBH
Mitigation: (1) Replacement	Replace a removed tree with one similar to the removed one	Replace a removed tree with one similar to the removed one	In general, one for one replacement with replacements at least 2 in. DBH
Mitigation: (2) Fee	Yes	If (3) not exercised, then yes.	Other than application fee, fee only if removal without permit
Mitigation: (3) Time Frame	Min. care of 3 years prior to reconsideration of annexation	If (2) not exercised, then min. care of 3 years prior to reconsideration of annexation	In general, within a year of removal of original tree

Location: TBD

1. Central Urban Renewal District

2.

3.

4.

5.

WORK SESSION ITEMS

PowerPoint?

1. South Tualatin (Comm. Dev) (45m)

2. Sign Design Standards (Comm. Dev) (20m)

3. Quarterly Financial Report

4.

5.

PRESENTATIONS / ANNOUNCEMENTS / SPECIAL REPORTS

PowerPoint?

1. YAC Update

2. Tualatin Tomorrow TTC (Transportation, Traffic & Connectivity)

3. Commuter Rail Update

4. Swearing-in of Police Officers (*tentative*)

CONSENT CALENDAR ITEMS

1. Meeting Minutes

2.

3.

4.

PUBLIC HEARINGS – Legislative, Quasi-Judicial or Other

PowerPoint?

1. CUP-09-04 Glass Doctor - 63rd Avenue (*Quasi-Judicial*) (Comm.Dev.)

2.

3.

GENERAL BUSINESS ITEMS (not consent)

PowerPoint?

1.

2.

3.

4.

5.

EXECUTIVE SESSION ITEMS

1.

WORK SESSION ITEMS

PowerPoint?

1. Water Update (Eng) – *tentative*
2. T-S Road Pedestrian/landscaping/Gateway Ad Hoc Committee Recommendation (Comm Dev)
3. Land Use Notification Requirements (Comm. Dev.)
4. Ordinance regarding filming in city limits (Comm Dev)
5. DA Discussion on Meridian Hospital

PRESENTATIONS / ANNOUNCEMENTS / SPECIAL REPORTS

PowerPoint?

1. YAC Update
2. Commuter Rail Update
- 3.

CONSENT CALENDAR ITEMS

1. Meeting Minutes
- 2.
3. Annual Council / TDC Resolutions on Committee meetings dates and times
- 4.

PUBLIC HEARINGS – Legislative, Quasi-Judicial or Other

PowerPoint?

- 1.
- 2.
- 3.

GENERAL BUSINESS ITEMS (not consent)

PowerPoint?

1. Verizon change to Frontier – MACC (*tentative*)
2. Picnic Shelter Name (*Comm Svcs*)
- 3.
- 4.
- 5.

EXECUTIVE SESSION ITEMS

- 1.

WORK SESSION ITEMS

PowerPoint?

1. PTA-09-03 Historic Regs Update (Comm. Dev.) *(tentative)*
2. SW Concept Plan Update (Comm. Dev.)
3. Advisory Committees Overview
4. CUP List of Uses in Residential Update (Comm. Dev.)
5. For Sale/Lease Sign Update (Comm. Dev.)

PRESENTATIONS / ANNOUNCEMENTS / SPECIAL REPORTS

PowerPoint?

- 1.
- 2.
- 3.

CONSENT CALENDAR ITEMS

1. Meeting Minutes
- 2.
- 3.
- 4.

PUBLIC HEARINGS – Legislative, Quasi-Judicial or Other

PowerPoint?

1. PMA-09-03 Meridian Park Hospital *(Quasi-judicial)* (Comm Dev) *(cont'd from 11/9/09)*
- 2.
- 3.

GENERAL BUSINESS ITEMS (not consent)

PowerPoint?

1. Ord regarding filming in city limits (Comm.Dev.)
- 2.
- 3.
- 4.
- 5.

EXECUTIVE SESSION ITEMS

- 1.

WORK SESSION ITEMS

PowerPoint?

1. _____
2. _____
3. _____
4. _____
5. _____

PRESENTATIONS / ANNOUNCEMENTS / SPECIAL REPORTS

PowerPoint?

1. YAC Update
2. Tualatin Tomorrow ACE
3. Commuter Rail Update

CONSENT CALENDAR ITEMS

1. Meeting Minutes
2. _____
3. _____
4. _____

PUBLIC HEARINGS – Legislative, Quasi-Judicial or Other

PowerPoint?

1. PTA -08-06 Sign Design Standards (*Legislative*) (Comm. Dev.)
2. PTA-09-02 For Sale/Lease Signs (*Legislative*) (Comm. Dev.) (*Tentative*)
3. _____

GENERAL BUSINESS ITEMS (not consent)

PowerPoint?

1. _____
2. _____
3. _____
4. _____
5. _____

EXECUTIVE SESSION ITEMS

1. _____

WORK SESSION ITEMS

PowerPoint?

1. _____
2. _____
3. _____
4. _____
5. _____

PRESENTATIONS / ANNOUNCEMENTS / SPECIAL REPORTS

PowerPoint?

1. _____
2. _____
3. _____

CONSENT CALENDAR ITEMS

1. Meeting Minutes
2. _____
3. _____
4. _____

PUBLIC HEARINGS – Legislative, Quasi-Judicial or Other

PowerPoint?

1. _____
2. _____
3. _____

GENERAL BUSINESS ITEMS (not consent)

PowerPoint?

1. Acceptance of SW Concept Plan (Comm. Dev.)
2. _____
3. _____
4. _____
5. _____

EXECUTIVE SESSION ITEMS

1. _____

November

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
	6:00p CIC Meeting	6:30p TLAC	6:30p Tualatin Tomorrow VIC Steering Committee, Police Department 7:00p ARB re: Stafford Hills Racquet Club; Council Chambers	2:00p Chamber Business Showcase @ Grand Hotel 6:45p Clackamas County C-4 Meeting @ County Develop. Services Building	7:30a Chamber Network. @ Claimont Financial Partners, 5285 SW Meadow Road, Lake Oswego	10-2:00 Bulky Waste Day @ Allied in Wilsonville
8	9	10	11	12	13	14
	5:00p Work Session 7:00p Council/TDC Mtg	6:00p TPARK NLC Conference - San Antonio	Veterans Day Holiday CITY OFFICES CLOSED LIBRARY OPEN	7:00p TPAC Meeting, Council Chambers	7:30a Chamber Networking Sponsored by Joy Flaming, Mary Kay @ Heritage Center	10-2:00 Yard Debris Drop- Off @ Grimm's - Tualatin
15	16	17	18	19	20	21
		6:30p TAAC	12:00p Core Area Parking District Board, Council Chambers 4:00p Metro Policy Advisory Committee		7:30a Chamber Networking @ Wine Styles, 7009 SW Nyberg St.	
22	23	24	25	26	27	28
				Thanksgiving Day Holiday CITY OFFICES AND CHAMBER CLOSED	Thanksgiving Holiday CITY OFFICES AND CHAMBER CLOSED LIBRARY OPEN 10a-6p	
29	30					
	5:00p Work Session 7:00p Council/TDC Mtg					

2009

December

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
		1 6:30p TLAC	2	3 11:00a Chamber Holiday Auction @ Country Club 6:45p Clackamas County C-4 Meeting @ County Develop. Services Building	4 6p-9p Starry Nights and Holiday Lights	5
6	7 6:00p CIC Meeting	8 6:00p TPARK/Metro Tonguin Trail Master Plan Open House	9 6:30p Tualatin Tomorrow VIC Meeting, Library Community Room 5:00p Metro Policy Advisory Committee	10 7:00P TPAC Meeting, Council Chambers CITY HOLIDAY BREAKFAST PARTY @ Operations 7:30a	11	12
13	14 5:00p Work Session 7:00p Council/TDC Mtg	15	16 5:00p Metro Policy Advisory Committee	17	18	19
20	21 6:30p TAAC	22	23	24	25 Christmas Day Holiday CITY OFFICES AND LIBRARY CLOSED	26
27	28	29	30	31		

2009

January

	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
					1 New Years Day Holiday CITY OFFICES AND LIBRARY CLOSED	2
3	4 6:00p CIC Meeting	5 6:30p TLAC	6	7 6:45p Clackamas County C-4 Meeting @ County Develop. Services Building	8	9
10	11 5:00p Work Session 7:00p Council/TDC Mtg	12 6:00p TPARK	13 6:30p Tualatin Tomorrow VIC Steering Committee Meeting, Council Chambers	14 11:30a Tualatin Tomorrow Partners' Luncheon @ Hayden's 7:00p TPAC Meeting, Council Chambers	15	16
17	18 MLK Day Holiday CITY OFFICES CLOSED LIBRARY OPEN 1-9p Day of Volunteer Service	19 6:30p TAAC	20	21 7:00p Urban Renewal Advisory Committee, City Offices 18876 SW Martinazzi Avenue	22	23
24	25 5:00p Work Session 7:00p Council/TDC Mtg	26	27	28	29	30
31						

2010

February

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 6:00p CIC Meeting	2 6:30p TLAC	3	4 6:45p Clackamas County C-4 Meeting @ County Develop. Services Building	5	6
7	8 5:00p Work Session 7:00p Council/TDC Mtg	9 6:30p TPARK	10 6:30p Tualatin Tomorrow VIC Steering Committee Meeting, Council Chambers	11 7:00p TPAC Meeting, Council Chambers	12	13
14	15 Presidents Day Holiday CITY OFFICES CLOSED LIBRARY OPEN 1-9p	16 6:30p TAAC	17 12:00p Core Area Parking District Board, Council Chambers	18	19	20
21	22 5:00p Work Session 7:00p Council/TDC Mtg	23	24	25	26	27
28						

2010