



**TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION**
Monday, January 28, 2008

City Council Chambers
18880 SW Martinazzi Avenue, Tualatin, Oregon

WORK SESSION begins at 5:00 p.m.

REGULAR MEETING begins at 7:00 p.m.

Mayor Lou Ogden

Council President Ed Truax
Councilor Chris Barhyte
Councilor Monique Beikman

Councilor Bob Boryska
Councilor Jay Harris
Councilor Donna Maddux

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

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at www.ci.tualatin.or.us, at the Library located at 8380 SW Nyberg Street, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

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

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

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

- SEE ATTACHED AGENDA -

PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

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

PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

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

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

TIME LIMITS

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

EXECUTIVE SESSION INFORMATION

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

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



A. CALL TO ORDER

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA (Item Nos. 1 – 2)

Page #

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

1. Approval of Minutes for the Meeting of January 14, 2008..... 185
2. Change Order No. 2 to the Contract Documents
for Construction of the Green Parking Lot Expansion..... 189
3. Resolution No. 554-08 Authorizing a Settlement, Property Acquisition, and
Right-of-Way Agreement with Franklin Business Park, LLC 194

E-F. PUBLIC HEARINGS

None.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

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

I. COMMUNICATIONS FROM COMMISSIONERS

J. EXECUTIVE SESSION

K. ADJOURNMENT



STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

FROM: Sherilyn Lombos, Administrator 

DATE: January 28, 2008

SUBJECT: APPROVE MEETING MINUTES OF JANUARY 14, 2008

ISSUE BEFORE THE COUNCIL:

The issue before the Commission is to approve the minutes for the Tualatin Development Commission work session and meeting of January 14, 2008.

RECOMMENDATION:

Staff respectfully recommends that the Commission adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: A. Minutes

Approved by Tualatin
Development Commission
Date January 28, 2008
Recording Sec 

TUALATIN DEVELOPMENT COMMISSION

18880 S.W. MARTINAZZI AVENUE
TUALATIN, OREGON 97062-6500

503 / 692-2000



Approved by Tualatin
Development Commission
Date January 28, 2008
Recording Sec. [Signature]

TUALATIN DEVELOPMENT COMMISSION WORK SESSION MINUTES OF JANUARY 14, 2008

PRESENT: Chairman Lou Ogden; Commissioners Monique Beikman, Bob Boryska, Jay Harris, and Donna Maddux; Sherilyn Lombos, Administrator; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Mike McKillip, City Engineer; Dan Boss, Operations Director; Don Hudson, Finance Director, Paul Hennon, Community Services Director; and Maureen Smith, Recording Secretary

ABSENT: Commissioners Chris Barhyte*, Ed Truax* [** denotes excused*]

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

A. CALL TO ORDER

Chairman Ogden called the work session to order at 7:00 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Not applicable.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

There were no comments or questions by the Commission on the Consent Agenda.

E-F. PUBLIC HEARINGS

Not applicable.

G. GENERAL BUSINESS

Not applicable.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COMMISSIONERS

None.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The work session adjourned at 7:00 p.m.

Sherilyn Lombos, Administrator

Recording Secretary Maureen Smith

TUALATIN DEVELOPMENT COMMISSION

18880 S.W. MARTINAZZI AVENUE
TUALATIN, OREGON 97062-0000

503 / 692-2000



Approved by Tualatin
Development Commission
Date January 28, 2008
Recording Sec J. Kirby

TUALATIN DEVELOPMENT COMMISSION MEETING MINUTES OF JANUARY 14, 2008

PRESENT: Chairman Lou Ogden; Commissioners Monique Beikman, Bob Boryska, Jay Harris, and Donna Maddux; Sherilyn Lombos, Administrator; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Mike McKillip, City Engineer; and Maureen Smith, Recording Secretary

ABSENT: Commissioners Chris Barhyte*, Ed Truax* [** denotes excused*]

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

A. CALL TO ORDER

Chairman Ogden called the meeting to order at 10:25 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

None.

C. CITIZEN COMMENTS

None.

D. CONSENT AGENDA

MOTION by Commissioner Harris, SECONDED by Commissioner Beikman to adopt the Consent Agenda as read:

1. Approval of Minutes for the Meeting of December 10, 2007
2. Resolution No. 553-08 Establishing Regular Meetings of the Tualatin Development Commission, the Urban Renewal Agency of the City of Tualatin and the Urban Renewal Advisory Committee
3. Change Order No. 1 to the Contract Documents for Construction of the Green Lot Expansion Project

MOTION CARRIED.

E-F. PUBLIC HEARINGS

None.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

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

I. COMMUNICATIONS FROM COMMISSIONERS

None.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The meeting adjourned at 10:26 p.m.

Sherilyn Lombos, Administrator

Recording Secretary

Maureen Smith



STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator *SL*

FROM: Doug Rux, Community Development Director *DR*
Eric Underwood, Development Coordinator *EU*

DATE: January 28, 2008

SUBJECT: CHANGE ORDER NO. 2 TO THE CONTRACT DOCUMENTS FOR CONSTRUCTION OF THE GREEN LOT EXPANSION PROJECT

ISSUE BEFORE THE COMMISSION:

Whether the Tualatin Development Commission should approve Change Order No. 2 for construction of the Green Public Parking Lot expansion project (see attached map).

RECOMMENDATION:

Staff recommends that the Commission approve the attached change order and that the Chairman and Administrator be authorized to execute said Change Order No. 2.

EXECUTIVE SUMMARY:

- This action is not a public hearing.
- This change order covers the cost of additional work resulting from:
 - Extra costs for the additional concrete stairs leading to a pedestrian walkway on the west end of the parking lot.
 - Extra costs for the placement of wheel stops and temporary striping in order to open the lot until spring when the paving can be completed.
- Before proceeding with the next stage of this project, the Commission needs to approve Change Order No. 2 for the project.
- The expectation for project completion is by the end of March 2008.
- The Green Lot will remain open with lighting, temporary striping and curbing until weather conditions are deemed conducive to paving.
- The Commission approved Change Order No. 1 in the amount of \$8,893.58 on January 14, 2008 for this project.
- There are no criteria to apply to this request.

Approved by Tualatin
Development Commission
Date: *January 28, 2008*
Registering Sec: *A. Kishner*

OUTCOMES OF DECISION:

Approval of Change Order No. 2 for the Green Lot expansion will result in the following:

1. Enables the contractor to move forward on the construction of the Green Lot.
2. Enables the contractor to be paid in a timely manner.
3. Allows the Green Lot to be constructed in a manner that satisfies City design standards.
4. Allows the Green Lot to meet minimum engineering and building standards.

Not approving Change Order No. 2 for the Green Lot expansion will result in the following:

1. Delay payment to contractor.
2. Delay construction of the Green Lot.
3. Provide opportunity for negotiation of unit pricing and lump sum amounts initially invoiced by the contractor.

ALTERNATIVES TO RECOMMENDATION:

Alternatives evaluated to approval of Change Order No. 2 for the Green Lot expansion project are as follows:

1. Reject the change orders proposed by the contractor.
2. Negotiate costs of change order items.

FINANCIAL IMPLICATIONS:

The cost for Change Order No. 2 is \$2,200. The current project cost is \$216,768.08, which is 105% of the original bid cost. This is within budget for this project.

PUBLIC INVOLVEMENT:

Public involvement is not required as part of this action.

- Attachments:**
- A. Change Order No. 2
 - B. Map of Green Lot



CHANGE ORDER NO. 2

TO THE CONTRACT DOCUMENTS FOR CONSTRUCTION OF THE BOONES FERRY ROAD GREEN LOT EXPANSION PROJECT

This Change Order No. 2 modifies the agreement by and between Parker Northwest Paving Company, hereinafter referred to as the Contractor, and the Tualatin Development Commission, hereinafter referred to as the Owner, for the Construction of SW BOONES FERRY ROAD GREEN LOT EXPANSION PROJECT, to the extent described below:

1. For the additional work to add a set of concrete stairs leading to a pedestrian walkway on the west end of the parking lot to mitigate the slope and facilitate parking lot access. It is agreed that the Owner will pay the Contractor the following lump sum amounts per quantity actually incorporated into the project:

ITEM NO.	ITEM DESCRIPTION	UNIT OF MEASURE	UNIT PRICE
	Addition of a set of concrete stairs on the west end of the Green Lot	Each	\$950.00

2. For the additional work to install temporary wheel stops and striping in the Green Lot until final paving can be completed, it is agreed that the following items in the Proposal will be modified as shown below. The Owner will pay the Contractor the following lump sum amounts per quantity actually incorporated into the project:

ITEM NO.	ITEM DESCRIPTION	UNIT OF MEASURE	UNIT PRICE
	Additional costs for the addition of temporary wheel stops and striping	LS	\$1,250.00

Except as herein modified, the terms of the basic contract between the Tualatin Development Commission and Parker Northwest Paving Company shall remain in full force and effect.

Dated this 28th day of January 2008.

Parker Northwest Paving Company.

By  _____

Date 1/18/08

TUALATIN DEVELOPMENT COMMISSION

By  _____
Chairman Pro tem

ATTEST:  _____
Administrator



Approved by Tualatin
Development Commission
Date January 28, 2008
Recording Sec. J. Berby

STAFF REPORT

TUALATIN DEVELOPMENT COMMISSION

TO: Honorable Chairman and Members of the Commission

THROUGH: Sherilyn Lombos, Administrator *SL*

FROM: Doug Rux, Community Development Director *DR*

DATE: January 28, 2008

SUBJECT: RESOLUTION AUTHORIZING A SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT WITH FRANKLIN BUSINESS PARK, LLC

ISSUE BEFORE THE COMMISSION:

Should the Tualatin Development Commission ("Commission") enter into an agreement with Franklin Business Park ("Franklin") that the Tualatin Development Commission ("Commission") has been negotiating with for rights-of-way and easements acquisition associated with SW 124th Avenue. As part of the agreement, access issues are identified that falls under the per-view of the City, thus the City is a party to the agreement.

RECOMMENDATION:

Staff recommends that the Commission adopt the attached resolution.

EXECUTIVE SUMMARY:

- This is not a public hearing.
- The document is an agreement that has been prepared as part of the Commission's negotiations on acquiring rights-of-way and easements.
- The Commission in coordination with Hanna McEldowney & Associates, the right-of-way agent, has been working to acquire certain rights-of-way and easements from Franklin for construction of SW 124th Avenue from SW Myslony Street to SW Tualatin-Sherwood Road.
- Discussions on the rights-of-way and easements have been ongoing since April 2007.
- An appraisal was prepared by Hanna McEldowney & Associates establishing a value of \$188,100 (right-of-way \$183,169) and easements \$4,931.
- The values established are based on the Industrial Business Park Overlay District (IBPOD) land uses that include office use on the subject property.

- Franklin has responded to the appraisal value indicating a value of the acquisition at \$192,500. This value is contained in the agreement.
- Franklin desires to address access issues, full access versus right-in/right-out onto SW 124th Avenue, as part of the rights-of-way and easements acquisition.
- Access onto SW 124th Avenue is regulated through the Tualatin Development Code, Chapter 75.
- Franklin, through its transportation engineer (Kittelsohn & Associates) has prepared a feasibility traffic analysis reviewed by the City Engineer indicating that a full access may be necessary if an office building is constructed on the subject property under the IBPOD provisions. A copy of this analysis is included as an exhibit to the agreement.
- Franklin has not submitted an application for an office development at this time.
- The Commission has previously addressed issues concerning the monetary value of the acquisition and access onto SW 124th Avenue as part of the Commission's 124th Avenue project.
- The Agreement outlines that if Franklin proposes an office building at a future date the feasibility analysis will be updated and reviewed. If that process confirms that full access may be constructed and is used safely and efficiently then the City would permit Franklin to construct the access.
- Tualatin Development Code Chapters 73 and 75 would apply to a development application and the access onto SW 124th Avenue.
- There are no applicable criteria in the Tualatin Development Code or Tualatin Municipal Code to review the proposed agreement against.

OUTCOMES OF DECISION:

Approval of the agreement would:

1. Resolve the right-of-way and easement acquisition issues for SW 124th Avenue allowing the Commission to move forward with this transportation improvement project.
2. Clarify the full access issue onto SW 124th Avenue if Franklin exercises an office development project under the IBPOD provisions through the City's land use review processes.
3. Obligates Franklin to provide additional easements and mitigate storm water issues if a full access is constructed in the future for an office development.

Denial of the agreement would:

1. Not resolve the right-of-way and easement acquisition issues for SW 124th Avenue and the Commission would have to look at utilizing the eminent domain authority approved by the Commission on January 9, 2006 (Resolution No. 503-06).
2. Continue an already lengthy negotiation process with the outcome of an increase in property value over the current appraisal value.

ALTERNATIVES TO RECOMMENDATION:

1. Not approve the resolution and the 124th Avenue project would be delayed and condemnation would be necessary to acquire the right-of-way and easement.
2. Request that staff continue to negotiate with Franklin. The Commission would need to provide direction on any terms in the agreement that need further negotiation concerning the monetary value for the rights-of-way and easements.

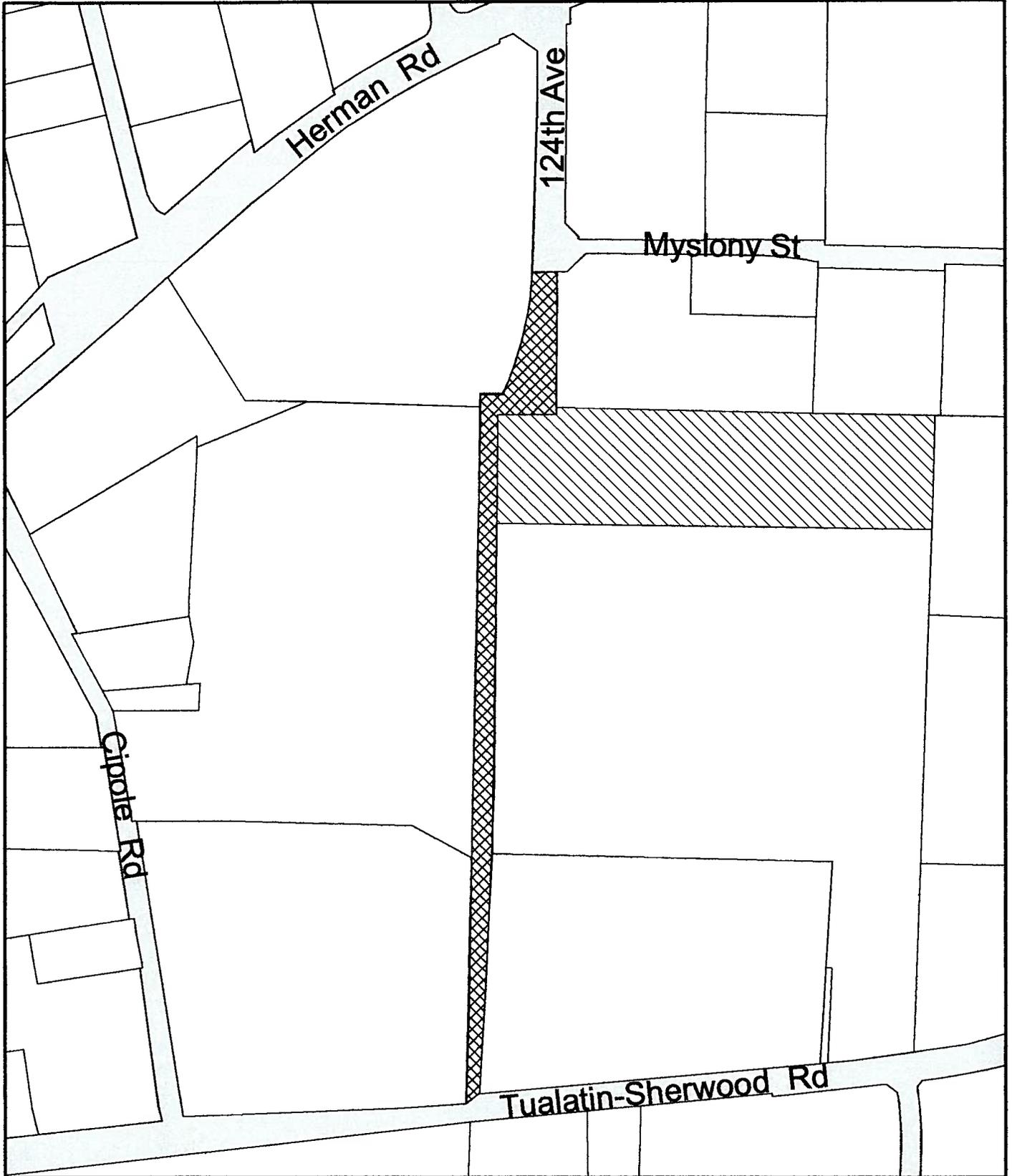
FINANCIAL IMPLICATIONS:

Funds have been budgeted in the Commission's Leveton Tax Increment District Project Fund to cover the right-of-way and easement acquisitions costs.

PUBLIC INVOLVEMENT:

Public involvement was not required to negotiate the agreement.

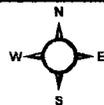
Attachments: A. Subject Property Map
 B. Resolution with Exhibit



Franklin Business Park



124th Ave Extension



RF 1:4,600

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 6/2/2006

A RESOLUTION AUTHORIZING A SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT WITH FRANKLIN BUSINESS PARK, LLC

WHEREAS the Tualatin Development Commission (Commission) has been discussing with Franklin Business Park, LLC (Franklin) since April 2007 on the acquisition of certain rights-of-way and easements associated with constructing SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road; and

WHEREAS Franklin wants to clarify access issues onto SW 124th Avenue as part of the rights-of-way and easements acquisition; and

WHEREAS the City of Tualatin (City) is a party to the Agreement due to the access issues which are controlled by the Tualatin Development Code Chapter 75; and

WHEREAS the Commission and Franklin have reached agreement on a compensation amount for the rights-of-way and easements.

BE IT RESOLVED BY THE TUALATIN DEVELOPMENT COMMISSION, THE URBAN RENEWAL AGENCY OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Chair is authorized to sign the Settlement, Property Acquisition and Right-Of-Way Agreement with Franklin Business Park, LLC and City of Tualatin, Exhibit A.

Section 2. The Commission agrees to compensate Franklin Business Park, LLC \$192,500.00 for the rights-of-way and easements.

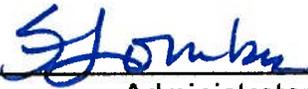
Section 3. Approval of the Agreement is contingent on the Tualatin City Council approving the Agreement.

INTRODUCED AND ADOPTED this 28th day of January, 2008.

TUALATIN DEVELOPMENT
COMMISSION, the Urban Renewal
Agency of the City of Tualatin, Oregon

By  _____
Chair Pro tem

ATTEST:

By  _____
Administrator

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT

This Settlement, Property Acquisition, and Right-of-Way Agreement (the "Agreement") is made as of 18th day of January, 2008, by and between the Tualatin Development Commission, the Urban Renewal Agency of the City of Tualatin (the "Commission"), the City of Tualatin (the "City") and Franklin Business Park, LLC ("Franklin"), the owners in fee of the real property subject to this Agreement, with reference to the following facts and purposes:

RECITALS

- A. Franklin holds fee title to that real property located at the NW Corner of SW Tualatin-Sherwood Road and SW Avery Street, East side of proposed SW 124th Avenue, South of SW Myslony Street, Tualatin, Oregon, Assessor No. 2S1 27B 00200, more particularly described as Tax Lot TS1-R1W, Section 27B, Tax Lot 200 (the "Subject Property").
- B. The Commission, which exercises the powers conferred upon it by the law, including the power of eminent domain, is constructing SW 124th Avenue from SW Myslony to SW Tualatin-Sherwood Road. The project involves the extension of SW 124th Avenue, from its current terminus at SW Myslony Street, south to SW Tualatin-Sherwood Road. When completed SW 124th will provide a connection between Highway 99W, SW Herman Road, and SW Tualatin-Sherwood Road.
- C. The Commission desires to acquire a portion of the Subject Property in fee simple by Deed of Dedication for right-of-way (Exhibit 1), and a permanent slope and utility easement on an additional portion of the Subject Property (Exhibit 2). The Commission has threatened to use the power of eminent domain to effect these acquisitions.

MBA

- D. The Subject Property is currently zoned MG (General) District. The Subject Property is included in Tualatin's Industrial Business Park Overlay District, Chapter 69 of the Tualatin Development Code. Chapter 69 of the Tualatin Development Code was amended in 1999 specifically to include the Subject Property.
- E. The purpose of the Industrial Business Park Overlay District is to recognize and accommodate the changing industrial commercial marketplace by allowing mixed uses within the context of an enforceable master plan reviewed and approved during architectural review. Industrial uses are emphasized, but office and selected service and retail uses are allowed through the operation of the Industrial Business Park Overlay District. The Industrial Business Park Overlay District contemplates mixed use and development of the Subject Property to an extent that requires full vehicle access to SW 124th Avenue for TL 200.
- F. Franklin wishes for the Subject Property to enjoy full access to SW 124th (i.e., access whereby vehicles may make right and left turns into and out of the Subject Property). Such access, which would include an exclusive left-turn lane within the SW 124th right-of-way and is hereinafter referred to as "the Full Access." At City's and Commission's request, Kittleson & Associates prepared a technical memorandum dated September 19, 2007, which concluded that the Full Access is feasible and, if properly designed, will benefit the surrounding transportation system by eliminating a significant amount of out of direction travel that would be required if the access to the Subject Property were limited. (Exhibit 3).
- G. Access on to SW 124th is regulated through Tualatin Development Code chapter 75.
- H. At the time of this agreement, Franklin has not submitted an application for a particular development project on TL 200 that would necessitate full access to the property.

MBA

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

A G R E E M E N T

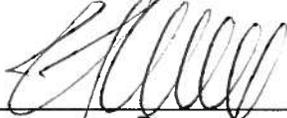
1. **Compensation to Franklin.**
 - a. The Commission shall pay Franklin as compensation for a Deed of Dedication and a Permanent Slope & Public Utility Easement, which will be used to construct road improvements for the above-described project, the sum of \$192,500.
2. The Commission shall pay all closing and recording costs.
3. The Commission shall clean up all construction debris at the conclusion of the project.
4. The Commission shall relocate Franklin's existing chain link fence and gate to the eastern edge of the proposed right-of-way acquisition at no additional cost to the property owner.
5. Franklin agrees to grant to the City a permanent right-of-way easement for road purposes containing 21,419 sf, more or less, and a slope and public utility easement containing 3,842 sf., more or less, each grant as depicted on Exhibits 1, 2 hereto.
6. When Franklin applies for permits to develop the Subject Property, the City will have its traffic engineer review and update the feasibility analysis referred to in Recital F. Should that review and update confirm that the Full Access may be constructed and used safely and efficiently, then the City will permit Franklin to

construct and use the Full Access. Should the City approve, at Franklin's request, a change in the zoning of the Subject Property, then this section is void.

7. To the extent that the Full Access reduces the capacity of the storm drainage system in SW 124th Avenue, then Franklin will grant an easement to the City for the purpose of accommodating any increased storm water run off caused solely by the creation of the Full Access. Franklin acknowledges that as part of its development, if full access is granted and the storm drainage system must be relocated, Franklin will be required to mitigate the impacts of its development.
8. **Binding.** The parties agree that this Agreement shall be binding upon and inure to the benefit of the heirs, executives, administrators, successors and assigns of the parties hereto.
9. **Attorneys Fees.** In the event of a breach of this Agreement, the nonbreaching party shall recover all attorney's fees and litigation expenses incurred as a result of such breach and/or to enforce this Agreement, including, without limitation, costs of appeal.

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first above written.

CITY OF TUALATIN

By: 

Mayor Pro tem
Ed Truax

FRANKLIN BUSINESS PARK, LLC

By: 

Print: Matthew B. Drake
Title: ~~Secretary~~ President, Marlborough Enterprises, Inc.
Manager

ATTEST:

By: 

City Recorder

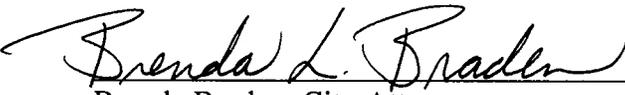
TUALATIN DEVELOPMENT COMMISSION

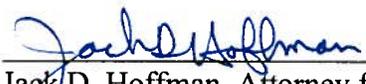
By 
Commission Chair Pro tem

ATTEST:

By 
Commission Administrator

APPROVED AS TO FORM:


Brenda Braden, City Attorney


Jack D. Hoffman, Attorney for
Franklin Business Park, LLC
DrakeROWsettlement_PROPERTY_ACQUISITION Final (5).doc

Date of Meeting:1-28-08

Original Deed of Dedication and Easements will be scanned and added to the share drive (**folder:** Approved council packet) at a later date. Attached are unsigned photocopies....



CITY OF TUALATIN, OREGON

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that Franklin Business Park LLC (the "GRANTOR") grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the following real property with the tenements, hereditaments and appurtenances, situated in the County of Washington, State of Oregon, for the use of the public as a public way forever, for street, road, right-of-way and public utility purposes, bounded and described as follows, to wit:

*See attached legal description (Exhibit A)
and attached map of description (Exhibit B)*

TO HAVE AND TO HOLD, the described and granted premises unto the said CITY, its successors in interest and assigns forever.

The true consideration of this conveyance is \$187,500 and other valuable consideration, the receipt of which is acknowledged by GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

EXECUTED this _____ day of _____, 2008

Franklin Business Park LLC

Name (print or type)

Name (print or type)

Signature

Signature

Title

Title

STATE OF OREGON)
) ss
County of Washington)

On this ____ day of _____, 2008, before me, the undersigned, a Notary Public, personally appeared _____ and _____ who are known to be the _____ and _____ of Franklin Business Park LLC and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: _____
Notary Public for Oregon

My commission expires: _____

CITY OF TUALATIN, OREGON
By _____
Mayor

ATTEST:
By _____
City Recorder

EXHIBIT A

SW 124th/Tualatin Sherwood
Improvement Project
Revised Oct 25, 2005

Franklin Business Park
Assessor No. 2S 1 27B 00200
Document No. 2000029918

Parcel 1 - DEDICATION

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 57.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue and all that property lying westerly of the relocated centerline of S.W. 124th Avenue, which centerline is described as follows:

Beginning at Station 24+88.29, being the intersection of the centerline of S.W. Tualatin-Sherwood Road (County Road No. 2737) and the East line of Section 28, Township 2 South, Range 1 West of the Willamette Meridian, said beginning point being N 1°46'34" E, 502.02 feet from the East quarter corner of said Section 28; thence along said Section line, N 1°46'34" E, 1723.07 feet to a point of curvature at Station PC 42+11.35; thence northerly 418.23 feet, along a 1050.00 foot radius curve to the right, through a central angle of 22° 49' 18", (subtended by a long chord which bears N 13° 11' 13" E, 415.47 feet) to Station PRC 46+29.58; thence northerly 419.88 feet, along a 1050.00 foot radius curve to the left, through a central angle of 22° 54' 41", (subtended by a long chord which bears N 13° 08' 32" E, 417.08 feet) to Station PT 50+49.46; thence N 1°41'11" E, 738.93 feet to Station PI 57+88.38 and the Terminus of the centerline being described, said terminus being N 9°52'17" E, 1159.23 feet from the Northeast corner of said Section 28.

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue.

The area of land to which this description applies contains 21,419 Sq. feet (0.492 acres), more or less.

Bearings are based on Survey Number 28,176, Washington County Survey Records.

MBD

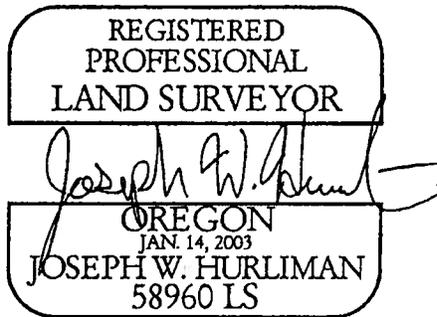
EXHIBIT A - CONTINUED

Parcel 2 – PERMANENT SLOPE AND UTILITY EASEMENT

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 69.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue which center line is described in Parcel 1:

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue, and the above described Parcel 1.

The area of land to which this description applies contains 3,852 Sq. feet (0.088 acres), more or less.



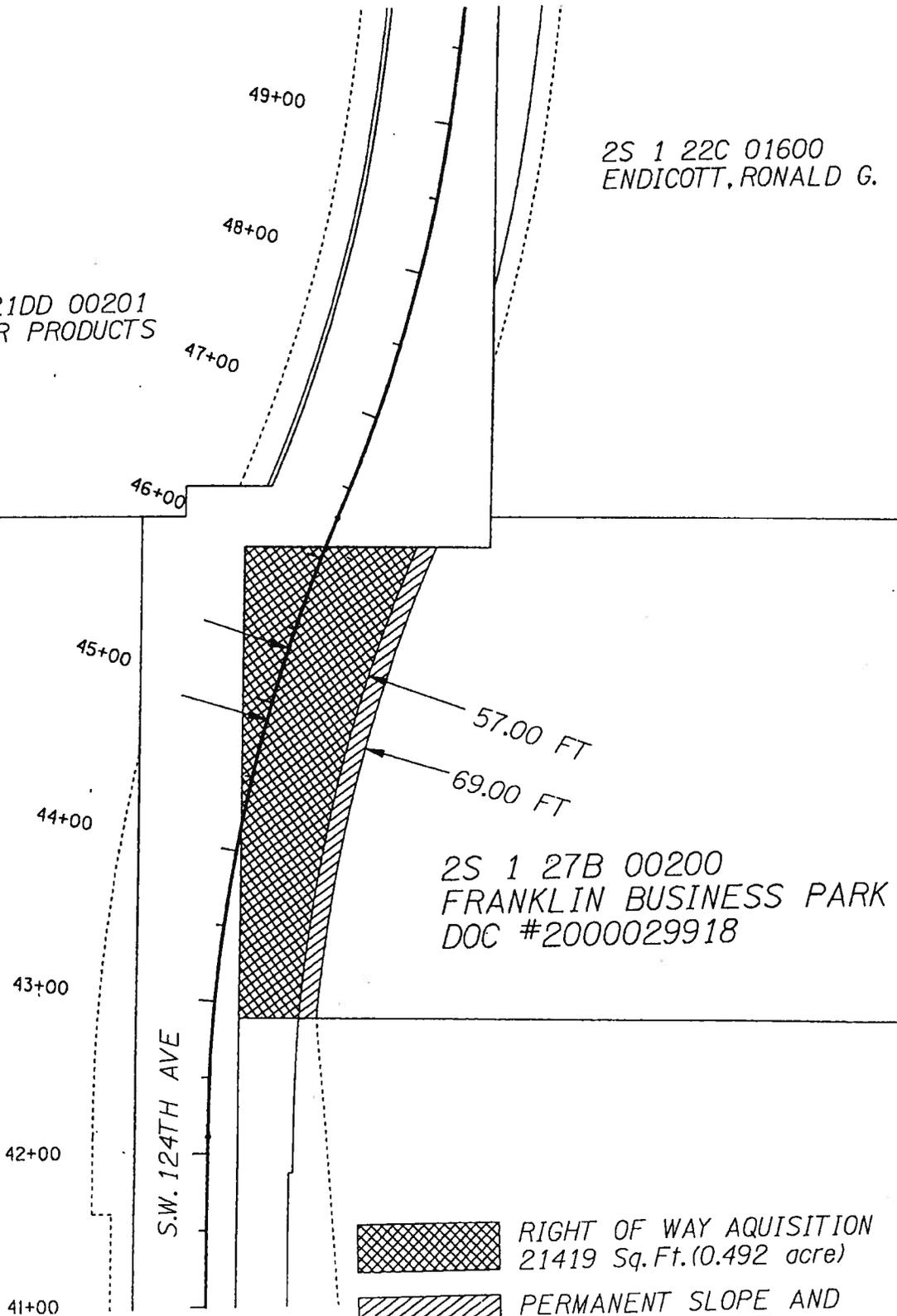
RENEWAL: 6/30/07
SIGNED: 10/26/2005

MBS

EXHIBIT B

2S 1 21DD 00201
LUMBER PRODUCTS

2S 1 22C 01600
ENDICOTT, RONALD G.



-  RIGHT OF WAY AQUISITION
2149 Sq. Ft. (0.492 acre)
-  PERMANENT SLOPE AND
UTILITY EASEMENT
3852 Sq. Ft. (0.088 acre)



1" = 100'



CITY OF TUALATIN, OREGON

SLOPE AND PUBLIC UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Franklin Business Park LLC (the GRANTOR"), grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the permanent right to construct, reconstruct, operate and maintain a Slope and Public Utilities, including but not limited to water, sewer, storm drain, power, telephone, cable television, and natural gas lines and facilities on the following described land:

See attached legal description (Exhibit A) and map (Exhibit B)

This Slope and Public Utility Easement is granted for the purpose of design, construction, operation, reconstruction, maintenance, and repair of a slope and utility in support of and to protect and save from damage the adjacent public right-of-way used for a public roadway, sidewalk, and related improvements and to allow installation of public utilities systems in this area.

TO HAVE AND TO HOLD, the described easement unto the CITY, its successors in interest and assigns forever.

GRANTOR reserves the right to use the surface of the land for walkways, plantings, parking, landscape maintenance, and related uses. Uses by the GRANTOR shall not be inconsistent or interfere with the use of the easement area by the CITY. No building or utility shall be placed upon, under, or within the property subject to the easement during its term without the written permission of the CITY.

Except as otherwise provided, upon completion of construction by CITY, the CITY shall restore the disturbed surface of the property to the condition reasonably similar to the previous state, and shall indemnify and hold the GRANTOR harmless against all loss, costs, or damage arising out of the exercise of the rights granted. Nothing contained in this easement shall be construed as requiring the CITY, its successors in interest or assigns to maintain landscaping, walkways, parking, or other surface or subsurface improvement made or constructed by or on behalf of the GRANTOR, its heirs, successors in interest or assigns.

The true and actual consideration paid for this transfer consists of \$5,000 or includes other property or other value given or promised, the receipt of which is acknowledged by the GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances, except encumbrances, easements, restrictions and rights-of-way of record and those common and apparent on the land, and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

MBA

EXECUTED this _____ day of _____, 2008.

Franklin Business Park LLC

Signature

Signature

Name (print or type)

Name (print or type)

Title

Title

STATE OF OREGON)
)ss.
County of _____)

On this _____ day of _____, 2008, before me the undersigned, a Notary Public, personally appeared _____ and _____ who are known to be the _____ and _____ of the Franklin Business Park LLC and acknowledged the foregoing instrument to be their voluntary act and deed.

Before Me: _____
Notary Public for Oregon
My commission expires: _____

CITY OF TUALATIN, OREGON

By _____
Mayor

ATTEST:

By _____
City Recorder

Esm Slope/Utility TDC

EXHIBIT A

SW 124th/Tualatin Sherwood
Improvement Project
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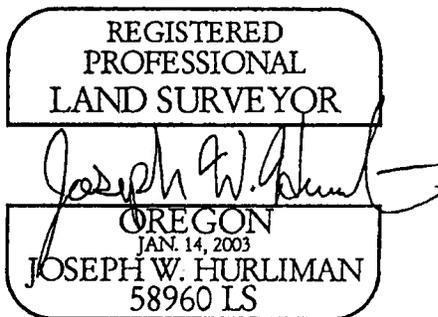
MBA

Parcel 2 – PERMANENT SLOPE AND UTILITY EASEMENT

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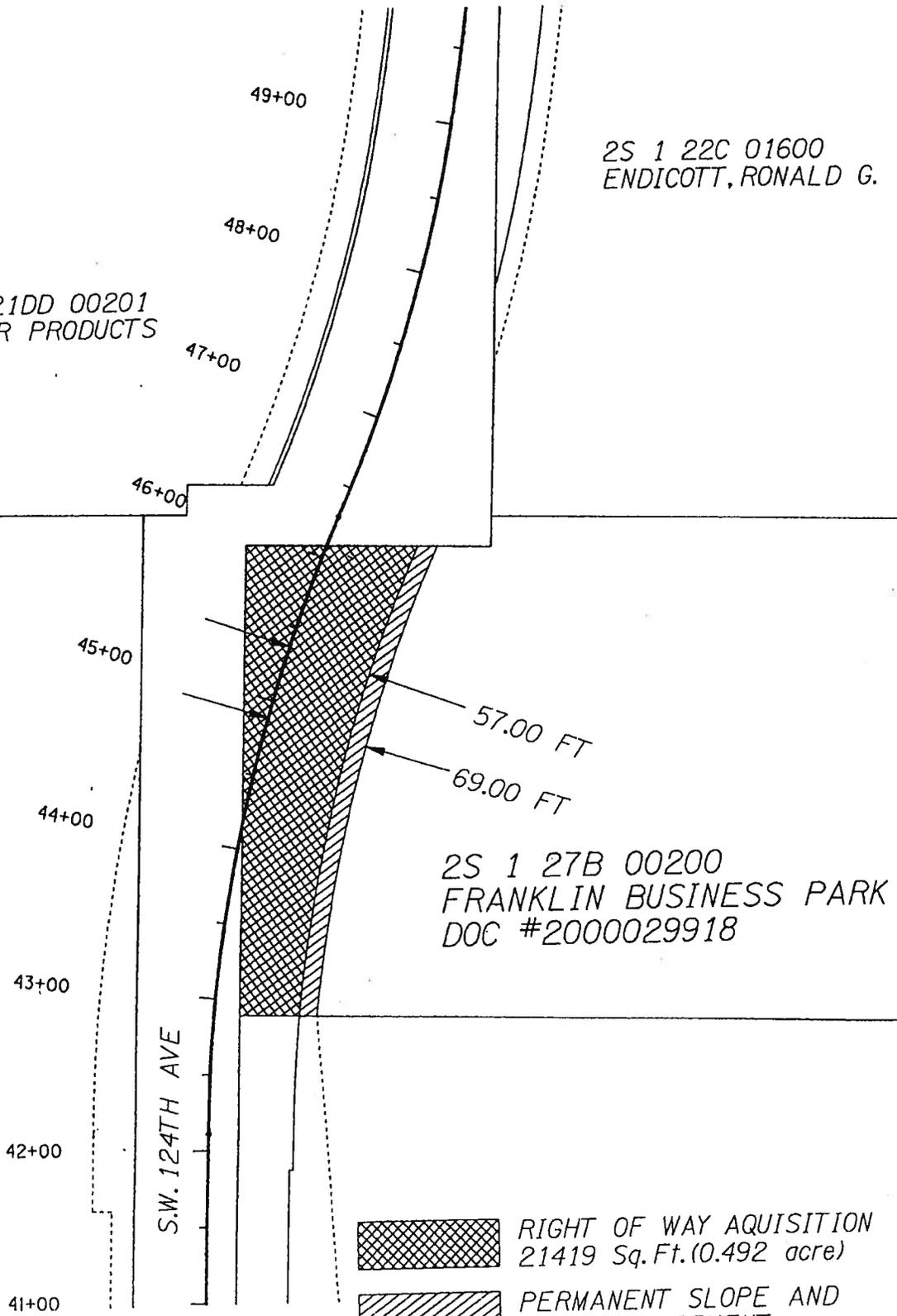
RENEWAL: 6/30/07
SIGNED: 10/26/2005

MBA

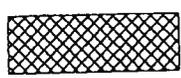
EXHIBIT B

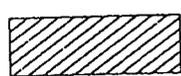
2S 1 21DD 00201
LUMBER PRODUCTS

2S 1 22C 01600
ENDICOTT, RONALD G.



2S 1 27B 00200
FRANKLIN BUSINESS PARK
DOC #2000029918

 RIGHT OF WAY AQUISITION
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1" = 100'



KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

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

MEMORANDUM

Date: September 19, 2007

Project #: 8920.0

To: Matthew Drake
MBD Development
1202 NW 17th Avenue
Portland, OR 97209

From: Mark Vandehey, P.E.
Project: Franklin Business Park
Subject: SW 124th Access

This memorandum presents the results of our analysis of access to your future office development located along the planned extension of SW 124th Avenue in Tualatin, Oregon. Our analysis addressed the following issues:

- The trip generation potential of your proposed 80,000 square foot office development along with the potential development of approximately 7 acres of industrial land immediately south of your site (Wager property).
- The estimated level of service of a full access on SW 124th serving your property as well as the adjacent Wager property.
- Availability of intersection sight distance at the proposed driveway based on the current design of SW 124th Avenue.
- An assessment of broader transportation system impacts associated with the potential access.

Based on the results of our analysis we have concluded that a full access driveway is feasible and if properly designed will result in a benefit to the surrounding transportation system as it will eliminate the need for a significant amount of out of direction travel that would be required if the access to the two sites were limited to right turns only. The following sections address the four bulleted issues presented above:

Trip Generation Potential

Our analysis assumed the following development scenario:

- 80,000 square-feet of office on MBD Development property
- 105,000 square-feet of light industrial space on the Wager property

For the MBD Development property, the developable acreage is approximately 6.3 acres (after subtracting the delineated wetland and wetland buffers). The developable acreage of the Wager property was estimated by City of Tualatin staff to be approximately 7 acres. For the MBD office development a 30 percent building coverage was assumed, which is consistent with what we typically use for similar projects in suburban settings. For the Wager property we assumed approximately 35 percent coverage (slightly higher than for office due to slightly lower parking requirements). The 35 percent coverage for light industrial development is also a pretty common assumption for areas like this.

Regarding the trip generation assumptions, we did use the 7th Edition of ITE and confirmed we used the correct rate for general office (the PM Peak hour rate is 1.49 trips per 1,000 gross square feet). So I think the trip generation assumptions are reasonable as well.

Estimates of weekday a.m. and p.m. peak hour vehicle trip ends for the potential development scenario were estimated from empirical observations at similar developments. These observations are summarized in the standard reference manual, *Trip Generation*, 7th Edition, published by the Institute of Transportation Engineers. Table 1 shows the estimated weekday a.m. peak hour and weekday p.m. peak hour trip-generation potential for the development scenario we evaluated.

Table 1 - Trip Generation Estimate

Land Use	Size (sq. ft.)	ITE Code	Peak Hour Trips		
			Total	In	Out
Office	80,000	710	125	110	15
Light industrial	105,000	110	95	85	10
Total			220	195	25
Office	80,000	710	120	20	100
Light industrial	105,000	110	105	10	95
Total			225	30	195

Using the trip generation estimates from Table 1 and forecast traffic volumes for the year 2020 from the Tualatin TSP, planning level estimates of future a.m. and p.m. peak hour

MBD

traffic volumes were developed. The resulting planning level estimates are shown in Table 2.

Table 2 -Planning Level 2020 Traffic Demands at Future Site Driveway on SW 124th

	AM Peak	PM Peak
WB Left	15	115
WB Right	10	75
SB Left	75	15
SB Through	150	600
NB Through	600	200
NB Right	115	20

2020 Level of Service Results

Traffic operations at the site driveway on SW 124th were analyzed under future year 2020 conditions with full build-out of the assumed development scenario described above and the traffic volumes presented in Table 2. Table 3 shows the level-of-service results at the site driveway for the most critical movement, which is the minor street (westbound) left turn movement. As indicated in the table, the critical movement is expected to operate at an acceptable level of service during both time periods (the level of service results are provided as an attachment to this memorandum).

Table 3 – Year 2020 LOS Results – Build-out of Subject Parcels

Intersection	Unsignalized		
	v/c	Delay	LOS
Weekday A.M. Peak Hour			
SW 124 th /Site Access (Critical WB Left Turn)	0.08	22	C
Weekday P.M. Peak Hour			
SW 124 th /Site Access (Critical WB Left Turn)	0.45	27	D

In addition to the assumed development scenario discussed above, we conducted a sensitivity analysis for the weekday p.m. peak hour where we increased all of the site traffic using the driveway by 50 percent (these results are attached to this memorandum as well). As indicated in the attached PDF, the driveway still operates adequately with a 50 percent increase in site traffic.

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Sight Distance Evaluation

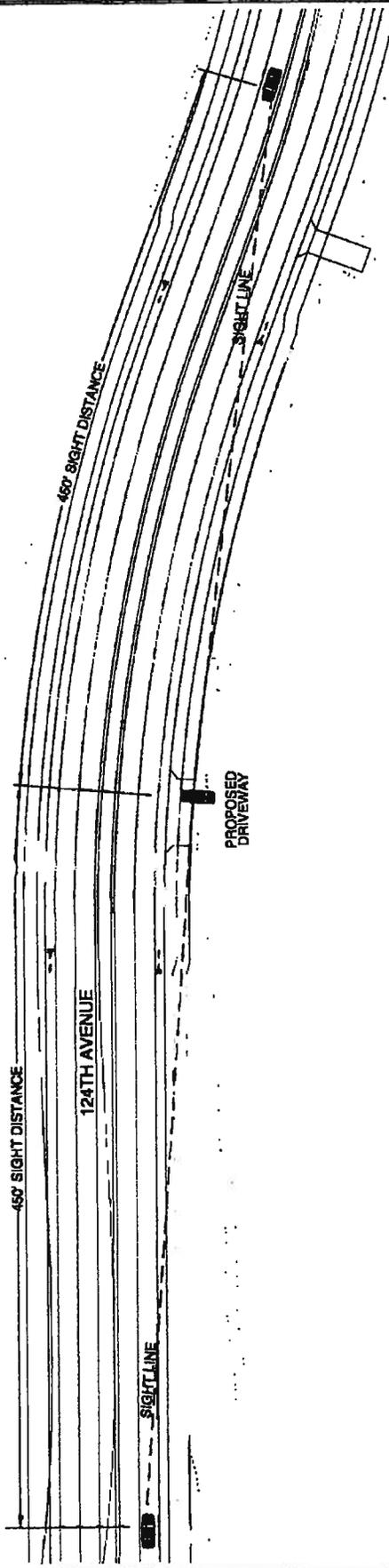
Intersection sight distance was evaluated at the anticipated driveway location on SW 124th based on the current design provided by the City's consultant CH2M Hill. The sight distance evaluated was based on an assumed posted speed of 45 mph and Washington County's standard of 10 times the posted speed. Figure S1 shows the results of the analysis. As indicated in the figure, adequate sight distance can be made available at the site driveway. However, based on the sight triangle, care will need to be taken with both the landscaping along the site frontage as well as any plantings in the median to ensure that sight lines are not obstructed within the sight triangle.

Overall Impact of Access on Surrounding Transportation System

Based on the assumptions for future development described above, a full access on SW 124th can be designed to meet City design and operating standards. Further, with the provision of a properly designed left turn lane on SW 124th, a full access driveway would not significantly affect through traffic on SW 124th. Further, from a transportation system perspective, a full access driveway will have less impact on the surrounding transportation system (in particular Tualatin-Sherwood Road) as it eliminates the significant out of direction travel (and additional trips on Tualatin-Sherwood Road) that would occur if the driveway were limited to right turns only.



SCALE
0 30 60



DESIGN SPEED 45 MPH
REQUIRED SIGHT DISTANCE 450'

MBA

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information

Site Information

Analyst	MAV	Jurisdiction/Date	Jurisdiction	8/24/2007
Agency or Company	City of Tualatin	Major Street	124th	
Analysis Period/Year	AM Peak 2020	Minor Street	Site Access	
Comment	Comments			

Input Data

Lane Configuration	NB			SB			WB			EB		
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	NB			SB			WB			EB		
	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		600	115	75	150		15		10			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		667	128	83	167		17		11			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	11	417	0.026	0	13.9	B	19.3
	2	L	17	219	0.078	0	22.8	C	
	3								C
EB	1								
	2								
	3								
NB	①								
SB	④		83	814	0.102	0	9.9	A	

MBA

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information

Site Information

Analyst	MAV	Jurisdiction/Date	Jurisdiction	8/24/2007
Agency or Company	City of Tualatin	Major Street	124th	
Analysis Period/Year	PM Peak 2020	Minor Street	Site Access	
Comment	Comments			

Input Data

Lane Configuration	NB			SB			WB			EB		
	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		200	20	15	600		115		75			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		222	22	17	667		128		83			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	83	798	0.104	0	10.0	A	20.4
	2	L	128	288	0.445	2	27.1	D	
	3								C
EB	1								
	2								
	3								
NB		①							
SB		④	17	1304	0.013	0	7.8	A	

MBD

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information

Site Information

Analyst	MAV	Jurisdiction/Date	Jurisdiction	8/24/2007
Agency or Company	City of Tualatin	Major Street	124th	
Analysis Period/Year	PM Peak 2020	Minor Street	Site Access	
Comment	Comments			

Input Data

Lane Configuration	NB			SB			WB			EB		
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		200	30	25	600		170		75			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		222	33	28	667		189		83			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	83	793	0.105	0	10.1	B	32.7 D
	2	L	189	275	0.688	5	42.7	E	
	3								
EB	1								
	2								
	3								
NB	①								
SB	④		28	1292	0.021	0	7.8	A	

MBD