



City of Tualatin

# TUALATIN CITY COUNCIL

Monday, August 19, 2013

**CITY COUNCIL CHAMBERS  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062**

**SPECIAL MEETING** begins at 6:00 p.m.

---

**Mayor Lou Ogden**

**Council President Monique Beikman**

**Councilor Wade Brooksby      Councilor Frank Bubenik**

**Councilor Joelle Davis          Councilor Nancy Grimes**

**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Announcements, 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 City website at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings), the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a 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. 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* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by live *streaming video* on the day of the meeting at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings).

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

## 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. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished 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, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

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

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) 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) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



**OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL SPECIAL MEETING  
FOR AUGUST 19, 2013**

---

**A. CALL TO ORDER**

Pledge of Allegiance

**B. CITIZEN COMMENTS**

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

**C. PUBLIC HEARINGS – Quasi-Judicial**

1. CONTINUANCE- Consideration of a Conditional Use Permit for the Nyberg Rivers Development to Allow Retail Uses in a Commercial Office (CO) Planning District and Outside Storage and Sales in a Central Commercial (CC) Planning District at 7055-7463 SW Nyberg Street (2S124A2700--2S124A2100 and 2S124B2507) (CUP-13-04)

**D. ADJOURNMENT**



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos

**FROM:** Aquilla Hurd-Ravich, Planning Manager

**DATE:** 08/19/2013

**SUBJECT:** CONTINUANCE- Consideration of a Conditional Use Permit for the Nyberg Rivers Development to Allow Retail Uses in a Commercial Office (CO) Planning District and Outside Storage and Sales in a Central Commercial (CC) Planning District at 7055-7463 SW Nyberg Street (2S124A2700--2S124A2100 and 2S124B2507) (CUP-13-04)

---

### **ISSUE BEFORE THE COUNCIL:**

This item was first presented during a public hearing on August 7, 2013. At that time, a request was made to leave the record open for seven days until close of business on August 14, 2013. Comments about the Conditional Use Permit were submitted before the record closed are included as Attachment 101. The applicant, City Council and the requesting party agreed to reconvene the hearing at 6 p.m. on August 19, 2013.

The issue before the City Council is consideration of a conditional use permit for the Nyberg Rivers Shopping Center to allow Retail Uses in a Commercial Office (CO) Planning District at 7055-7433 SW Nyberg Street (2S124A 2700) and Outside Storage and Sales in the Central Commercial (CC) Planning District at 7437-7463 SW Nyberg (2S124A2100 and 2S124B2507).

### **RECOMMENDATION:**

Staff recommends that the City Council consider the staff report and supporting attachments originally submitted on August 7, 2013 and direct staff to prepare a resolution consistent with City Council's recommendation on Conditional Use Permit 13-04.

The original staff report and all attachments can be viewed at the City of Tualatin webpage on the City Council agenda for August 7, 2013 at the following link: <http://www.tualatinoregon.gov/citycouncil/special-city-council-meeting>.

---

**Attachments:** 101 - Perkins Coie Letter and Exhibits



1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
PHONE: 503.727.2000  
FAX: 503.727.2222  
www.perkinscoie.com

Steven L. Pfeiffer  
PHONE: (503) 727-2261  
FAX: (503) 346-2261  
EMAIL: SPfeiffer@perkinscoie.com

August 14, 2013

**VIA EMAIL ONLY**

Mayor Lou Ogden  
City Council  
City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062

**Re: Nyberg Rivers Shopping Center  
Conditional Use Permit Application (File No. CUP-13-04)  
Letter in Opposition**

Dear Mayor Ogden and Councilors:

This office represents Zian Limited Partnership (“Zian”), the owner of the Hedges Greene Shopping Center located at the northwest corner of SW Tualatin-Sherwood Road and SW Boones Ferry Road in the City of Tualatin. Zian submits this letter in opposition to the Nyberg Rivers Shopping Center (“Project”) Conditional Use Permit (“CUP”), which is proposed to be located at the northwest corner of the interchange between Interstate 5 and Tualatin-Sherwood Road (“Property”). This letter and its attachment constitutes Zian’s submittal into the record during the first open record period ending on August 14, 2013, at 5:00 p.m. I have asked City staff to place this submittal into the official Planning Department file for this matter and to place it before you prior to your deliberations in this matter.

**1. Summary.**

The City Council should deny the CUP for the following reasons:

- It is not consistent with the purpose and intent of the CC and CO planning districts;
- It does not serve a public need, or serves a public need that can best be met at another location;
- It does not provide for public services adequate to support the development;
- It will substantially limit, impair, or preclude the use of surrounding properties; and

84210-0001/LEGAL27589588.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MENLO PARK  
OLYMPIA · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

- It is not consistent with Access Management Policy 2.

## 2. Argument.

### A. **The CUP is not consistent with the purpose and intent of the CC and CO planning districts.**

TDC 32.020(1) requires that the CUP “[b]e consistent with the intent and purpose of the planning district in which it is proposed \* \* \*.” The City Council should find that the CUP is not consistent with the intent and purpose of either of the planning districts (CC and CO), in which it is proposed to be located.

First, the CUP proposes to locate outdoor sales and storage in the CC planning district. The outdoor sales and storage associated with a Cabela’s is not consistent with the purpose and intent of the CC planning district, which is to allow for mixed uses in a pedestrian-oriented, downtown area:

“The purpose of this district is to provide areas of the City that are suitable for a full range of retail, professional and service uses of the kind usually found in downtown areas patronized by pedestrians.”

TDC 53.010. Cabela’s is a superstore that can range from 80,000-225,000 square feet in size and is typically located in suburban and even more rural locations. *See Exhibit A.* Pursuant to the TDC, outdoor sales at Cabela’s can include all items sold inside the store, except outboard and inboard powered boats, trailers, and motorized ATV’s. All other products could be sold outside, including non-motorized ATV’s, fishing rods, hunting accessories, and potentially, various types of firearms. Such outdoor sales are not typically of a type that would attract or serve the needs of pedestrians. Further, they are not typically located in downtown areas, particularly because they are associated with a superstore. Therefore, the City Council should find that outdoor sales and storage at a Cabela’s is not consistent with the purpose and intent of the CC planning district.

The CUP also requests authorization to construct and operate a Cabela’s sporting goods store in the CO planning district. This use is inconsistent with the intent and purpose of the CO planning district, which is limited to providing for office development:

“The purpose of this district is to provide areas for professional offices in locations adjacent to or across the street from residential areas. The district is intended to provide for office development ranging in size from small buildings with one or two tenants to large complexes housing business headquarters.”

TDC 50.010. The CUP request does not include any office space, and there is no explanation how a sporting goods store will further the development of offices within the district. In fact, there is no evidence in the record that development of a Cabela's sporting goods store will further office development in the district. What is clear, however, is that development of the sporting goods store will use precious CO-zoned land for non-office purposes. Not only does this not further the purpose and intent of the planning district—it undermines that purpose and intent. Therefore, the City Council should find that the CUP is not consistent with the purpose and intent of the CO planning district.

**B. The CUP does not fill a public need, or alternatively, there is a need, but the CUP does not best meet that need on the Property.**

Additionally, the CUP does not “fill a probable need of the public which can best be met by a conditional use at this time and in this place,” as required by TDC 32.020(1). In order to find that the CUP satisfies this criterion, the City Council must find the following: (1) a public need; (2) the current time best meets that need; and (3) the proposed location best meets that need. In fact, applicant has not established any of these factors. There is no public need for a sporting goods store in the City when at least two different large-format sporting goods stores (REI and Dick's Sporting Goods) exist within approximately 1.5 miles of the Property. *See Exhibit B.* Second, even if applicant could establish a current need for the use on this site, it still would not demonstrate the need for the sporting goods store in the portion of the site in the CO planning district, which is intended to provide for office development. The CC portion, where the sporting goods store is permitted by right, is the location that “best meets the need” for this use. Therefore, the City Council should find that, as proposed, the CUP does not meet the public need siting criterion.

**C. The CUP is not timely considering the adequacy of the public facilities.**

In order to approve the CUP, the City Council must find that adequate public facilities are available concurrent with the development:

“The proposed use is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.”

Zian's traffic engineer identified several deficiencies in the Transportation Impact Analysis prepared by the applicant, including that it lacked a corridor analysis, failed to consider the effects of WES rail crossings, failed to adjust signal timing parameters, failed to account for vehicles arriving at the back of a queue, and failed to calibrate the analysis to match existing conditions. *See Exhibit C.* Applicant's traffic engineer has not rebutted these statements with substantial evidence. Therefore, applicant has not demonstrated that there are adequate public facilities to serve the development. Although the applicant may contend that the CUP represents

only a fraction of the total development, the City Council should deny this contention for two reasons. First, the applicant has relied in its written materials upon the full range of transportation improvements it is providing to justify the CUP. Second, the City Council has already approved the Master Plan for the Project. Therefore, the remainder of the Project now constitutes background traffic for purposes of assessing the CUP. For these reasons, the City Council should find that the CUP does not satisfy this standard.

**D. The CUP will substantially limit, impair, and preclude the use of surrounding properties.**

In order to approve the CUP, the City Council must find that it does not interfere with the use of surrounding properties:

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

TDC 32.030(4). The City Council should find that the CUP does not satisfy this standard for four reasons. First, neither the staff report nor the application materials define or describe the “surrounding area.” Second, neither the staff report nor the application materials describe the potential impacts of the CUP on surrounding properties and evaluate them for purposes of this standard.

Third, for the reasons explained in the Mackenzie letter set forth in Exhibit C and the DKS report in the record, the applicant has understated the projected traffic impacts of the shopping center, including the CUP. As such, applicant has not presented substantial evidence to support a conclusion that this standard is satisfied as to traffic impacts.

Fourth, development of the CUP will include associated transportation improvements that will displace City Hall, which is currently located off-site. LUBA has held that when a conditional use eliminates an off-site use, it violates the “substantial impairment” standard:

“By any reasonable measure, if the proposed mine would cause the off-site portions of Wetlands B and C on adjoining property to ‘no longer function[] as wetlands,’ that impact would qualify as a ‘substantial[] limit[], impair[ment], or preclu[sion of] the use of surrounding properties for [a] primary use[]allowed in the underlying zoning district.’”

*Tonquin Holdings, LLC v. Clackamas County*, 64 Or LUBA 68, 74-75 (2011), *aff’d* 247 Or App 719, 270 P.3d 397 (2012). In the case of the CUP, City Hall is located off-site in the CC zoning district, which allows governmental structures as an outright permitted use. TDC 53.020(20).

As determined by the City Council on August 7, 2013, development of the Project will require the extension of Seneca Street through the existing City Hall. Although applicant may contend that the CUP alone does not justify this street extension, there is nothing in the record to support this conclusion. Moreover, the applicant has repeatedly stated that it is developing the site as an "integrated shopping center." It is inconsistent with that representation to then separate out a single aspect of that "integrated shopping center" for purposes of the analysis. Finally, applicant's response to the CUP criteria reflects that the applicant is seeking to take advantage of all of its proposed transportation improvements to satisfy the various approval criteria. Again, it would be inconsistent with this representation to then contend that the CUP does not require all of these improvements.

Therefore, the City Council should find that the complete elimination of City Hall on an adjoining property substantially limits, impairs, and precludes the use of a surrounding property for a use allowed in the underlying planning district. The City Council should deny the CUP because it is not consistent with TDC 32.030(4).

**E. The CUP does not satisfy Access Management Policy 2.**

In order to approve the CUP, the City Council must find that it is consistent with the policies and objectives of the Tualatin Community Plan ("TCP"):

"The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use."

TDC 32.030(5). The proposal is not consistent with TCP Access Management Policy 2 (TDC 11.630(5)(a)(ii)), which requires that when a property abuts an arterial and another roadway, the access for the property shall be located on the other roadway, not the arterial. In addition to accessing SW Tualatin-Sherwood Road and SW Martinazzi Avenue, the Property has direct access to the portion of SW Nyberg Street that is a designated collector. Therefore, the Property has alternative access and cannot directly access the arterial streets.

Although applicant contends that the uses in the Project actually access the proposed "street-like" Loop Road that meanders through the Project parking lot, this "access" does not constitute access for purposes of Access Management Policy 2 for at least two reasons. First, there is no indication that the Loop Road will be dedicated to the public. Rather, it will remain a private street and part of the Property. Therefore, accessing the Loop Road will not constitute "access" under TDC 31.060, which is limited to "[a] way or means of approach to provide \* \* \* entrance or exit to a property." Accordingly, access is properly gauged at the boundaries of, not within, the Property. Again, as measured at its boundaries, the Property abuts arterials and has alternate access. Therefore, the Property is not permitted to access the arterials under Access Management Policy 2.

Mayor Lou Ogden  
August 14, 2013  
Page 6

Second, because the Loop Road will not be a public street, it does not constitute a “roadway” under TDC 31.060, which is limited to “[t]he portion of street right-of-way developed for vehicular traffic.” In turn, this section requires that a “street” be located within the public right-of-way. Therefore, the Loop Road is not “another roadway” for purposes of Access Management Policy 2. Quite simply, access to the private, street-like Loop Road will not constitute access.

The City Council should find that the CUP does not satisfy Access Management Policy 2.

**3. Conclusion.**

For the reasons set forth above, neither aspect of the CUP satisfies the City’s siting or general approval criteria. Therefore, the City Council should deny the CUP. Thank you for your consideration of this request and the attached exhibits.

Very truly yours,



Steven L. Pfeiffer

Attachments

## Experience



**John Gonza**  
**the Great L**

See highlights and h

GRANDVILLE, MI -- When Cabela's announced plans for a **West Michigan location** last year, there was some disappointment the long-awaited store would be less than half the size of the outdoors retailer's megastore in Michigan.

The 225,000-square-foot store in Dundee had made the eastern Michigan community a destination for anglers, hunters and outdoorsmen. The stores are described as cavernous showrooms that recreate the outdoors with indoor mountains covered with taxidermied wildlife, an archery range, aquarium, gun library, cafe and even museums.

While these destination stores put the Sidney, Neb., outdoor retailer on the map, they weighed down the retailer's expansion.

"These big destination stores were very, very expensive to build, even with the incentives," said Gary Rimington, Cabela's real estate manager.

The downside with government incentives is that they usually came with requirements that "tied our hands."

Rimington was in Grand Rapids on Tuesday, March 5, to speak to attendees of the 11th Annual International Council of Shopping Centers (ICSC) West Michigan Alliance held at DeVos Place in Downtown Grand Rapids.

The retailer's 88,000-square-foot **Grandville store will open March 21.**

**RELATED: Take a look inside Cabela's new West Michigan store**

The 52-year-old retailer began as a mail-order business before expanding into a retail and internet business. Now a publicly-traded company with nearly 40 stores, the retailer generated revenues of \$3.11 billion in 2012.



Gary Rimington

*Courtesy photo*

Nearly five years ago, the retailer began experimenting with smaller footprints in the 80,000- to 125,000-square-foot range. These next generation stores kept many of Cabela's eye-candy features but incorporated them more efficiently to the design of the store. The mountain and aquarium was pressed against the back wall and other displays rose up to perches along the walls leaving more floor space for products.

The first downsized experiment in Allen, Texas, led to more

## More Michi



•



•



•

**EXHIBIT A**

12/16

small stores. Shrinking the store footprints reduced construction prices by 20 to 25 percent, freeing up capital to build more locations. Cabela's gross to retail margin increased to 75 percent from 66, reflecting that operational cost also dropped.

892

The company never built the 125,000-square-foot store, finding that the 80,000 and 100,000-square-foot sizes fit the concept the best, Rimington said.

Now, Cabela's is trying even smaller footprints like the Outpost store opened in **Saginaw last month**, which are targeted for towns with populations of less than 250,000 that can't support a full-sized store but are likely to have a lot of people who hunt, fish and camp.

Rimington said the experiment began when the retailer realized one of its smallest stores in Nebraska had "the highest selling per square foot in the fleet."

353

The trick for the retailer's smallest store size is changing the stores to match the season, which means during fishing season most of the inventory will be geared toward that activity. The stores feature online order kiosks where products can be shipped to the store for free.

"The firearms department is permanent but everything else is flexible," Rimington said. "They are very adaptable stores. That's why they are successful."

The retailer's board of directors has approved rolling out another 10 to 12 additional stores for a total of 28, he added.

The Grandville and Saginaw locations are part of up to eight stores scheduled to open in 2013, including two in Canada.

Email **Shandra Martinez** or follow her on **Twitter**

Blog recap White Sox suffer four  
Blog recap homer No. answer for 6-2 loss  
Live blog, Tigers avoid Can Migue injury?  
Susan J. D brings mor Snyder's a Fighting at the Michig;

See more c



Cabela's 225,000 square-foot store in Dundee.

Courtesy photo

## Best of MLive.com

**Tigers lose 4-3 to White Sox on walk-off hit in 11th...**

**Medical marijuana use restricted to 20% of home**

**A** 7455 SW Nyberg St, Tualatin, OR 97062

1. Head **west** on **SW Nyberg St** toward **SW 75th Ave**  
About 56 secs go 0.2 mi  
total 0.2 mi
2. Turn right onto **SW Martinazzi Ave** go 0.1 mi  
total 0.4 mi
3. Turn right onto **SW Boones Ferry Rd**  
About 1 min go 0.3 mi  
total 0.7 mi
4. Continue onto **SW Upper Boones Ferry Rd** go 0.3 mi  
total 1.0 mi
5. Turn right onto **SW Bridgeport Rd**  
Destination will be on the right go 0.1 mi  
total 1.2 mi

**B** **REI**  
7410 SW Bridgeport Rd, Tigard, OR 97224

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2013 Google

Directions weren't right? Please find your route on [maps.google.com](https://maps.google.com) and click "Report a problem" at the bottom left.

**EXHIBIT B**

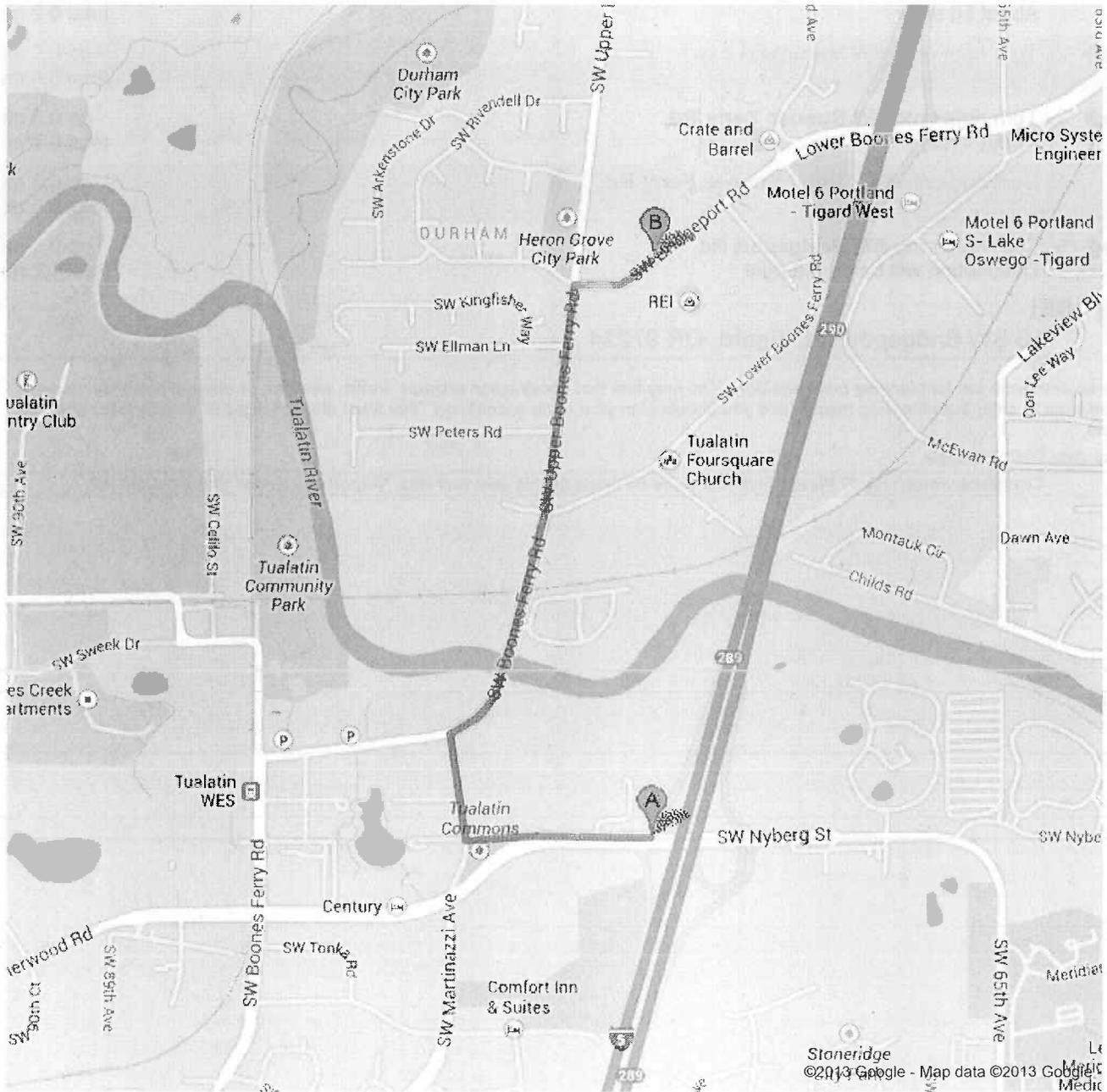


**Directions to REI**

7410 SW Bridgeport Rd, Tigard, OR 97224

**1.2 mi – about 4 mins**

Nyberg Rivers to REI



**A** 7455 SW Nyberg St, Tualatin, OR 97062

- 1. Head **west** on **SW Nyberg St** go 23 ft  
total 23 ft
-  2. Make a U-turn  
About 1 min go 0.1 mi  
total 0.1 mi
-  3. Merge onto **I-5 N** via the ramp to **Portland**  
About 1 min go 0.9 mi  
total 1.0 mi
-  4. Take exit **290** toward **Lake Oswego/Durham** go 0.3 mi  
total 1.3 mi
-  5. Turn right onto **Lower Boones Ferry Rd** go 0.3 mi  
total 1.5 mi
-  6. Make a U-turn at **63rd Ave**  
Destination will be on the right  
About 1 min go 131 ft  
total 1.6 mi

**B** **Dick's Sporting Goods**  
17799 Lower Boones Ferry Rd, Lake Oswego, OR 97035

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2013 Google

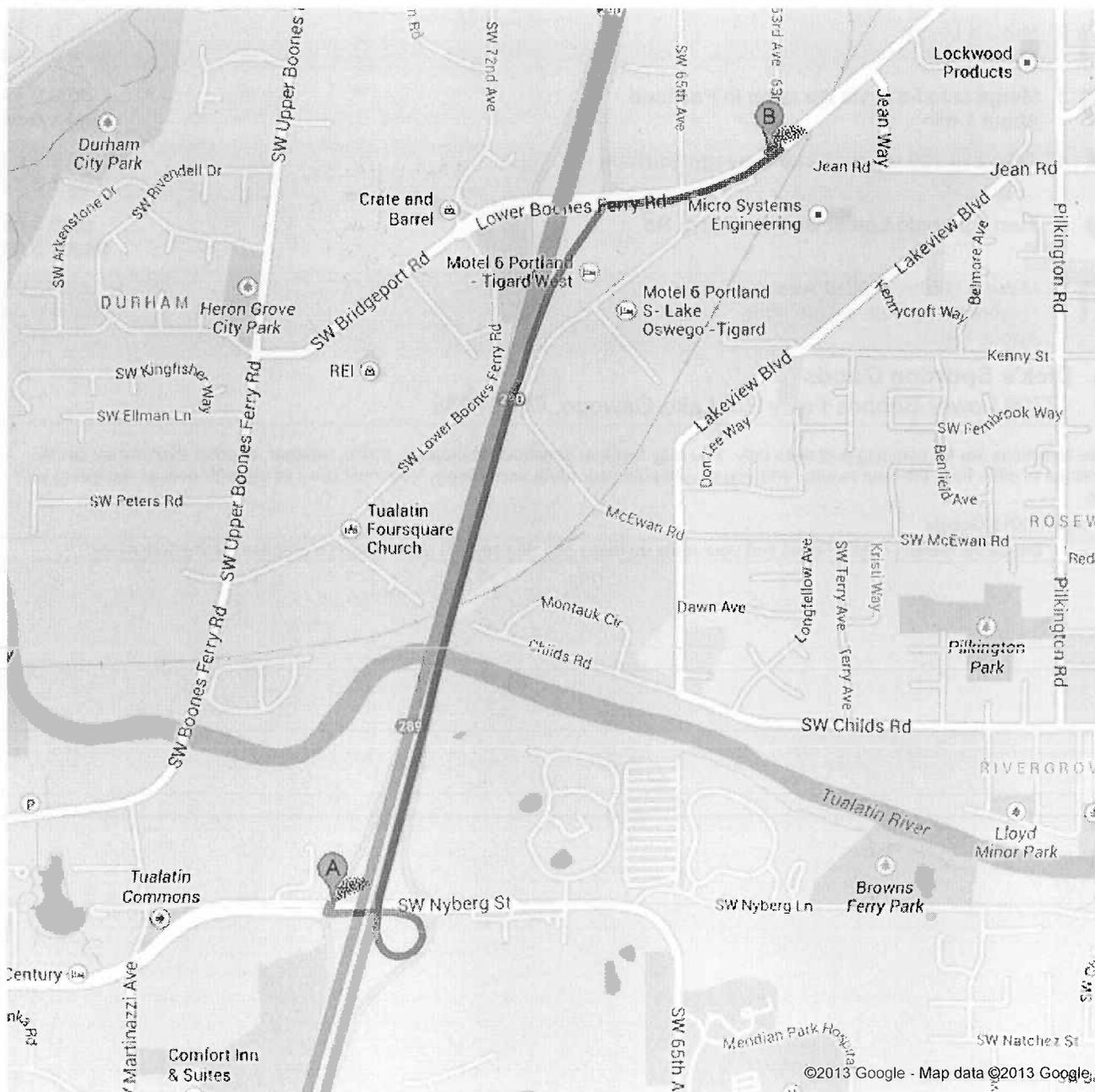
Directions weren't right? Please find your route on [maps.google.com](http://maps.google.com) and click "Report a problem" at the bottom left.



**Directions to Dick's Sporting Goods**

17799 Lower Boones Ferry Rd, Lake Oswego, OR 97035

**1.6 mi – about 5 mins**  
Nyberg Rivers to Dick's



# MACKENZIE.

DESIGN DRIVEN | CLIENT FOCUSED

July 22, 2013

Zian Properties  
Attention: Bob Durgan  
c/o Andersen Construction  
6712 North Cutter Circle  
Portland, OR 97217

Re: **Nyberg Rivers Transportation Review**  
Project Number 2120505.00

Dear Mr. Durgan:

At your request, Mackenzie has reviewed the Nyberg Rivers application materials related to traffic impacts and access. Our review focuses on the analysis requirements and standards of the City of Tualatin, Washington County, and Oregon Department of Transportation and the Transportation Impact Analysis report and supplemental material prepared for the project by Kittelson & Associates.

The highlights of our review include potential impacts along the Tualatin Sherwood Road/Nyberg Street corridor and specific impacts at the site access signal and the Boones Ferry Road intersection:

- The Tualatin Sherwood Road/Nyberg Street corridor experiences significant congestion during the PM peak hour, beginning at 90th Avenue and extending to the I-5 interchange.
- Long vehicle queues have been observed eastbound on Tualatin Sherwood Road at the Boones Ferry intersection, extending up to 1600 ft.
- Changes to the site access signal on Nyberg Street will reduce green time available for through traffic and the site and Fred Meyer driveway approaches, reducing available capacity and increasing delays and vehicle queues.

The transportation facilities impacted by the proposed Nyberg Rivers development are under the jurisdiction of the City of Tualatin, Washington County and the Oregon Department of Transportation (ODOT). Each jurisdiction has their specific operational standards.

## Oregon Department of Transportation

ODOT provided comments indicating no mitigation measures beyond those already proposed (westbound right turn lane to the site) would be required. They did indicate the analysis was not prepared in accordance with their procedures, but has determined no additional analysis is required.



P 503.224.9560 • F 503.228.1285 • W MCKNZE.COM • RiverEast Center, 1515 SE Water Avenue, #100, Portland, OR 97214  
ARCHITECTURE • INTERIORS • STRUCTURAL ENGINEERING • CIVIL ENGINEERING • LAND USE PLANNING • TRANSPORTATION PLANNING • LANDSCAPE ARCHITECTURE  
Portland, Oregon • Vancouver, Washington • Seattle, Washington

It is important to note that ODOT's analysis is specific to the operation of the ramp intersections at Nyberg Street. They have not addressed impacts to the existing mainline I-5 freeway weaving concerns, nor the limited sight distance on the southbound off-ramp.

### **Washington County**

The Tualatin Sherwood Road/Nyberg Street corridor is under Washington County's jurisdiction. The study area is limited to a 10% impact area, which effectively reduces the study area in locations of high traffic volumes and congestion, such as the Tualatin Sherwood Road /Nyberg corridor. Only the site access to Nyberg Street falls within this 10% impact area, and is all the County has commented on.

As addressed below, we have noted long queues and delays on Tualatin Sherwood Road at Boones Ferry Road, which were not reviewed by Washington County due to the limits of the study area.

At the site access to Nyberg Street, the change from common phasing on the driveways to split phasing will require more green time be provided for the driveways. This will reduce the capacity available for through traffic on Nyberg Street, as well as the Fred Meyer driveway, increasing queues and delays. The proposed changes will still meet minimum County operating standards.

### **City Of Tualatin**

It appears the city of Tualatin requested revisions be made to the traffic analysis prepared by Kittelson & Associates to address a number of concerns including trip generation, trip distribution, vehicle queuing, access locations and site circulation. The June 21 response to this request did not provide a revised analysis, but argued against many of the changes.

Conditional Use requirements include "the proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use". As addressed below, we have noted long queues and delays on Tualatin Sherwood Road, primarily from the Boones Ferry Road intersection. The analysis provided by Kittelson & Associates appears to indicate this intersection is operating at acceptable levels of delay and should not experience long queues. Our review of the analysis noted the following:

- A corridor analysis should be provided to replicate the effects of adjacent intersections on delay and vehicle queues.
- Effects of WES rail crossings should be addressed (it has been ignored in the analysis), notably for queue spillback to other intersections.
- Signal timing parameters need to be adjusted, specifically to address the longer travel times for eastbound traffic which must stop behind the rail crossing.
- Trucks have been observed slowing at the rail crossing, which will impact available capacity. This should be accounted for in the analysis.
- Traffic counts should include those vehicles arriving at the back of a queue, not just those making it through the intersection at peak times (HCM 2010 requires this in congested conditions).
- The analysis should be calibrated such that the calculated results match existing conditions

A travel time survey was conducted for eastbound flow from 95th Avenue to the I-5 northbound loop ramp, beginning at 5:08 PM on Thursday June 6, 2013. A summary of the survey findings is attached. The key findings of the survey include:

- Long delays and cycle failure
- Queues extending nearly 1600 ft from Boones Ferry Road
- Long Travel times for the corridor from 90th to I-5
- Travel speeds less than 5 mph between 90th and Boones Ferry Road

The long queues were confirmed during a survey of queue lengths and train crossings conducted by All Traffic Data Services Inc. on December 18, 2012. A Copy of the summary is attached. Queues extended more than 1600 ft for a ten minute period beginning around 5:15, and queues in excess of 800 ft lasted from around 4:00 pm to 5:40 pm. A total of 8 rail crossings occurred (all WES trains) during the two hour survey. The average duration of the crossing when traffic could not cross on Tualatin Sherwood Road was 70 seconds. At four crossings per hour, this is nearly 8% of the time, and has a significant impact on capacity and queuing.

We have received a copy of the DKS Associates review of the Nyberg Rivers TIA dated July 11, 2013, but have not had sufficient time to adequately review it. It does appear to raise some concerns about trip generation estimates, vehicle queuing and suggests Seneca Street be constructed as mitigation. A continuance of the hearing would allow us sufficient time to review this new material and provide comments.

In summary, we believe the TIA prepare by Kittelson & Associates does not properly address existing conditions, specifically at the intersection of Tualatin Sherwood Road with Boones Ferry and the rail crossing, and a finding of adequate transportation facilities cannot be made. It is possible additional mitigation would allow the intersection to operate at acceptable levels. This may include the addition of an eastbound right turn lane and/or traffic signal timing changes.

Sincerely,



Brent Ahrend, PE  
Traffic Engineer | Senior Associate

Enclosures: Travel Time Summary  
Queuing and Train Crossing Summary

c: Steve Pfeiffer – Perkins Coie  
David Holt, Dave Larson – Mackenzie

Travel Time Survey Tualatin Sherwood Road (95th Avenue to I-5 Northbound Ramp)

Thursday, June 06, 2013

intersection	Distance (ft)		crossing time	Travel Time		Speed (MPH)	
	segment	cumulative		segment	cumulative	segment	cumulative
95th	0	0	17:08:50				
90th	1150	1150	17:09:16	0:00:26	0:00:26	30.1	30.1
89th	830	1980	17:13:34	0:04:18	0:04:44	2.2	4.7
Boones	875	2855	17:15:15	0:01:41	0:06:25	5.9	5.0
Hayden's	685	3540	17:15:45	0:00:30	0:06:55	15.5	5.8
Martinazzi	675	4215	17:17:20	0:01:35	0:08:30	4.8	5.6
site driveway	880	5095	17:17:45	0:00:25	0:08:55	23.9	6.5
I-5 SB	615	5710	17:18:59	0:01:14	0:10:09	5.7	6.4
I-5 NB	560	6270	17:19:15	0:00:16	0:10:25	23.8	6.8
Total	6270		0:10:25	0:10:25		6.8	

**OBSERVATIONS AT TUALATIN-SHERWOOD ROAD/BOONES FERRY ROAD INTERSECTION DURING DECEMBER 18, 2012, WEEKDAY PM PEAK HOUR TRAFFIC COUNTS**

Queue Observations		WES Commuter Train Crossings				
Time	EB Queue Length (Approximate Feet)	Time	Train Direction	Video Timestamps (within each hour)		Duration (sec)
				Crossing Lights On	Crossing Lights Off	
4:00 PM	750					
4:03 PM	850					
4:07 PM	700	4:06 PM	NB	01:17	02:37	80
4:09 PM	500					
4:11 PM	860					
4:13 PM	840					
4:16 PM	860					
4:18 PM	800					
4:20 PM	850					
4:22 PM	520					
4:24 PM	850+	4:23 PM	SB	18:32	19:30	58
4:26 PM	850+					
4:28 PM	850					
4:30 PM	850+					
4:32 PM	850					
4:34 PM	500					
4:37 PM	850+	4:36 PM	NB	31:23	32:40	77
4:39 PM	850+					
4:41 PM	800					
4:43 PM	850+					
4:45 PM	800					
4:47 PM	850+					
4:49 PM	850+					
4:51 PM	800	4:51 PM	SB	47:54	48:45	51
4:53 PM	850+					
4:55 PM	850+					
4:57 PM	850+					
5:00 PM	850+					
5:02 PM	850+					
5:04 PM	850+					
5:06 PM	800					
5:08 PM	850+					
5:10 PM	850+	5:09 PM	NB	01:21	02:47	86
5:12 PM	850+					
5:14 PM	1600					
5:16 PM	1600+					
5:18 PM	1600+					
5:20 PM	1600+					

**OBSERVATIONS AT TUALATIN-SHERWOOD ROAD/BOONES FERRY ROAD INTERSECTION DURING DECEMBER 18, 2012, WEEKDAY PM PEAK HOUR TRAFFIC COUNTS**

Queue Observations		WES Commuter Train Crossings				
Time	EB Queue Length (Approximate Feet)	Time	Train Direction	Video Timestamps (within each hour)		Duration (sec)
				Crossing Lights On	Crossing Lights Off	
5:22 PM	1600+	5:23 PM	SB	18:47	19:53	66
5:24 PM	1600+					
5:26 PM	1320					
5:28 PM	1320					
5:30 PM	1580					
5:33 PM	950					
5:35 PM	800					
5:37 PM	920	5:38 PM	NB	33:14	34:27	73
5:39 PM	850					
5:41 PM	520					
5:43 PM	480					
5:45 PM	320					
5:47 PM	160	5:53 PM	SB	49:11	50:21	70
5:49 PM	200					
5:51 PM	100					
5:54 PM	400					
5:57 PM	200					
<b>1600</b>		<b>Mean</b>				<b>70.1</b>
<b>95th Percentile Queue</b>		<b>Median</b>				<b>71.5</b>

Note: Prior to approximately 5:12 PM, queues were measured only between Boones Ferry Road and SW 89th Avenue. Observations of 850+ feet or 1600+ feet represent queues spilling back to or beyond SW 89th Avenue and SW 90th Avenue, respectively.