



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
Monday, January 25, 2010

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.

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**Mayor Lou Ogden**

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

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

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

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

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. 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](http://www.tvctv.org).

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

*- SEE ATTACHED AGENDA -*

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

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

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

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

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

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 5 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

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

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



**A. CALL TO ORDER**

Pledge of Allegiance

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. New Employee Introductions – *Denice Ambrosio, Finance*  
*Christina Hanson, Library*

**C. CITIZEN COMMENTS**

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

**D. CONSENT AGENDA (Item Nos. 1 – 7)**

**Page No.**

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

1. Approval of the Work Session and Meeting Minutes of January 11, 2010 .....5
2. Resolution No. \_\_\_\_\_ Designating the City Council's Intent to Permit Recreational.....6  
Use of All City of Tualatin Parks and Greenways Consistent  
With Other Areas Generally Regarded as Outdoor  
Recreational Areas Under ORS 105.682
3. Resolution No. \_\_\_\_\_ Authorizing a Revocable Permit for a Private Water Line.....9  
Within the Public Right-of-Way at SW 128<sup>th</sup> Avenue
4. Resolution No. \_\_\_\_\_ Approving Submittal of Construction Excise Tax Planning.....17  
Grant Applications for the Southwest Urban Renewal Plan  
and the Highway 99W Corridor Plan Projects
5. Resolution No. \_\_\_\_\_ Affirming the Architectural Review Board's November 6, 2009 .....20  
Architectural Review – Architectural Features Findings and  
Decision with Conditions of Approval for the Stafford Hills  
Racquet Club (AR-09-08)
6. Establishment of an Ad Hoc Committee to Coordinate the 2010 Arbor Week Celebration .....24
7. Community Involvement Committee Appointments .....29
  - Terri Ward – Budget Advisory Committee

**E. PUBLIC HEARINGS – Legislative or Other**

*None.*

**F. PUBLIC HEARINGS – Quasi-Judicial****Page No.**

1. Continued Hearing to Consider an Ordinance Changing the Planning District .....30  
Designation from Low-Density Residential (RL) to Medical Center (MC) of  
Parcels of Land Located on SW Borland Road (21E 19C 1700 & 2000) and  
Amending the Community Plan Map 9-1 (PMA-09-03)  
**[CONTINUED from November 9, 2009]**

**G. GENERAL BUSINESS (Item Nos. 1 – 4)**

1. Resolution No. \_\_\_\_\_ Consenting to the Transfer of Control of the Franchisee and .....82  
of the Cable Franchise Granted to Verizon Northwest, Inc.  
to Frontier Communications Corporation with Conditions
2. Annual Report of the Tualatin Parks Advisory Committee for 2009 .....95
3. Resolution No. \_\_\_\_\_ Calling an Election on Annexation Into the Library District .....99  
of Clackamas County
4. Resolution No. \_\_\_\_\_ Approving a Development Agreement Between the City .....105  
of Tualatin and Legacy Health Systems

**H. ITEMS REMOVED FROM CONSENT AGENDA**

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


**I. COMMUNICATIONS FROM COUNCILORS****J. EXECUTIVE SESSION****K. ADJOURNMENT**



# STAFF REPORT

## CITY OF TUALATIN

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

**FROM:** Sherilyn Lombos, City Manager 

**DATE:** January 25, 2010

**SUBJECT:** APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETING OF JANUARY 11, 2010

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*[The minutes will be distributed later in the week.]*





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Nancy McDonald, Human Resources   
Debra Bullard, Human Resources 

**DATE:** January 25, 2010

**SUBJECT:** A RESOLUTION DESIGNATING THE CITY COUNCIL'S INTENT TO PERMIT RECREATIONAL USE OF ALL CITY OF TUALATIN PARKS AND GREENWAYS CONSISTENT WITH OTHER AREAS GENERALLY REGARDED AS OUTDOOR RECREATIONAL AREAS UNDER ORS 105.682.

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### ISSUE BEFORE THE COUNCIL:

The Council will consider whether to formally designate and permit recreational use in City of Tualatin current and future parks, greenways and other areas general regarded as outdoor recreational areas.

### RECOMMENDATION:

Staff recommends Council designate and permit recreational use in these areas.

### EXECUTIVE SUMMARY:

Oregon Revised Statute 105.682 grants recreational immunity to property owners who allow public use of land for recreational purposes, woodcutting, or harvest of special products. This statute applies to City of Tualatin parks, greenways and other outdoor recreational areas open for recreational use to the public.

At times the City has claims made against it for injuries or losses sustained while citizens are utilizing park land and/or facilities. These claims are processed by the City's insurance carrier, City County Insurance Services, and denials can be taken to civil court.

City County Insurance Services Best Practices request a formal resolution by the governing body formally designating recreational properties.

**OUTCOMES OF DECISION:**

Recreational immunity can be claimed by the City in cases where the claimant takes the case to civil court. However presentation of a formal designation in the form of a Resolution by City Council may result in summary judgment in the City's favor, reducing future legal fees.

**FINANCIAL IMPLICATIONS:**

If adopted, the City may incur reduced legal fees, and lower insurance rates for following best practices.

**Attachment:** A. Resolution

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION DESIGNATING THE CITY COUNCIL'S INTENT TO PERMIT RECREATIONAL USE OF ALL CITY OF TUALATIN PARKS AND GREENWAYS CONSISTENT WITH OTHER AREAS GENERALLY REGARDED AS OUTDOOR RECREATIONAL AREAS UNDER ORS 105.682

WHEREAS the City Council of the City of Tualatin is designating and permitting recreational use of all City of Tualatin Parks and greenways consistent with ORS 105.682, and

WHEREAS the City is the owner of these lands.

BE IT RESOLVED BY THE CITY OF TUALATIN, that:

Section 1. The City of Tualatin claims recreational immunity for all City-owned parks, greenways and other areas generally regarded as outdoor recreational areas as allowed under ORS.105.682.

INTRODUCED AND ADOPTED this 25<sup>th</sup> day of January, 2010.


CITY OF TUALATIN, Oregon

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

Approved as to legal form:

  
City Attorney

Resolution No. \_\_\_\_\_





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *SL*

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

**DATE:** January 25, 2010

**SUBJECT:** RESOLUTION AUTHORIZING A REVOCABLE PERMIT FOR A  
PRIVATE WATER LINE WITHIN THE PUBLIC RIGHT-OF-WAY AT  
SW 128<sup>TH</sup> AVENUE

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### ISSUE BEFORE THE COUNCIL:

Whether the Tualatin City Council should adopt a Resolution authorizing a Revocable Permit for continued use of a private water line owned by Grimm's Fuel Company within a public right-of-way.

### RECOMMENDATION:

Staff recommends that the Tualatin City Council adopt the attached Resolution.

### EXECUTIVE SUMMARY:

- This is a request of the City Council to authorize a Revocable Permit for the continued use of a private water line by Grimm's Fuel Company for business operations in affiliation with roadway improvement construction.
- The Tualatin Development Commission is constructing SW 128<sup>th</sup> Avenue as part of the SW Leveton Drive Extension Project, a project listed in the Leveton Tax Increment District Plan.
- During the right-of-way acquisition process it was determined that a private water line owned by Grimm's Fuel Company conflicts with the location of public right-of-way.
- Commission staff and consultants have met with representatives of Grimm's Fuel Company and reviewed the roadway design and location of the private water line.
- A revocable permit was requested by Grimm's Fuel Company as a possible solution to maintain a private water line within public right-of-way.

- Staff has concluded that this request is an acceptable and safe solution for the proposed construction of SW 128<sup>th</sup> Avenue if the water line is properly located and incased in steel piping per City of Tualatin standards to ensure water line protection.
- Currently the water line is connected to a private well on Grimm's Fuel Company property and used for irrigation purposes that support business operations.
- Grimm's Fuel Company claims that connecting to the public water system, as what is typically required by the City, would be cost prohibitive given the level of water usage required by their operations.
- As discussed by staff, a Revocable Permit serves as the only potential for allowing this scenario and should be contingent upon development of Grimm's Fuel Company property.
- The property owner, Grimm's Fuel Company, will be responsible for repairing and/or replacing the water line, right-of-way or any improvements damaged during the use of this water line.
- Grimm's Fuel Company shall abandon the water line upon determination by the City that development has or is occurring on property adjacent to the right-of-way.

**OUTCOMES OF DECISION:**

Approval of the request for a Revocable Permit for use of a private water line in the public right-of-way will result in the following:

1. Enabling the Tualatin Development Commission to proceed with and complete the right-of-way acquisition transaction associated with Grimm's Fuel Company as part of the Leveton Drive Extension Project.
2. Prevention of the need to redesign and relocate the water line outside of the right-of-way to accommodate road construction, which would also result in the elimination of the necessity to re-address the issue when the time comes to construct Cummins Drive.
3. The opportunity for a positive and business friendly public/private partnership.

Denial of the request for a Revocable Permit for a construction staging area will result in the following:

1. Requiring Grimm's Fuel Company abandon the private water line or connect to the public water system.
2. Placing the current right-of-way acquisition approach with Grimm's Fuel Company at risk and causing the Commission to evaluate alternate approaches for acquiring the needed land to construct the roadway.
3. Potentially having to redesign the roadway delaying the project and incurring additional costs.
4. Potentially redesigning the water line delaying the project and incurring additional costs.

**ALTERNATIVES TO RECOMMENDATION:**

Alternatives to the staff recommendation for approval of a Revocable Permit for a private water line in public right-of-way are as follows:

- Direct the project's engineering consultant to redesign the water line to accommodate for roadway construction.
- Direct the project's engineering consultant to redesign the roadway in a manner that does not conflict with the private water line.
- Require Grimm's Fuel Company to abandon the water line or connect to the public water system.

**FINANCIAL IMPLICATIONS:**

The Commission may incur costs associated with the additional steel casing to house the water line. The estimate for the steel casing and its installation is not yet available. The property owner, Grimm's Fuel Company, will pay all other necessary costs associated with the permit.

**PUBLIC INVOLVEMENT:**

Public involvement is not required as part of this action.

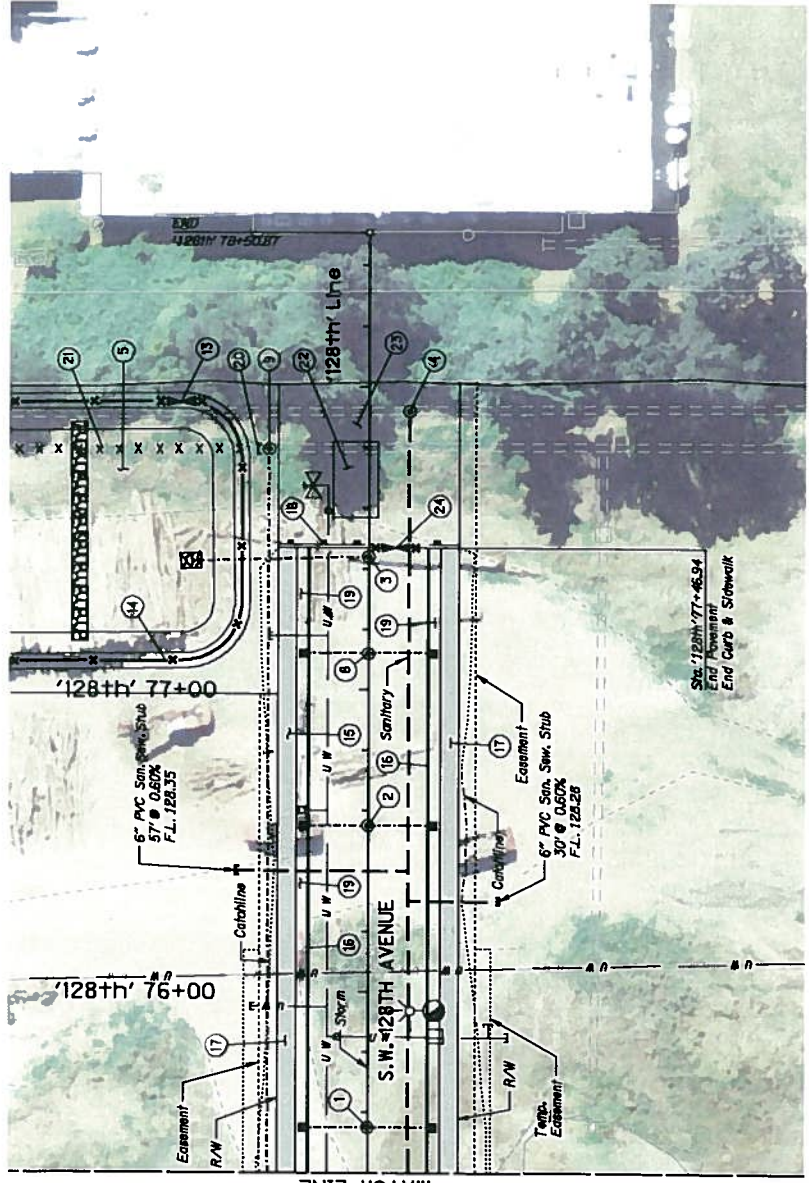
**Attachments:** A. Map  
B. Resolution with Exhibit

ENGLISH

# CH2MHILL

- 13 Const. Black Vinyl Loading Gate - 10' Wide Link Fence - 370' (For Limits, See Sht. 2C)
  - 14 Const. Conc. Driveway - 920 Sq. Ft. (For Detail, See COT Std. Dwg. No. 442)
  - 15 Const. Conc. Curb And Gutter (For Detail, See COT Std. Dwg. No. 470)
  - 16 Const. Conc. Sidewalk (For Detail, See COT Std. Dwg. No. 475)
  - 17 Const. Street Barricade (For Detail, See COT Std. Dwg. No. 510)
  - 18 Const. Landscaped Planter (See Sht. 2 And Planting Plans)
  - 19 Plug Exp. 18" Plastic Storm Pipe
  - 20 Remove Exp. 18" Pipe For Additional Limits, See Sht. 2C-3
  - 21 Const. Aggregate Maintenance Pad - 25'x15'x1'
  - 22 Grade Aggregate Base Course Across Pad For Maintenance Vehicles 35'x20' Place 6" Nom. Comp. Fill.
  - 23 Const. Black Vinyl Loading Gate - 20' Wide
- Sta. '128th 75+55.00, Const. Conc. Manhole 48" CNS Flat Top Rim El. 134.50  
Sta. '128th 75+55.00, 20' L.I. & R.I. Const. Curb Inlet 30-Inch - 2  
Inst. 12" D.I. Sew. Pipe - 40' (For Details, See COT Std. Dwg. Nos. 011, 030, 031, 032, 041 & CNS 040)
- Sta. '128th 76+55.00, Const. Conc. Manhole 48" CNS Flat Top Rim El. 133.06  
Sta. '128th 76+55.00, 20' L.I. & R.I. Const. Curb Inlet 30-Inch - 2  
Inst. 12" D.I. Sew. Pipe - 40' (For Details, See COT Std. Dwg. Nos. 011, 030, 031, 032, 041 & CNS 040)
- Sta. '128th 77+44.00, Const. Conc. Manhole 48" CNS Flat Top Rim El. 133.74  
Inst. 18" D.I. Sew. Pipe - 53' (For Details, See COT Std. Dwg. Nos. 011, 030, 031, 032, 041 & CNS 040)
- Sta. '128th 77+92.02, 13.5' R.I. Const. Conc. Manhole 48" CNS Flat Top Rim El. 133.69  
Const. Curb Inlet 30-Inch - 2  
Inst. 12" D.I. Sew. Pipe - 40' (For Details, See COT Std. Dwg. No. 010, 030, 031, 032)
- Const. Extended Dry Pond (For Detail, See Sht. 2C-2-1)
- Sta. '128th 77+12.00, 13.5' R.I. Const. Conc. Manhole 48" CNS Flat Top Rim El. 133.69  
Inst. 18" D.I. Sew. Pipe 32'  
Inst. 12" D.I. Sew. Pipe 40' (For Details, See COT Std. Dwg. No. 010, 030, 031, 032 & CNS 040)
- Sta. '128th 77+79.53, 33.0' L.I. Const. Conc. Manhole 48" CNS Flat Top Rim El. 134.95  
Inst. 18" Curb Sew. Pipe 496' (For Details, See COT Std. Dwg. No. 010, 030, 032)

For Extended Dry Pond Details, See Sht. 2C-2



<b>TUALATIN DEVELOPMENT COMMISSION</b>	
<b>S.W. LEVETON DRIVE</b> S.W. 120TH AVENUE TO S.W. 130TH AVENUE	
WASHINGTON COUNTY	
Reviewed By - Dave Shannon Designed By - Darran Appenstiel Drafted By - Practitioner Perito-Rainier	
SHEET NO. <b>8</b>	
<b>ROADWAY AND DRAINAGE PLAN</b> STA. '128th' 75+40 TO STA. '128th' 76+00	
ROADWAY ENGINEER	
DRAINAGE ENGINEER	

- Notes:
1. Maintain Access To Adjacent Properties At All Times
  2. For Easement Plans, See Sheet 128th Ave WA-6
  3. For Illumination Plans, See Sheets 128th Ave IL-5

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING A REVOCABLE PERMIT FOR A PRIVATE  
WATER LINE WITHIN THE PUBLIC RIGHT-OF-WAY AT SW 128<sup>TH</sup>  
AVENUE

WHEREAS the Tualatin Development Commission is constructing SW  
128<sup>th</sup> Avenue as part of the SW Leveton Drive Extension Project, a project listed  
in the Leveton Tax Increment District Plan; and

WHEREAS during the right-of-way acquisition process it was determined  
that a private water line owned by Grimm's Fuel Company conflicts with the  
location of public right-of-way; and

WHEREAS Commission staff and consultants have met with  
representatives of Grimm's Fuel Company and reviewed the roadway design and  
location of the private water line; and

WHEREAS a revocable permit was requested by Grimm's Fuel Company  
as a possible solution to maintain a private water line within public right-of-way;  
and

WHEREAS staff has concluded that this request is an acceptable and safe  
solution for the proposed construction of SW 128<sup>th</sup> Avenue if the water line is  
properly located and incased in steel piping.

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

Section 1. The Mayor is authorized to sign the revocable permit, Exhibit  
A.

INTRODUCED AND ADOPTED this 25<sup>th</sup> day of January, 2010.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY \_\_\_\_\_  
City Recorder

Resolution No. \_\_\_\_\_

## **AGREEMENT FOR REVOCABLE PERMIT**

The CITY OF TUALATIN ("Owner") grants to Grimm's Fuel Company ("Permittee"), a revocable permit for the use of an existing private water line in the public right-of-way of SW 128<sup>th</sup> Avenue (the "property") located in the City of Tualatin, Washington County, State of Oregon, for the purposes and subject to the conditions stated:

The general location of the area is shown on Exhibit "A", which is attached and incorporated by this reference. This permit is granted to the Permittee for the specific and limited purpose of continued use of a private water line for Grimm's Fuel Company business operations in affiliation with roadway improvement construction on Owner property.

This permit is granted subject to the following conditions:

- (1) Permittee shall keep and maintain the area free from all conditions that create a risk of injury or damage to the permit area and to those lawfully using the area. Permittee shall indemnify and hold Owner harmless from any and all claims for injury, damage or loss of whatsoever nature arising out of or related to the existence of the water line in the permit area and/or to the use of the permit area.
- (2) Permittee shall locate the private water line and provide a diagram or map that delineates the waterline's location.
- (3) Owner is installing a steel casing in which the private waterline will be located.
- (4) If damage occurs to the water line, right-of-way or any improvements as a result of the waterline not being properly located in conjunction with any proposed construction or Franchise utility work, the Permittee accepts full responsibility for the repair and/or replacement of the waterline, right-of-way or improvements therein.
- (5) Permittee shall agree to abandon the private waterline when development will occur or is occurring, as determined by the Owner and/or defined by Clean Water Services in Section 1.02.14, Order 4-9 of Clean Water Services Code.

This Permit may be revoked by the Owner upon:

- (a) A determination of the Owner that the Permittee has violated or failed to satisfy any of the conditions of this permit, or
- (b) Determination by the Owner that the permit area is required for public purposes. In such case, Owner shall provide written notice of revocation that shall be effective without further action of either party, 120 days after the date of the notice.
- (c) Determination by the Owner that development has or is occurring.

- (d) If the Owner declares a revocation of this permit under subparagraph (a), the written declaration shall be mailed to Permittee at Permittee's address shown on the records of the Washington County Department of Assessment and Taxation. The revocation shall be effective ten (10) days after the date of the written declaration. All rights and interests of the Permittee shall automatically terminate upon the effective date of the revocation.
- (e) Prior to the effective date of revocation of this permit, the Permittee, at its expense, shall cause the waterline to be removed from the permit area if so requested in the Declaration of Revocation and re-establish area to its pre-existing condition.

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

This Permit is granted for the benefit of the property and shall bind the heirs and successors in interest of the Permittee to the conditions of this Permit.

The parties have executed this instrument on the date indicated below.

CITY OF TUALATIN, Oregon

Grimm's Fuel Company, LLC.

BY \_\_\_\_\_  
Mayor

By \_\_\_\_\_

ATTEST:

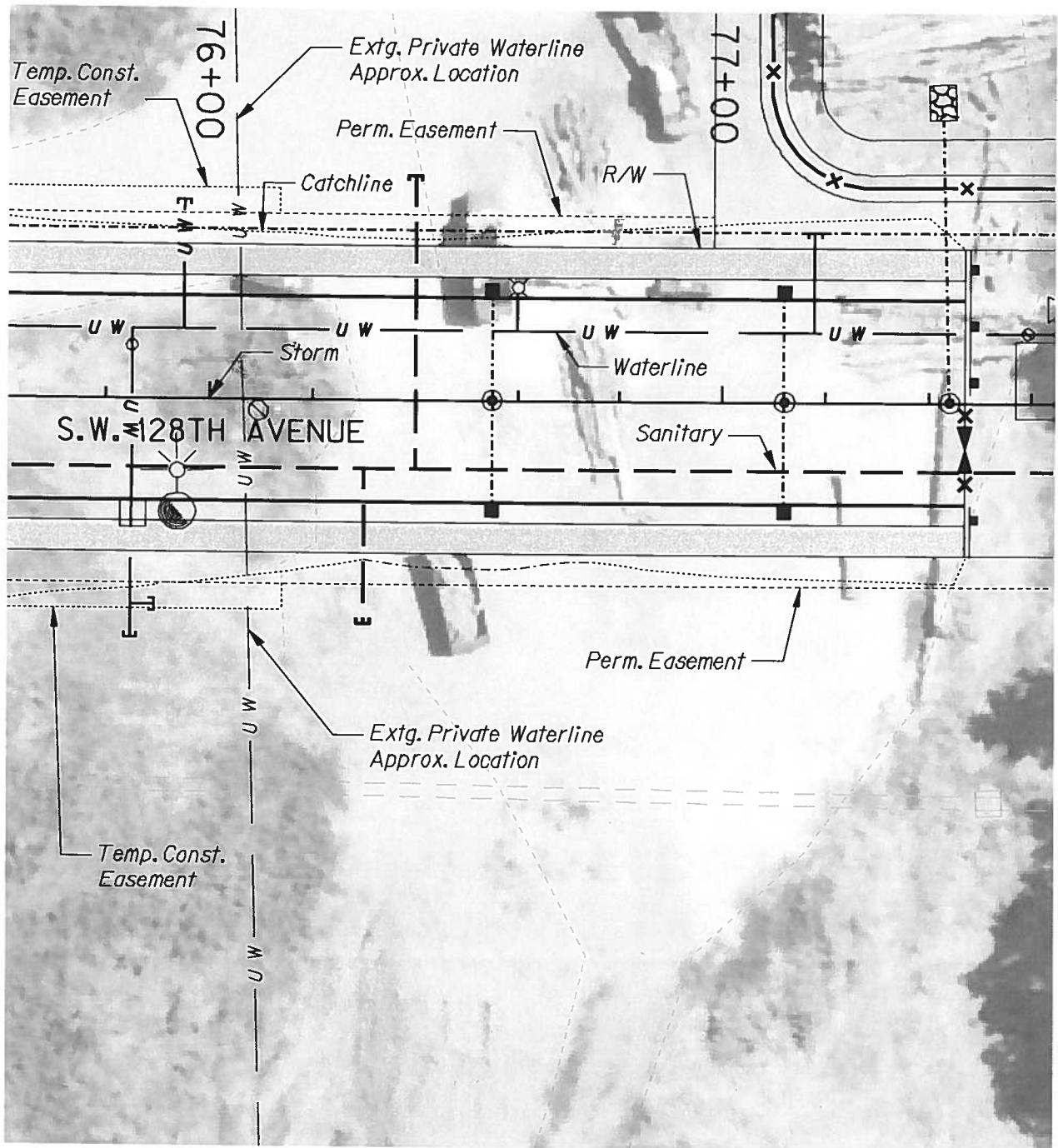
DATE \_\_\_\_\_

BY \_\_\_\_\_  
City Recorder

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY





## Leveton Extension Project Grimm's Fuel Agreement









# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Doug Rux, Community Development Director   
Aquilla Hurd-Ravich, Senior Planner   
Cindy Hahn, Assistant Planner 

**DATE:** January 25, 2010

**SUBJECT:** RESOLUTION APPROVING SUBMITTAL OF CONSTRUCTION  
EXCISE TAX PLANNING GRANT APPLICATIONS FOR THE  
SOUTHWEST URBAN RENEWAL PLAN AND THE HIGHWAY  
99W CORRIDOR PLAN PROJECTS

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### ISSUE BEFORE THE COUNCIL:

City Council consideration of adopting a resolution approving submittal of Construction Excise Tax (CET) planning grant applications to prepare the Southwest Concept Plan (SWCP) Urban Renewal Plan and the Highway 99W Corridor Plan.

### RECOMMENDATION:

Staff recommends that Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

- This action does not require a public hearing.
- At a December 7, 2009 Special Work Session, Council reviewed information about the Highway 99W Corridor and discussed whether or not to add the Corridor as a focus area in the Council's Local Aspirations. Council decided at the work session to add the Corridor as a focus area and gave Staff direction to pursue submittal of a Letter of Intent (LOI) to apply for CET planning grant funding to prepare a land use plan for the Highway 99W Corridor. On December 8, 2009, staff submitted a LOI to Metro to prepare such a plan, and on January 5, 2010, staff received a letter from Metro inviting the City to submit a full application for the Highway 99W Corridor Plan. The total project costs are approximately \$214,200 and the grant request is for \$181,000. The difference of

\$33,200 is the City's in-kind contribution in the form of staff time. CET grant funds for the Highway 99W Corridor Plan would be used to hire consultants to facilitate public involvement, assist with formulating design concepts and preparing the plan, conduct transportation and infrastructure analyses, and provide assistance in coordinating with ODOT and other affected agencies. The planning process would occur over a 12-14 month period.

- Staff submitted a LOI to fund development of an Urban Renewal Plan for the Southwest Concept Plan (SWCP) area in December 2009 and was invited by Metro on January 5, 2010, to submit a full application for CET planning grant funding. The total project costs are approximately \$113,000 and the grant request is for \$70,000. The difference of \$43,000 is the City's in-kind contribution in the form of staff time. CET funding will be used to hire a consultant to conduct a feasibility study, create an urban renewal plan and consult with legal counsel who specializes in urban renewal law. The 2005 draft SWCP identified strategies to implement the plan including funding required to design and construct new or improved transportation and public utility infrastructure. One such strategy is a tax increment district that will allow the City to assist with construction of vital infrastructure such as roads, sewer, water and storm drainage systems and pedestrian trails that will lead to the development of industrial employment lands.
- If the City is awarded the CET grants, then funds will be distributed in June 2010.

#### **OUTCOMES OF DECISION:**

If the City Council approves the resolution, staff will submit CET planning grant applications to Metro to prepare the Southwest Concept Plan (SWCP) Urban Renewal Plan and the Highway 99W Corridor Plan. The applications must include evidence of support from the governing body.

If the City Council does not approve the resolution, staff will not submit CET planning grant applications to Metro.

#### **FINANCIAL IMPLICATIONS:**

Staff resources have been budgeted in Fiscal Year 09/10 to work on the projects.

**Attachments:** A. Resolution

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING SUBMITTAL OF CONSTRUCTION EXCISE TAX  
PLANNING GRANT APPLICATIONS FOR THE SOUTHWEST URBAN  
RENEWAL PLAN AND THE HIGHWAY 99W CORRIDOR PLAN PROJECTS

WHEREAS the City of Tualatin is beginning a process to plan two areas  
including the Southwest Urban Renewal Plan and the Highway 99W Corridor Plan; and

WHEREAS Metro has funds from the Construction Excise Tax to grant to cities  
for planning purposes; and

WHEREAS it is in the best interest of the City to submit the Construction Excise  
Tax (CET) planning grant applications to prepare the Southwest Urban Renewal Plan  
and the Highway 99W Corridor Plan; and

WHEREAS the deadline for submitting the grant applications is January 29,  
2010.

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

Section 1. The City Council approves and supports the grant applications to  
Metro for planning the Southwest Urban Renewal Plan and the Highway 99W Corridor  
Plan.

INTRODUCED AND ADOPTED this 25th day of January, 2010.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

APPROVED AS TO LEGAL FORM


  
CITY ATTORNEY




# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Brenda Braden, City Attorney 

**DATE:** January 25, 2010

**SUBJECT:** A RESOLUTION AFFIRMING THE ARCHITECTURAL REVIEW BOARD'S DECEMBER 18, 2009 ARCHITECTURAL REVIEW—ARCHITECTURAL FEATURES FINDINGS AND DECISION WITH CONDITIONS OF APPROVAL FOR THE STAFFORD HILLS RACQUET CLUB (AR-09-08)

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### ISSUE BEFORE THE COUNCIL:

The Council will consider a resolution that would affirm the Architectural Review Board's decision in AR-09-08 as modified by the Council by adding conditions for the Stafford Hills Racquet & Fitness Club .

### RECOMMENDATION:

Staff recommends that the City Council approve the resolution affirming AR-09-08 as modified.

### EXECUTIVE SUMMARY:

On January 11, 2010 the Council held a quasi-judicial public hearing upon a request for review by Douglas Rasmussen of the Architectural Review Board's decision in AR 09-08. At the conclusion of the public hearing, the Council affirmed the Board's decision with modifications relating to the windows on the east side of the proposed racquet club building and to parking management for special events with Mayor Ogden, Councilors Barhyte, Maddox, Beikman and Davis voting in favor, Councilor Truax opposed, and Councilor Harris recused. Council directed Staff to bring back a resolution affirming AR-09-08 with the modifications.

**ALTERNATIVES TO RECOMMENDATION:**

Council may modify the conditions of approval, if supported by the findings.

**FINANCIAL IMPLICATIONS:**

Revenue for Architectural Review has been budgeted for Fiscal Year 09/10.

**PUBLIC INVOLVEMENT:** The applicant conducted neighborhood meetings prior to submitting this application for a conditional use permit.

**Attachments:**

Resolution

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AFFIRMING THE ARCHITECTURAL REVIEW BOARD'S  
NOVEMBER 6, 2009 ARCHITECTURAL REVIEW – ARCHITECTURAL  
FEATURES FINDINGS AND DECISION WITH CONDITIONS OF APPROVAL  
FOR THE STAFFORD HILLS RACQUET CLUB (AR-09-08)

WHEREAS a public hearing was held before the City Council of the City of Tualatin on January 11, 2010, upon a request for review by Douglas Rasmussen of the Architectural Review Board's (ARB) Decision for the Stafford Hills Racquet Club in AR-09-08; and

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

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

WHEREAS after the conclusion of the public hearing the Council voted to affirm the Architectural Review Board's November 6, 2009 Architectural Review-Architectural Features Findings and Decision with modifications, with Mayor Ogden, Councilors Barhyte, Beikman, Maddux and Davis voting in favor, Councilor Truax opposed and Councilor Harris not participating; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes and adopts as its Findings of Fact the Architectural Review Board's findings with modifications stated below, contained within the staff report dated January 11, 2010, marked "Exhibit C," which is attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the architectural review features requirements of the Tualatin Development Code relative to the decision have been satisfied.

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

Section 1. The Architectural Review Board's November 6, 2009 Decision on Architectural Review 09-08 is affirmed with the following modifications:

A. To protect the privacy of the neighboring properties, the east windows in the multipurpose and teen rooms shall be translucent from the line of sight to the lowest edge of the window panes but may be clear above the line of sight to allow natural light in those rooms. Transom windows may be used above the line of sight to allow for natural light and circulation.

B. When the property owner plans a special event that may cause the parking capacity on the property to be exceeded, the owner shall coordinate with the City sufficiently in advance to establish a parking plan for handling the overflow parking for that event.

C. The landscaping plan as approved by the Architectural Review Board is affirmed.

INTRODUCED AND ADOPTED this 25th day of January, 2010.

CITY OF TUALATIN, Oregon

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

ITEMS REFERRED TO AS EXHIBITS IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL. THEY HAVE BEEN OMITTED FROM THE COUNCIL PACKET AS A CONSERVATION MEASURE. IF THESE EXHIBITS NEED TO BE EXAMINED, PLEASE CONTACT THE CITY RECORDER.





## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Paul Hennon, Community Services Department *Paul Hennon*  
Carl Switzer, Parks and Recreation Coordinator *Carl R. Switzer*

**DATE:** January 25, 2010

**SUBJECT:** ESTABLISHMENT OF AN AD HOC COMMITTEE TO  
COORDINATE THE 2010 ARBOR WEEK CELEBRATION

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### ISSUE BEFORE THE COUNCIL:

Council will consider the establishment of an Ad Hoc Committee to coordinate the 2010 Arbor Week Celebration to increase public awareness and education around the contribution that trees have in our lives.

### RECOMMENDATION:

The Tualatin Parks Advisory Committee (TPARK) recommends the Council form an Ad Hoc Committee to Coordinate the 2010 Arbor Week Celebration and appoint a Councilor to participate on the Committee.

### EXECUTIVE SUMMARY:

April 4 -10, 2010, marks the City of Tualatin's 23<sup>rd</sup> annual Arbor Week celebration. Since 1987, Tualatin has celebrated Arbor Week with tree planting ceremonies and special tree-themed activities and events. The purpose of Arbor Week is to increase public awareness and education around the contribution that trees have in our lives.

An Arbor Week observance and proclamation are mandatory requirements of the Tree City USA designation.

The Arbor Week celebration entails several months of planning and preparation. A draft timeline is attached.

The proposed Ad Hoc Committee to coordinate the 2010 Arbor Week Celebration is comprised of the following membership:

1. Connie Ledbetter, TPARK
2. Tualatin City Council Representative
3. Julie Wickman, Library Representative
4. Chanda Stone, Operations Department Representative
5. John Karsseboom – The Garden Corner
6. Peter Torres, Arborist, Multnomah Tree Care
7. Kristin Ramsted, Oregon Department of Forestry
8. Maddie Willon, Youth Advisory Council
9. Malory Turner, Youth Advisory Council

#### **FINANCIAL IMPLICATIONS:**

The celebration expenses are minor, included in the adopted FY09/10 Community Services Department budget, and are leveraged with in-kind donations from other organizations and local businesses.

#### **DISCUSSION**

The Arbor Week Celebration is a prime opportunity for the City to further its public involvement and education efforts, including the following information.

#### **VISION STATEMENT from 2001 Urban Forestry Management Plan:**

Tualatin is a community often identified and remembered through our trees.

The urban forest provides a framework for the community through our greenways, wetlands, open spaces, remnant forests and parks, connected by thousands of street trees and the treed corridors of our creeks.

Tualatin builds and grows with trees in mind. Development in Tualatin has sought to create and preserve a balance between the natural and urban world. For over two decades, Tualatin has been recognized by the National Arbor Day Foundation for our efforts to preserve, care for, and enhance the urban forest.

Tualatin sees the health of the urban forest as vital to the sense of well being we enjoy here by providing stable and adequate funding to maintain and enhance the urban forest resource.

The urban forest in Tualatin gives back much more than it receives. It purifies and cools our water, cleans our air, gives shelter and food to wildlife and fish, shades us from summer heat and blocks cold winter winds, increases the value of our homes, and fosters a sense of community and place. Tualatin has been, and will continue to be, committed to caring for the urban forest.

## THE BENEFITS OF TREES

The benefits trees provide are endless. In general, trees are planted to provide shade to a location, restore the environment or give extra beauty to a site. However, trees provide benefits beyond these common examples. The benefits trees provide can be divided into four simple categories: social, community, environmental, and economic.

Trees provide social benefits by making the places we live more pleasant and appealing. People are known to feel more at ease around trees, and it is common to hear reports of hospital patients experiencing easier recoveries when their rooms are located within sight of trees. Trees help provide a “sense of place” within a community, that binds residents together. This is evidenced by the resistance often exhibited towards the removal of trees in a community.

Community benefits that trees provide include the screening of objectionable views, increasing privacy, reducing glare and reflection, directing pedestrian traffic, decreasing auto speeds, or complementing architecture. Although many trees are located on private property, their size often makes them a part of the community as a whole.

Trees benefit the environment around us by improving the air we breathe, cooling warm urban areas, increasing wildlife habitat, conserving and purifying water, and moderating the effects of the sun, wind and rain. By planting and caring for trees, we return to a more natural environment.

Trees can also provide significant economic benefits. These can be realized both directly and indirectly. The direct benefits are many times linked to energy cost reductions. For instance, a properly shaded home can cost less to cool in warm summers. Also, homes surrounded by trees can sometimes realize an increase in property values of 5-20% versus a non-landscaped home.

Some of the more indirect economic impacts can be tied to how a region benefits from a healthy urban forest. Storm water is a good example of how healthy trees can reduce costs to an entire region or community. It is a commonly supported fact that treed areas help reduce the amount of polluted runoff or erosion that reaches a public storm water system. This can translate to cost savings in not having to build larger treatment facilities or pay for costly erosion cleanup.

Trees will give back many times what they receive through the investment made in their planting, maintenance, and care.

## PUBLIC INVOLVEMENT AND EDUCATION PROGRAMS

The City of Tualatin has been recognized as a Tree City USA for more than two decades and has received numerous Growth Awards through that same program for efforts in urban forestry education, preservation, planting, maintenance, and planning. The City currently sponsors activities that increase the level of knowledge and awareness of residents and community leaders about urban forestry in Tualatin. Some of the programs and activities include:

- Arbor Week activities
- Heritage Tree program
- Famous and Historic Tree plantings
- Tree City USA program participation
- Community volunteer program
- Public education and outreach on urban forestry issues
- “Tree for a Fee” tree replacement program to replace street trees that are removed and to fill open spaces

**Attachments:** A. 2010 Arbor Week Planning Timeline

## 2010 Arbor Week Planning Timeline

January 12	TPARK recommends Council establish an ad hoc committee to coordinate Arbor Week celebration
January 25	City Council establishes ad hoc committee
February 12	<b>Ad hoc committee meeting*</b>
March 9	TPARK meeting - Ad hoc committee report - Review of Arbor Week proclamation
March 12	<b>Ad hoc committee meeting*</b>
March 22	City Council presentation ceremony for Tree City USA, Heritage Trees, and reading of Arbor Week Proclamation
April 4 -10	<b>Arbor Week</b>
April 13	TPARK meeting - Arbor Week report

\*Arbor Week ad hoc Committee meetings are from 4:00 p.m. to 5:00 p.m. at the Tualatin/Durham Senior Center Multi-Purpose Room in beautiful Tualatin Community Park at 8513 SW Tualatin Road.



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Maureen Smith, Executive Assistant *MS*

**DATE:** January 25, 2010

**SUBJECT:** COMMUNITY INVOLVEMENT COMMITTEE APPOINTMENTS

---

### ISSUE BEFORE THE COUNCIL:

The City Council approve appointments to various Advisory Committees and Boards.

### RECOMMENDATION:

Staff recommends the City Council approve the Community Involvement Committee recommendations and appoint the below listed individuals.

### EXECUTIVE SUMMARY:

On January 4, 2010, the Community Involvement Committee met and interviewed citizens interested in participating on City Committees and Boards. The Committee recommends appointing the following individual:

<b>Individual</b>	<b>Committee/Board</b>	<b>Term</b>
Terri Ward	Budget Advisory Committee	Regular Term Ending 12/31/12

### FINANCIAL IMPLICATIONS:


Not applicable.





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

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

**DATE:** January 25, 2010

**SUBJECT:** ORDINANCE CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) OF PARCELS OF LAND LOCATED ON SW BORLAND ROAD (21E 19C 1700 & 2000), AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-03)

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### ISSUE BEFORE THE COUNCIL:

City Council consideration regarding the request for a Plan Map Amendment (PMA) to change the Planning District designation from Low-Density Residential (RL) to Medical Center (MC) of parcels of land located at 6001, 6021, 6031, and 6041 SW Borland Road (21E 19C 1700 & 2000) and to the centerline of the abutting public right-of-way (ROW) of SW Borland Road.

### RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) did not have a voting quorum on October 8, 2009, and did not review PMA-09-03.

Staff recommends that the City Council consider the staff report and supporting attachments and provide direction.

### EXECUTIVE SUMMARY:

- This matter is a proposed Plan Map Amendment to the Community Plan Map 9-1 of the Tualatin Development Code (TDC).
- The City Council will consider the matter in a quasi-judicial public hearing.
- This hearing was continued from the initial public hearing for the Legacy Health Systems (LHS) Plan Map Amendment (PMA-09-03) held at the November 9, 2009 Council Meeting (See Attachment I-November 9, 2009 Meeting Minutes). The hearing was continued to allow time for Legacy and City staff to begin discussions and try to create a Development Agreement that would address

issues raised by neighbors and the Council. The public hearing was continued to January 25, 2010 and City Staff and Legacy began work on a Draft Development Agreement. On January 14, 2010, the Council reviewed a Draft of the agreement in Work Session. Based on the Work Session and further discussions with Legacy, the proposed Development Agreement will be presented to the Council on January 25, 2010 for consideration as a separate agenda item.

- The applicant is Ms. Thomasina Gabriele of Gabriele Development Services on behalf of the property owner, Legacy Health System (LHS). Mr. Larry Hill represents Legacy Health System.
- The subject properties are two undeveloped parcels totaling 19.6 acres located at 6001, 6021, 6031, 6041 SW Borland Road in the RL (Low-Density Residential) Planning District (Clackamas County Assessors Map 21E 19C 1700 & 2000). The subject parcels have frontage on the north side of SW Borland Road and adjoin the east property line of the Legacy Meridian Park Medical Center (LMPMC) campus located in the MC Planning District. On the east property line, the subject properties are bordered by single-family residential development in the Fox Hills neighborhoods in the RL (Low Density Residential) Planning District. Staff recommends also changing the designation of the approximately 0.25 acres of abutting public ROW of SW Borland Road (RL changed to MC to the street centerline). A Vicinity Map, a Tax Map and a Site Map are included as Attachments A, B and C respectively. The applicant's materials are included as Attachment D.
- Legacy Health Systems purchased the subject property in 2004 for future expansion of the 46 acre Legacy Meridian Park Medical Center campus and facilities. LHS does not have plans for buildings or other improvements on the property at this time.
- The subject property includes the former Grimitt farmhouse with outbuildings on the northern Parcel 2000. On Parcel 1700 adjoining SW Borland Road is a small vacant house identified as the "Minnie Skog House", listed in the City's Historic Preservation Chapter 68 as a historic landmark. No application for alteration, relocation or demolition of the historic structure has been submitted.
- The (existing) RL Planning District allows detached single-family residential dwelling development as a permitted use [TDC 40.020(1)] and allows a hospital or sanitarium as a conditional use [TDC 40.030(4)(h)]. The MC Planning District which currently encompasses the LMPMC campus allows various hospital and healthcare service uses including a primary care hospital, medical and healthcare professional offices, clinics and laboratories and supporting retail commercial uses (pharmacy, small bank or credit union branch, gift store, salon, etc.) as permitted uses. The MC District also allows residential facilities such as congregate care, assisted living, nursing and convalescent homes as permitted uses.
- Changing the designation on 19.6 acres to MC would allow the LMPMC campus to expand with buildings, parking and landscaping onto the subject properties in the future, subject to the specific list of allowed uses, minimum lot size and setback provisions, and building height provisions of the MC Planning District [TDC Chapter 56] and the Community Design Standards, Public Improvement



Requirements & Access Management on Arterial Streets provisions in TDC Chapters 73, 74 & 75. LHS seeks the Map Amendment to change the designation to MC. Development and improvements on the property will be subject to Architectural Review. Alteration, relocation or demolition of the historic house will be subject to approval of a Historic Landmark Certificate of Appropriateness under TDC Chapter 68.

- The submitted traffic analysis (Attachment D, Transportation Planning Rule Analysis – Kittelson & Associates, Inc.) and Supplemental Information (Dated October 1, 2009) analyzes Reasonable Worst Case scenarios for existing RL and changing the Planning District designation of the subject parcels from RL to MC for three scenarios: RL, single family homes; a Hospital Conditional Use in RL; and a Medical Offices/Hospital development in MC. The analysis assumes a new SW Borland Road access (see discussion in Attachment F, pp. 9-10). The Engineering Division Memorandum (Attachment G, pp. 1-3) provides the following summary of Trip Generation figures comparing RL single family residential with MC medical office:

Estimated Trip Generation								
Land Use	ITE Code	Size	Weekday AM Peak Trips			Weekday PM Peak Trips		
			Total	In	Out	Total	In	Out
Single-Family Residential	210	94 Units	75	20	55	100	60	40
Medical Office	220	250,000 square feet	620	490	130	930	260	680
<b>Net Increase with Medical Office Development</b>			<b>545</b>	<b>470</b>	<b>75</b>	<b>830</b>	<b>190</b>	<b>640</b>

Under the Reasonable Worst Case Development Scenarios the proposed MC medical office development traffic will result in an increase in the number of trips at the AM and PM Peak compared to a single family subdivision use in RL.

In regard to Oregon Statewide Planning Goal 12-Transportation and the Transportation Planning Rule (TPR) (OAR-660-012), the Kittelson Memorandums find that the proposed plan amendment satisfies all of the requirements of the TPR. An October 27, 2009 comment from the Oregon Department of Transportation requested additional information from the applicants regarding the I-5/Nyberg Street interchange. Staff has not received additional documentation from ODOT or LHS regarding Goal 12 and the TPR.

In regard to Criterion "8" and Level of Service (LOS), the Engineering Division agrees with the submitted Supplemental Information statement "...this standard is met during all time periods for each development scenario, with the exception of the SW 65th/SW Sagert intersection. The SW Sagert/SW 65th Avenue intersection meets warrants for signalization under any scenario". (Attachment G).

The City of Tualatin TSP Appendix C – Detailed Intersection Operations Results (Existing Conditions), completed in June 2001, shows the 65th/Sagert intersection as an all-way stop controlled intersection operated at a v/c of 1.14 and a LOS F. The TSP also identifies the intersection for a future traffic signal. With today's RL designation on the subject property and with the existing development in the SW Borland and 65<sup>th</sup> Area, the SW 65<sup>th</sup>/Sagert intersection does not meet Criterion G.

- The Applicant has prepared a narrative that addresses the Plan Map Amendment approval criteria (Attachment D) and staff has reviewed the Applicant's material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F). TPAC Chairman Paul Sivley submitted a list of questions to be addressed at the October 8 TPAC meeting. Due to lack of a quorum, PMA-09-03 was not reviewed by TPAC and Mr. Sivley's questions were not addressed. A copy of Mr. Sivley's questions are included as Attachment J with responses to the questions by the Applicants and Staff.
- The City has prepared a development agreement with the applicant (Legacy) that will ensure that if the MC Planning District designation is approved in PMA-09-03, future development on the Property and issues such as public street access, pedestrian access, Historic Landmark preservation or demolition, tree protection; on-site & off-site public improvements including sanitary sewer, stormwater management & street improvements; and development standards including building & parking setbacks, building height, landscape buffers & lighting will be addressed in an agreed upon manner. The development issues listed are typically addressed in a land use process (such as Architectural Review) when a specific development or property improvement is proposed, but are not issues to mitigate or require as conditions of approval in a Plan Amendment process such as PMA-09-03. The agreement, known as the "Non-Statutory Development Agreement", will be presented to the City Council for approval and authorization at the January 25, 2010 meeting.
- The applicable policies and regulations that apply to the proposal include: TDC 1.032-Amendments; TDC 5.030 Residential Planning District Objectives; TDC 8.050-Churches, Retirement Homes, Residential Facilities & Hospitals (Objectives); TDC Chapter 40-Low-Density Residential Planning District, and; Chapter 56 Medical Center Planning District. The Metro (Regional Government) Functional Plan Title III has policies for housing. The Statewide Land Use Planning Goals Goal 10-Housing (Metropolitan Housing Rule) and Goal 12 (Transportation Planning Rule) are applicable. The Analysis and Findings section of this report (Attachment F) considers the applicable policies and regulations.
- In a November 20, 2009 letter (Attachment K), Metro requested information demonstrating that the proposed Plan Map Amendment will "...not reduce the city's dwelling unit capacity in Table 1." of the Urban Growth Management Functional Plan (UGMFP). Metro asked for an analysis that documents how the city will maintain the 1994-2017 housing capacity required in the UGMFP Title 1 Table 1. Information and analysis responding to the request from Metro is provided in Attachment F, pp 10-13.

- The 120th day within which the City Council must make a decision in the quasi-judicial process is January 26, 2010. The scheduled January 25, 2010 public hearing before the City Council is on the 119<sup>th</sup> day. Legacy has submitted a waiver of the 120 day deadline for an additional 60 days, extending it to March 27, 2020.
- Before granting the proposed PMA, the City Council must find that the criteria listed in TDC 1.032 are met. The Analysis and Findings section of this report (Attachment F) examines the application with respect to the criteria for a Plan Amendment.

### **OUTCOMES OF DECISION:**

Approval of the PMA request will result in the following:

1. Changes the Planning District designation of 19.6 acre Tax Lots 1700 & 2000 (and .25 acres of abutting public ROW) on Assessors Map 21E19C from RL to MC. The MC Planning District allows a primary care hospital, medical offices, clinics and laboratories, limited supporting/on-site retail uses and congregate care, assisted living, nursing and convalescent homes residential facilities as permitted uses.
2. Allows the applicant to develop the property in the MC Planning District with the medical, health care and residential facilities consistent with the existing LMPMC campus. Architectural Review will be required for development on the site. If adopted, the proposed LHS Development Agreement will establish certain development standards for the Property, access, Legacy constructing of on & off-site public improvements including the SW 65<sup>th</sup> Avenue/SW Sagert Street intersection & SW Borland Road frontage, the Historic Landmark on the site and tree protection.

Denial of the PMA request will result in the following:

1. The current RL Planning District designation on Tax Lots 1700 & 2000 (and abutting public ROW) will remain unchanged.
2. The Applicant may choose to develop the property under the RL Planning District provisions which allow single family residential uses as permitted uses and allows a hospital as a conditional use.

### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for Council are:

- Deny the proposed PMA.
- Continue the discussion of the proposed PMA and return to the matter at a later date.

### **FINANCIAL IMPLICATIONS:**

The Applicant paid the required application fee, which is contained in the FY 09/10 budget for revenue.

**PUBLIC INVOLVEMENT:**

The Applicant conducted a Neighbor/Developer meeting on June 3, 2009, at 7:00 p.m. at the Legacy Meridian Park Medical Center, to explain their development and the PMA proposal to neighboring property owners and to receive comments. This meeting was attended by 23 members of the public including nearby property owners. The application materials indicate the attendees had questions about parking areas & internal driveway setbacks to residential properties, building height, and connections to "stubbed" local residential streets SW Wichita, Natchez & Joshua Streets to the east of the subject property. Attendees also asked about the Architectural Review process, the uses allowed in the MC Planning District, and LMPMC plans for trees and the historic "Minnie Skog House" on the property. Attendees expressed concerns about the unrelated Stafford Hills Racquet & Fitness Center development located north of the LMPMC properties.

A Notice of Hearing for PMA-09-03 was sent to property owners within the 300 ft. of the LHS subject property and to persons requesting notification. With the agreement of the applicant, a "Courtesy" Email Notice and invitation to testify or comment was sent to 101 email addresses of households in the Fox Hill, Sequoia Ridge and Venetia neighborhoods located east and south of the LHS property. The Email Notice list was compiled from the Email addresses of persons commenting on other proposed or submitted land use actions in the areas east of SW 65<sup>th</sup> Avenue including the proposed (later withdrawn) PMA-08-03 (Nyberg Lodge), PMA-09-02 (Waterman Property), CUP-09-01 (Stafford Hills Racquet & Fitness Club) and AR-09-08 (Stafford Hills Racquet & Fitness Club). Attachment I is a collection of written responses from the Notice and Courtesy Notice.

A number of persons submitted comments or testified at the November 9, 2009 public hearing. Copies of the written or emailed comments and a copy of the minutes of the hearing are provided in Attachment I.

- Attachments:**
- A. Vicinity Map
  - B. Tax Map
  - C. Site Map showing Existing Buildings
  - D. Applicant's Materials and Supporting Information
  - E. Background Information
  - F. Analysis and Findings
  - G. Draft Ordinance
  - H. Engineering Division Memorandum
  - I. Comments from Notice Respondents & Testimony as provided in the November 9, 2009 PTA-09-03 Minutes
  - J. Paul Sivley Questions--October 6, 2009 Email
  - K. Metro November 23, 2009 Letter





**Site Plan**  
Scale 1" = 300'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER  
Tualatin, OR



2 IE 19C

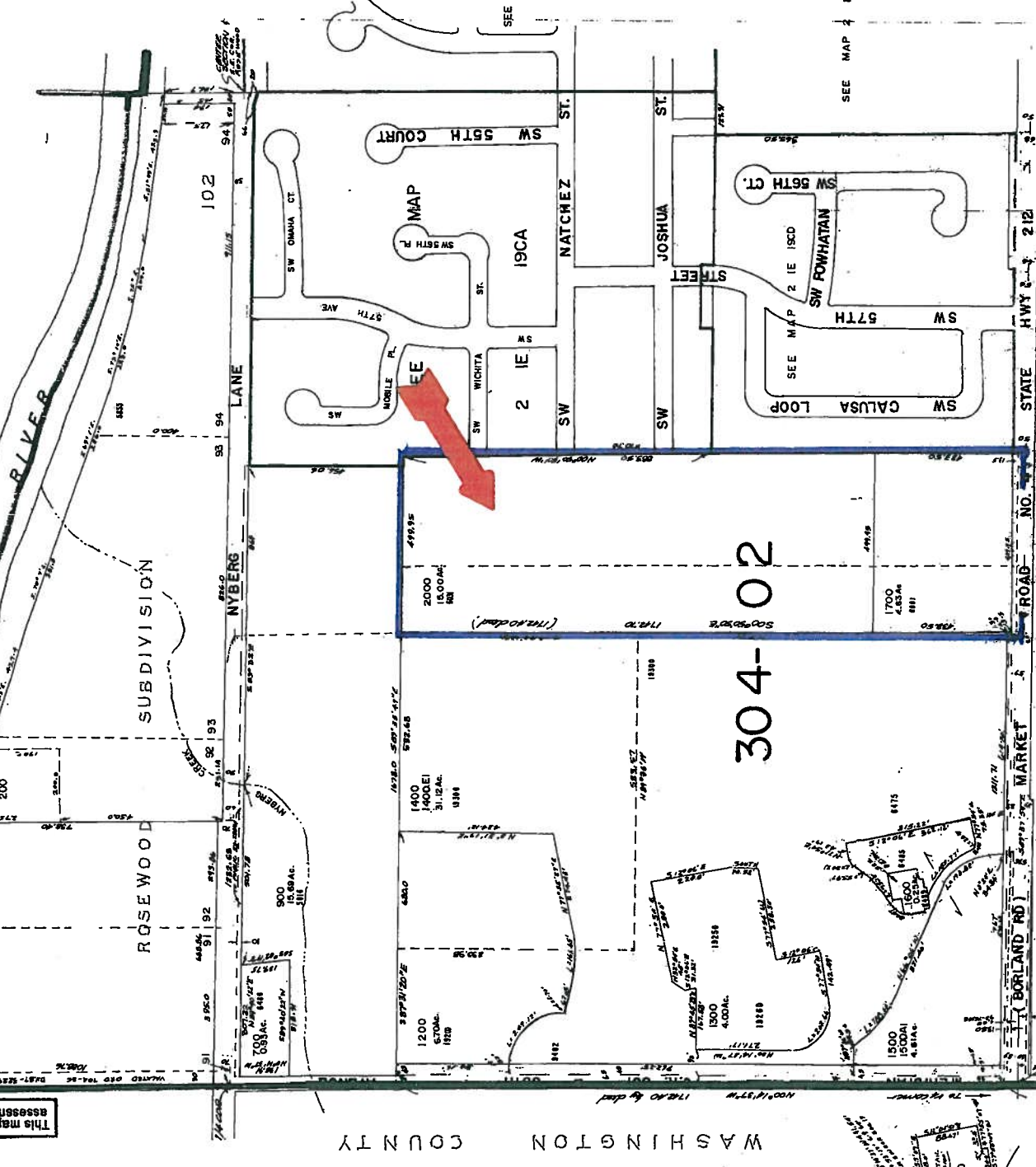
SW 1/4 SECTION 19 T.2S. R.1E. W.M.  
CLACKAMAS COUNTY

SCALE 1" = 200'

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SEE MAP 2 IE 198C

SEE MAP 2 IE 198D



This map was prepared for  
assessment purposes only

WASHINGTON COUNTY

SEE MAP 2 IE 190B

19500

SEE MAP 2 IE 19D

T.B.A.  
TUALATIN  
2 IE 19C  
BOOK 11

SEE MAP 2 IE 30A

SEE MAP 2 IE 30B



TualMap: Area of Interest Map



# APPLICATION FOR PLAN \*MAP\* AMENDMENT

City of Tualatin Community Development Dept - Planning Division  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062  
503-691-3026

Case No. PMA-09-03  
Fee Rec'd. \$2000.00  
Receipt No. 739062  
Date Rec'd. 8-28-09  
By \_\_\_\_\_

PLEASE PRINT IN BLACK INK OR TYPE

Nature of amendment requested Change 20 acre parcel to Medical Center  
(MC) from current Residential low Density (RL)

State the specific section number(s) of the Code to be amended PLAN MAP AMENDMENT

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

Applicant's Signature Thomasina Gabriele

Applicant's Name THOMASINA GABRIELE Phone 503-312-8002  
GABRIELE DEVELOPMENT SERVICES 971-252-4363  
Applicant's address 2424 NW Northrup Portland OR 97210  
(street) (city) (state) (zip)

Applicant is: Owner \_\_\_\_\_ Contract Purchaser \_\_\_\_\_ Developer \_\_\_\_\_ Agent \_\_\_\_\_

Other CONSULTANT

If the request is for a specific property:

County CLATSOP Map # 21E19C Tax Lot #(s) 21E19C 2000 AND  
21E19C 1700

Owner's Name LEGACY HEALTH SYSTEM

Owner's Address \_\_\_\_\_  
(street) (city) (state) (zip)

Owner recognition of application: \_\_\_\_\_

Lang Hill 8-27-09  
(signature of owner(s))



## WRITTEN STATEMENT

**A. Is granting the plan map amendment in the public interest.**

The plan map amendment will allow for expansion of the essential health care services provided by Meridian Park Hospital. The plan map amendment will add 20 acres to the existing campus providing room for additional buildings as they are needed to provide the complement of hospital and outpatient services to best serve the health care needs of the public. Expanding on the subject property, adjacent to the existing campus will promote orderly development located on existing arterials in a part of the city that is developed and has public infrastructure in place.

**B. Is the public interest protected granting the plan map amendment at this time?**

Legacy purchased the property 5 years ago with the intent to preserve land for anticipated expansion. While no buildings are proposed at this time, granting the plan map amendment will indicate an alignment of public planning with the intent of the hospital. This protects the public interest by making explicit future plans for the type of private growth anticipated and ensuring that public infrastructure is planned and financed appropriately. In addition, the setback and height standards of the MC designation explicitly require more buffering to the adjacent property giving more certainty to existing adjacent residential uses. Granting the plan map amendment makes clear that uses such as medical office buildings integrated with hospital operations that support and complement the hospital will be permitted. As specified in the development code, future proposed buildings will undergo Architectural Review which will further protect the public interest by promoting good design, providing a process for public and agency input, and ensuring coordination of infrastructure.

**C. Is the proposed plan map amendment in conformity with the applicable objectives of the Tualatin Community Plan.**

The objectives for Hospitals are listed in Section 8.050 of Tualatin's Development Code. The proposed Plan Map amendment to change the designation to Medical Center brings the anticipated use of the property into conformance with the objectives for hospitals as follows:

Location: the Plan says that hospitals should be located in Medical Center District as a permitted use or in commercial and residential zones as conditional uses. The current plan designation on the property is residential which would allow a hospital and its related uses as a conditional use but the level of certainty for the hospital and the neighborhood is less. Locating related uses on adjacent property supports the needs of patients and doctors to have access to hospital and office uses on the same campus. It is more straightforward and in conformity with this objective, given Legacy ownership and the adjacency to the existing hospital, to extend the MC designation already on the campus to the adjacent subject property. The objectives also state that hospitals (in residential districts) should be located adjacent to arterial or collector streets and close to City's park areas. The land in question fronts Borland Road, designated as a major arterial. The objectives stipulate cooperation with government agencies to assess health care services for the area. While there is no longer a state government needs assessment process, amending the Plan Map supports the orderly

development of health services as they are needed. Finally, the objectives preclude locating hospitals in industrial zone. The proposed change does not locate hospital uses in an industrial zone.

The property is currently designated as Low Density Residential Planning District (RL). The Tualatin Community Plan permits single family detached and manufactured homes at the lowest density allowed in the city. According to the calculation in the Plan, RL designated land represents the largest amount, 89%, of buildable residential land within the city and urban growth boundary. The objectives for residential housing element of the Tualatin Community Plan are listed in 5.030 of the code. The proposed plan map change will remove 20 acres from the vacant land available to meet the housing development objective of providing for the "housing needs of existing and future residents." The code contains an analysis of how much land is available to meet the current and future housing needs. This calculation of available land is updated by city staff as part of compliance with the Metro Housing goal. Staff has found that removing the property from the land inventory for housing will still leave enough available land area to meet the Community Plan objectives for housing.

**D. Each of the factors listed below was consciously considered as follows:**

**1. The various characteristics of the area.**

Similar to other hospital campus locations in Portland, Meridian Park Hospital is located in a primarily residential neighborhood close to arterials and a major freeway interchange. Generally hospital campuses work best located near the residential neighborhoods that they primarily serve with regional access to the goods, services, and employment base needed to operate. Most of the buildable land in the area bounded by the natural features of the Tualatin River and Saum Creek and the man made features of 1-5 and 1-205 is already developed with single family subdivisions directly to the east and across major arterials to the south and west. The north end of the property is near the wetlands and 100 year floodplain of the Tualatin river.

**2. The suitability of the area for the particular land use and improvements.**

The most important characteristic of the area is that the property in question abuts the existing Meridian Park Hospital campus and so is ideally located for development of buildings needing close proximity to the main hospital such as medical office buildings. Adding the property to the existing campus will have minimal impact on the surrounding residential area since the property abuts a planned fitness center to the north, the back yards of the adjacent subdivision to the east, the existing hospital campus to the west and Borland Road, a major arterial to the south. Because of the adjacency, internal circulation can connect into the existing campus road system from one main entrance on Borland Road without the need to connect or route traffic through the residential streets of the adjacent residential subdivision.

**3. Trends in land improvement and development.**

The City of Tualatin and Metro, the regional planning agency, are tracking when urban reserve lands at the urban growth boundary west of the Stafford Basin may be needed for additional development. . The immediate area surrounding the subject property

has developed around natural areas and has matured with primarily medical and office uses and limited single family subdivisions. The area is nearing complete build out. Legacy Meridian Park is the cornerstone of health care services for the area and needs expansion area to continue to meet the need for medical services. Over the past 10 years Legacy has built 54,848 square of hospital/clinic space and 4 medical office buildings with 78,000 square feet as Tualatin and their patient base increased. Although changes in health care service delivery models and hospital construction funding mechanisms make it difficult to predict the quantity, type and timing of expansion, Legacy needs to add buildable land area now to be prepared to add buildings and programs to serve future anticipated population growth as it occurs.

4. Property values.

The existing Plan Map designation of RL could result in an estimated 94 single family homes being built on the subject property. Less homes would likely be built due to the drop in grade and proximity of wetlands at the north end of the property. Assuming an assessed property tax value, in today's dollars, of \$200,000 per home, and the current rate of 22.6 per \$1,000, the property developed at its current designation would generate approximately \$425,000 of tax revenue to the city. Given the much higher value per square foot, it is anticipated that the tax revenue from medical development will easily meet or exceed the amount generated by residential uses.

5. The needs of the economic enterprises and the future development of the area.

Appropriately sized and located medical services support current and future development of residential and commercial uses. Residents prefer hospital and doctor's offices located close to home with easy transportation access. It is also preferable to both the community and the hospital to cluster buildings near its patient base in a campus setting that supports doctors and other staff being able to walk between the hospital, clinics and doctor's offices. With the addition of the 20 acres of the subject property, the campus will total 75 acres, close to the ideal size to serve the size and type of population in its patient base.

6. Needed right of way and access for and to particular sites in the area.

No development of the property is proposed at this time. Changing the designation of the property does not allow more intense development than that allowed as a conditional use by the current designation. Improvements directly related to development of the subject property appear to be possible using existing right of way and possibly hospital owned property depending on actual survey of the property line. Development of the site, when it does occur, will not restrict or affect right of way or access for and to other sites in the area. See discussion of Transportation Planning Rule in section below addressing Statewide Transportation Goal.

7. Natural resources of the City and the protection and conservation of said resources.

8. Prospective requirements for the development of natural resources in the City.

There are no natural resources on the subject property nor on the existing hospital campus.

While the river and its associated wetlands is to the north, there are buildable parcels of land between these natural resources and northern boundary of the existing campus. The required 50 foot buffer to the wetlands currently extends approximately 15 feet inside the northeast corner of the subject property. See attached sketch.

However, the property to the north currently has proposed to mitigate for filling some of the existing wetland as part of developing that site for a fitness club. Should this development and mitigation proceed, the buffer will change and no longer extend into the subject property. (mitigation plan attached for convenience) Legacy will comply with any environmental buffer requirements as part of the design of future development.

The City has acquired land along the river for parks and open space to protect and conserve natural resources.

While not designated as a natural resource, as many of the existing mature trees at the south end of the subject property near Borland Road will be preserved as possible as part of the design of the access road off Borland Road.

9. The public need for healthful safe, aesthetic surroundings and conditions.  
Making the Plan Map amendment will contribute to the health and well being of the public by permitting orderly planned expansion of medical services. In addition, any development of the property will be guided by Chapter 56, Medical Center Planning District, standards. This chapter establishes setback and height standards to buffer development from property that abuts the boundary of the district and incorporates, by reference, other City code chapters that govern community design standards, parking and loading, and landscape standards. Development of the subject property will meet or exceed the aesthetic design and quality of the existing Meridian Park Campus development and will be reviewed through the city's Architectural Review process. As mentioned above, circulation will link to the existing internal road system of the existing campus and to Borland Road with no need to connect or direct traffic onto local residential street that terminate at the western edge of the subject property.

10. Proof of change in a neighborhood area.  
The property directly to the west and abutting the subject property is designated MC and is developed as a medical campus. Legacy purchased the subject property five years ago with the intention to expand the campus. While hospital and related uses are permitted as a conditional use with the existing Plan Map designation, changing the designation to MC specifically governs and permits medical center and related uses and applies the development standards needed to buffer these uses from adjacent uses. In addition, the area is primarily built out and the subject property is the best remaining parcel for medical center expansion.

**Statewide Planning Goals.**

The request for the Plan Map Amendment to MC meets the Statewide Planning Goals as follows:

**Goal 1 Citizen Involvement.**

This request is following the procedure for citizen involvement, including conducting a neighborhood/developer meeting, posting the property and sending written notice to owners within 300 feet of the property, as outlined in the Tualatin Community Plan.

**Goal 2 Land Use Planning.**

The City of Tualatin prepared a Comprehensive Plan that was acknowledged by the State in 1981 and has since conducted numerous post acknowledgment processes. This Plan Map amendment request is following the procedures and addressing the approval criteria contained in the Tualatin Community Plan.

**Goal 3 Agricultural Lands.**

Not applicable. The subject property is not classified as agricultural land.

**Goal 4. Forest land.**

Not applicable. The subject property is not classified as forest land.

**Goal 5. Natural Resources, Scenic and Historic Areas and Open Space.**

The buffer requirements contained in the environmental resource chapter of the Tualatin Development Code address preserving this resource. Clean Water Services (CWS), the agency that regulates protection of sensitive areas, has reviewed Legacy's Sensitive Area Pre-Screening Site Assessment and determined that Sensitive Areas potentially exist within 200 feet of the subject property. CSA has provided a a Pre-Screening Site Assessment form that functions as a Service Provider Letter since no development is proposed at this time. This form is attached. Pacific Habitat, an environmental consultant, located the required 50 foot buffer to the sensitive area: a small portion of which currently extends approximately 15 feet inside the northeast corner of the subject property. The location of this buffer will change and not extend into the property should the proposed Fitness Club development and its related wetlands modification occur to the north of the subject property. Legacy will incorporate this current buffer if still present when future development is designed.

The City of Tualatin lists the Minnie Skog farm house located on the subject property as a local historic resource. Legacy has been in conversation with the local chapter of the Historical Society about the possibility of moving the house with no positive result to date. Legacy plans to apply for landmark demolition or relocation of this house in compliance with the regulations of Chapter 68 of the Tualatin Development Code which include offering the house for relocation for at least 90 days.

**Goal 6 Air, Water, and Land Resources Quality.**

Both the current and proposed Plan Map designations are regulated by Tualatin's Comprehensive Plan and implementing measures that address state and federal regulations related to air, water, and land resource quality.

Goal 7. Areas subject to natural hazards.

The subject property is not located in an earthquake or flood plain zone.

Goal 8. Recreational needs.

Neither the current or proposed Plan Map designation reserves the subject property for recreational needs.

Goal 9. Economic development.

The Portland Vancouver Regional Business Plan prepared by the Portland Business Alliance (PBA) identifies the Medical Service sector as a key industry cluster for the region. Amending the Plan Map will support the growth and expansion of the hospital and related medical services that contribute to Tualatin's competitive position in this cluster. Having land for expansion supports Legacy's ability to provide health care services to other area employers, to continue to increase the opportunities for jobs at a range of wage and salary levels, and to build the infrastructure and buildings needed to house others providing services in this important economic sector.

Goal 10. Housing.

The City of Tualatin currently complies with Metro's Functional Plan that establishes targets for the amount of housing to be accommodated in each local jurisdiction. Tualatin has calculated how much residentially zoned land it needs to meet this target with a variety of single family and multifamily units built at different density levels. City staff have estimated that there will be sufficient land to accommodate the targeted amount of housing units based on current and assumed build out rates after removing the subject property from the lands available for housing. In addition, the proposed Plan Map designation allows housing such as congregate care and assisted living facilities as a permitted use.

Goal 11. Public facilities and services.

Tualatin has an acknowledged public utilities plan. The subject property is located in a predominantly built out area of the city that is already served with water, sewer, police and fire prevention services. Granting the proposed Plan Map designation adjacent to the existing medical campus allows for efficient delivery of services to the same location.

Goal 12. Transportation.

In accordance with the Plan Map amendment process, Legacy engaged traffic engineers, Kittelson & Associates, to prepare an analysis of existing and "worst case scenario" traffic conditions to determine the impact and any mitigation measures needed to support the anticipated development should the Plan Map amendment be approved. To establish the "worst case scenario" ZGF, project architects, analyzed the buildable capacity of the site. Assuming the most likely use is medical office

building with surface parking, which function most efficiently with a 20,000 square foot floor plate and surface parking, ZGF found, given setbacks, surface parking at the required ratios, and required landscaping, that both the current RL classification and the proposed MC designation result in a "worst case scenario" of three 4 story medical office buildings totaling 240,000 square feet. The TPR analysis from Kittelson & Assoc. submitted in the application package, reflects these assumptions and finds that there is no change or impact to an existing or proposed transportation facility if the proposed Plan Map amendment is approved.

Goal 13. Energy Conservation.

Allowing expansion of the existing medical campus promotes conservation by minimizing number and length of trips for a variety of medical services, for delivery of goods and services and for efficient staffing and administration. In addition, as an employer of a concentration of employees and owner of a larger facility, conservation measures such as recycling and employee commuter program can benefit from efficiencies of scale.

Goal 14. Urbanization.

The subject property is within the urban growth boundary for the City of Tualatin, is governed by an acknowledged comprehensive plan and is in compliance with the Metro Functional Plan.

Goal 15. Willamette River Greenway

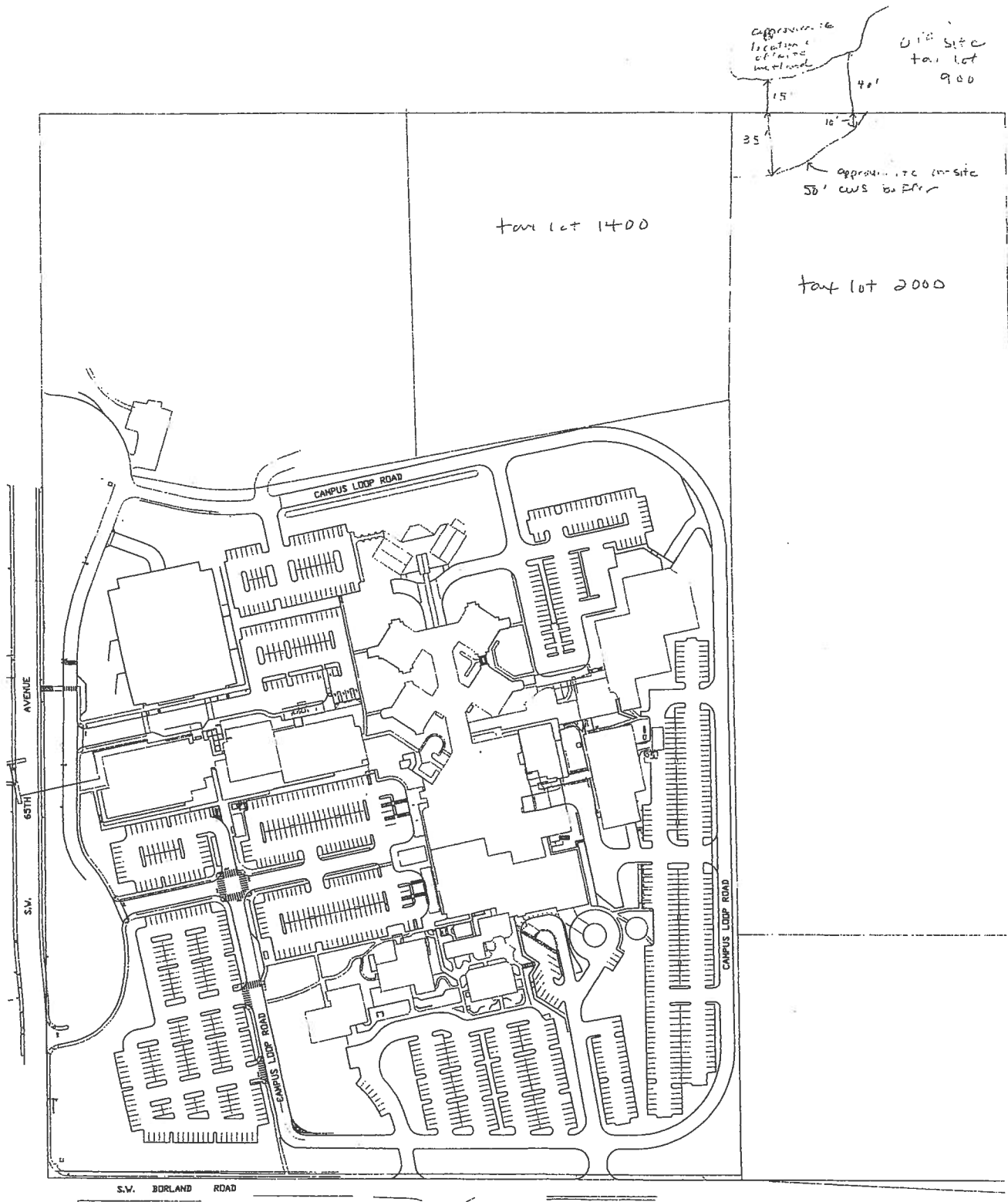
Goal 16. Estuarine Resources

Goal 17. Coastal Shoreline

Goal 18. Beaches and Dunes

Goal 19. Ocean Resource

None of these goals applies because the subject property is not located in any of these planning area types.



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# KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

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

## MEMORANDUM

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**Date:** August 21, 2009

**Project #:** 9760.0

**To:** Thomasina Gabrielle  
Gabrielle Development Services  
2424 NW Northrup  
Portland, OR 97210

**From:** Mark A. Vandehey, P.E.

**Project:** Legacy Health System - Meridian Park Property Rezone

**Subject:** Transportation Planning Rule Analysis

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Legacy Health System proposes to rezone a 20-acre site immediately east of its Meridian Park Hospital from RL – Low Density Residential to MC – Medical Center. No specific development is proposed for the site at the present time. This memorandum presents the results of an analysis of the proposed zone change's compliance with the Transportation Planning Rule (TPR), OAR 660-012-0060.

### SUMMARY OF FINDINGS

The TPR institutes criteria under which the transportation impacts of a post-acknowledgement plan amendment and zoning map amendment must be evaluated (OAR 660-012-0060(1)). Based on the analysis results presented in this memorandum, the proposed zone change satisfies all of the requirements set forth in the TPR.

### COMPARISON OF TRIP GENERATION POTENTIAL

The TPR analysis requires a comparison of the "reasonable worst case" development scenario for both the existing and proposed zoning. For the proposed site, the project architect (ZGF Architects) conducted an analysis of the City of Tualatin Development code and considered both the site constraints (such as topography, landscaping requirements, building height restrictions, setbacks, parking requirements, etc). A more detailed discussion of this analysis is included in the application narrative prepared by Gabrielle Development Services. ZGF Architect's analysis shows that the "reasonable worst case" development scenario is the same for both the existing and proposed zoning. Specifically, the "reasonable worst case" development scenario for the existing and proposed zoning designation is 240,000 square feet of medical office space. Accordingly, the proposed zone change results in no change in the "reasonable worst case" trip generation potential of the site.

### TRANSPORTATION PLANNING RULE COMPLIANCE

OAR Section 660-12-0060 of the Transportation Planning Rule (TPR) sets forth the relative criteria for evaluating plan and land use regulation amendments. Table 1 below summarizes the criteria in Section 660-012-0060 and their applicability to the proposed rezone application.

**Table 1 Summary of Criteria in OAR 660-012-0060**

Criteria	Description	Applicable?
1	Describes how to determine if a proposed land use action results in a significant impact.	See response below
2	Describes measures for complying with Criteria #1 where a significant impact is determined.	No
3	Describes measures for complying with Criteria #1 and #2 without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility	No
4	Determinations under Criteria #1, #2, and #3 are coordinated with other local agencies.	See response below
5	Indicates that the presence of a transportation facility shall not be the basis for an exception to allow development on rural lands.	No
6	Indicates that local agencies should credit developments that provide a reduction in trips.	No
7	Outlines requirements for a local street plan, access management plan, or future street plan.	No
8	Provides guidelines for mixed-use, pedestrian-friendly neighborhood	No

As noted in Table 1, there are eight criteria that apply to Plan and Land Use Regulation Amendments. Of these, Criteria #1, and #4 are applicable to the proposed land use action. These criteria are provided below in italics with our response shown in standard font.

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

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) Change standards implementing a functional classification system; or*
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:*

- (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
- (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

**Response:** The transportation impacts of the “reasonable worst case” development scenario for the proposed zoning is equivalent to the existing zoning. Further, the proposed zoning will not result in a change to the functional classification of an existing or planned transportation facility. Accordingly, based on the above criterion, the proposed zoning will not significantly affect an existing or planned transportation facility.

*(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.*

**Response:** The project team is coordinating the assessment of the transportation impact analysis with the Oregon Department of Transportation and Clackamas County.

We trust this letter adequately addresses the transportation issues associated with the proposed comprehensive plan change and rezone. If you have any questions or comments, please contact us at (503) 228-5230.



## KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

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### MEMORANDUM

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**Date:** October 1, 2009 **Project #:** 9760.0

**To:** Will Harper  
City of Tualatin  
18880 SW Martinazzi  
Tualatin, OR 97062

**From:** Mark Vandehey, P.E.

**Project:** Legacy Meridian Park Plan Map Amendment

**Subject:** Transportation Analysis – Supplemental Information

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This memorandum provides additional transportation information associated with Legacy Health System's proposal for a zone change and plan amendment for their 20-acre site immediately east of the Meridian Park Hospital. The two issues addressed in this memorandum are: 1) a comparison of trip generation potential for the 20 acre site assuming both residential and medical office development, and 2) a comparison of traffic impacts under residential and medical office development scenarios at key intersections within the vicinity of the site.

#### **Trip Generation Comparison**

The site's current zoning designation of RL (low density residential) allows hospitals and other medical uses integrated with the hospital as a conditional use. Based on discussion with City staff and a review of the City's RL zoning code, it was concluded that a medical office development represents the reasonable worst case trip generation scenario for the site under both the current RL classification or the proposed Medical Center (MC) for the following reasons:

- Medical office is a permitted use (conditionally under the RL zone designation and outright under the proposed MC zone designation).
- The subject property is owned by Legacy Health System that is a non profit corporation with the purpose of providing health services by building and operating hospital campuses.
- The subject property is adjacent and contiguous to Legacy Health Systems' existing campus.
- Legacy purchased the property five years ago to reserve land for campus expansion
- Based on development standards, the capacity of the site for medical office development with required landscaping and parking is the same in either the RL conditional use or MC classification.

Working with Legacy's project architect it was determined that under the existing or proposed zoning the reasonable worst case development potential for the site would be approximately 250,000 square feet of medical office development. City staff also expressed interest in knowing the trip generation potential of

the site if it were developed with residential housing as permitted outright under the RL zoning code. The City of Tualatin code allows for 6.7 units per net acre under RL zoning. Under the existing zoning, a 94-unit single family housing development could be developed on the site.

Based on the two development scenarios (residential or medical office), estimates of weekday a.m. and p.m. peak hour vehicle trip generation were developed from empirical observations at other similar developments. These observations are summarized in the standard reference manual, *Trip Generation, 7<sup>th</sup> Edition*, published by the Institute of Transportation Engineers. Table 1 summarizes the trip generation estimates.

**Table 1  
Estimated Trip Generation**

Land Use	ITE Code	Size	Weekday AM Peak Hour Trips			Weekday PM Peak Hour Trips		
			Total	In	Out	Total	In	Out
Single Family Residential	210	94 units	75	20	55	100	60	40
Medical Office	220	250,000 square foot	620	490	130	930	260	680
<b>Net Increase with Medical Office Development</b>			<b>545</b>	<b>470</b>	<b>75</b>	<b>830</b>	<b>190</b>	<b>640</b>

As indicated in Table 1, the site has the potential to generate significantly more traffic with 250,000 square feet of medical office development than with a 94 single family homes. Table 1 also confirms that medical office is the appropriate reasonable worst case development scenario for the existing zoning.

### Comparison of Year 2028 Traffic Conditions

City staff also requested a comparison of intersection level of service at key intersections within the vicinity of the site under the residential and medical office development scenarios under. Accordingly, an analysis of future year 2028 conditions was evaluated. The year 2028 forecast traffic volumes include traffic generated by the recently approved *Stafford Hills Racquet & Fitness Club* project. Table 2 provides a comparison of intersection levels of service under the various zoning scenarios.

**Table 2 Comparison of Intersection LOS Results**

Intersection	Existing Zoning w/Residential Development	Existing Zoning w/Medical Office Development	Proposed Zoning w/Medical Office Development
	AM/PM	AM/PM	AM/PM
SW Nyberg Road/ SW Nyberg Lane	B/C	B/C	B/C
SW 65 <sup>th</sup> / SW Borland Road	D/D	E/E	E/E
SW 65 <sup>th</sup> / SW Sagert	F/F	F/F	F/F
SW Borland/ Site Access	C/C	C/E	C/E
SW Borland Road/ SW 57 <sup>th</sup> Avenue	C/D	D/E	D/E

City of Tualatin's level of service standard is LOS "E" or better during the highest one hour time period. As indicated in the table, this standard is met during all time periods for each development scenario, with the exception of the SW 65<sup>th</sup>/SW Sagert intersection. The SW Sagert/SW 65<sup>th</sup> Avenue intersection meets warrants for signalization under any scenario.

## **ATTACHMENT E**

### **PMA-09-03: BACKGROUND INFORMATION**

Pertinent background information obtained from the proposed PMA-09-03 and other supporting documents is summarized in this section.

The applicant is Ms. Thomasina Gabriele of Gabriele Development Services on behalf of the property owner, Legacy Health System (LHS). Mr. Larry Hill represents Legacy Health System. The subject properties are two undeveloped parcels totaling 19.6 acres located at 6001, 6021, 6031, 6041 SW Borland Road in the RL (Low-Density Residential) Planning District (Clackamas County Assessors Map 21E 19C 1700 & 2000). Parcel 1700 (Attachment D, Plat Map-) adjoins the north side of SW Borland Road and both subject parcels adjoin the east property line of the Legacy Meridian Park Medical Center (LMPMC) campus located in the MC Planning District and the west boundary of the Fox Hills residential neighborhoods in the RL Planning District. Legacy Health Systems purchased the subject property in 2004 for future expansion of the 46 acre LMPMC campus and facilities. LHS does not have plans for buildings or other improvements on the property at this time

The (existing) RL Planning District allows detached single-family residential dwelling development as a permitted use [TDC 40.020(1)] and allows a hospital or sanitarium as a conditional use [TDC 40.030(4)(h)]. The MC Planning District which currently encompasses the LMPMC campus allows various hospital and healthcare service uses including a primary care hospital, medical and healthcare professional offices, clinics and laboratories and supporting retail commercial uses (pharmacy, small bank or credit union branch, gift store, salon, etc.) as permitted uses. The MC District also allows residential facilities such as congregate care, assisted living, nursing and convalescent homes as permitted uses.

Changing the designation on 19.6 acres (with .25 acres of abutting ROW) to MC would allow the LMPMC campus to expand with buildings, parking and landscaping onto the subject properties in the future, subject to the specific list of allowed uses, minimum lot size and setback provisions, and building height provisions of the MC Planning District [TDC Chapter 56].

## ATTACHMENT F

### PMA-09-03: ANALYSIS AND FINDINGS

The proposed amendment to the Tualatin Development Code (TDC) Community Plan Map 9-1) is to change the Planning District designation of the 19.6 acre Tax Lots 1700 & 2000 on Map 21E19C (and .25 acres of SW Borland Road ROW) from Low-Density Residential (RL) to Medical Center (MC) on land located at 6001, 6021, 6031, 6041 SW Borland Road.

The eight (8) approval criteria of Section 1.032-Burden of Proof of the TDC must be met if the proposed Plan Map Amendment (PMA) is to be granted. The Applicant has prepared a narrative that addresses the criteria (Attachment D) and staff has reviewed the Applicant's material and included pertinent excerpts below.

#### **A. Criterion 1-Granting the amendment is in the public interest.**

The Applicant states: "The plan map amendment will allow for expansion of the essential health care services provided by Meridian Park (Medical Center). The plan map amendment will add 20 acres to the existing campus providing room for additional buildings as they are needed to provide the complement of hospital and outpatient services to best serve the healthcare needs of the public. Expanding on the subject property, adjacent to the existing campus will promote orderly development located on existing arterials in a part of the city that is developed and has public infrastructure in place." (Attachment D, pg. 1)

As identified by staff, the public interest is to:

- 1) To respond to the Legacy Meridian Park Medical Center (LMPMC) plans to expand the medical center campus and facilities onto the 19.6 acre Legacy Health Systems (LHS) property adjacent (east) to the existing campus with planning actions such as the proposed PMA;
- 2) Designate land associated with LMPMC in the MC Planning District, a district that allows a primary care hospital with associated and supporting medical and health care services and facilities as permitted uses;
- 3) Encourage the availability of medical and health care services for residents of the Tualatin area with an adequate supply of land designated as the Medical Center Planning District.
- 4) Ensure that the MC Planning District and a large medical and health care facility such as LMPMC is served by adequate transportation facilities;
- 5) Ensure an adequate supply of residential land is available for various housing types.
- 6) Protect the character and livability of residential areas adjacent to a MC Planning District.
- 7) To consider relevant Tualatin Tomorrow Community Vision and Action Plan objectives such as for health care services.

The applicant's public interest statements and the first three (#1-#3) public interests listed in this analysis are associated with the importance of the LMPMC medical center to the community as a local hospital facility and provider of a full range of medical and



health care services. The LMPMC facility benefits the community with its locally available medical and health care services, as a center for other medical-professional businesses, and as Tualatin's largest employer. The campus includes a senior care/housing facility. The existing 46 acre LMPMC site is centrally located in Tualatin and borders both SW 65<sup>th</sup> Avenue and SW Borland Road which connect the residential and commercial areas of Tualatin with the LMPMC campus. There are a number of private medical offices and clinics in Tualatin that are nearby or easily accessible to the LMPMC campus.

Legacy Health Systems purchased the former Grmitt property in 2004 with the intention of securing room to expand the LMPMC campus in the future. The LMPMC campus is currently designated as an MC Planning District and to expand medical and health care services and facilities onto the RL Planning District parcels 1700 & 2000 to the east, the LHS would need to either obtain a conditional use permit for a "hospital" in the RL district, or apply to change the designation to MC. The MC Planning District with its list of permitted medical, health care and supporting uses was created in 1992 for the LMPMC campus. LMPMC properties were previously in the RL Planning District and subject to having to obtain conditional use permits for each new building or health service needed for the property. The MC Planning District allows LHS to introduce new or expanded health services and plan and invest in the buildings and facilities located on the LHS property with the certainty that the uses are permitted and can be accommodated near the largely residential areas of Tualatin east of SW 65<sup>th</sup> Avenue.

The Plan Map Amendment to change the 19.6 acres from RL to MC as proposed by LHS, allows the LMPMC to expand facilities and services onto property that has a matching zoning and consistent with the standards and provisions that the existing facilities are subject to. The growth and expansion of the LMPMC medical and health care facilities facilitated by the proposed PMA, is an increase in the availability of medical and health care services for the Tualatin community. This satisfies the public interests #1-#3 in supporting and encouraging the growth in LMPMC services.

The LMPMC campus adjoins and has multiple accesses on both SW 65<sup>th</sup> Avenue (west) and SW Borland Road (south) which are Major Arterial streets directly connecting the LMPMC with Stafford Area & I-205 freeway to the east and south, SW Sagert Street and SW Nyberg Street to the west with the I-5 freeway, Tualatin's central downtown area and the residential areas to the south and further west. The subject property adjoins SW Borland Road and will share the same arterial street connections that the existing LMPMC campus does. No connections to nearby residential streets such as SW Natchez, SW Wichita or SW Joshua is planned or proposed to serve the LMPMC and MC Planning District development. The existing arterial street connections for the LMPMC campus discourage or eliminate LMPMC traffic using collector and local streets in the nearby residential areas. This meets the public interest #4 for the medical center and MC District adequately connected by arterial streets to both the local and regional transportation system.

The LHS property is currently in the RL Planning District that is primarily for single-family detached residential housing (up to 100 single family homes on the 19.6 acre subject property net 20% for required public streets and water quality facilities) as well

as limited-size residential facilities. As addressed under Statewide Planning Goal 10 (Attachment F, pp 9-10), removing the 19.6 acres (+.25 acre ROW) from the RL residential designation, leaves the City's overall housing density and single-family/multi-family housing mix in compliance with the Oregon Metro Housing Rule standards. An adequate supply of residential housing land is retained if the RL designation is replaced with an MC designation. The MC Planning District allows assisted living, congregate care and residential facilities as permitted uses [TDC 56.020(j)]. The proposed MC designation will reduce the available land for single family detached housing but will provide some opportunity for congregate care/assisted living facilities. Metro Functional Plan Housing Targets are discussed on (Attachment F) pp. 10-11. The public interest for adequate residential land supply listed in #5 above is satisfied.

Interest #6 is to protect the character and livability of residential areas adjacent to a MC Planning District. The MC Planning District setback, building height, minimum landscaping and other standards are intended separate the medical center activities including buildings and parking away from residential properties and with specific buffering and landscape standards. The traffic impacts of the change from a residential designation to the MC Planning District are considered under the Goal 12 and Criterion G analysis. The traffic information concludes that the transportation system is adequate to accommodate the increased amount of traffic of a medical center and that the impacts will be confined to major streets such as SW Borland Road and SW 65<sup>th</sup> Avenue, not local residential streets.

Interest #7 is consideration of the public interests listed in the Tualatin Tomorrow Action Plan calling for access to health care and accessible health care for residents of the City as discussed in the section under Criterion 3 of this attachment.

Granting the amendment is in the public interest. Criterion "1" is met.

**B. Criterion 2-The public interest is best protected by granting the amendment at this time.**

The Applicant states: "Legacy purchased the property 5 years ago with the intent to preserve land for anticipated expansion. While no buildings are proposed at this time, granting the plan map amendment will indicate an alignment of public planning with the intent of the hospital. This protects the public interest by making explicit future plans for the type of private growth anticipated and ensuring that public infrastructure is planned and financed appropriately. In addition, the setback and height standards of the MC designation explicitly require more buffering to the adjacent property giving more certainty to existing adjacent residential uses." (Attachment D, pp. 1)

The LHS is moving forward with its investments and improvements on the LMPMC campus and needs to have the 19.6 acre suitably zoned and available as they proceed. The MC Planning District allows the various medical and health care uses that are anticipated as the LMPMC facilities grow while providing appropriate standards for site planning, building height, and landscaping. It is in the public interest to change the Planning District designation to MC, thus laying the groundwork for development of the site as part of the LMPMC campus.

The public interest is best protected by granting the amendment at this time.

Criterion "2" is met.

**C. Criterion 3-The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**

The applicable objectives of the Tualatin Community Plan are presented below along with the Applicant's response, which is also included in Attachment D.

**General Growth Objectives:**

**TDC 4.050(6) Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs.**

The objective of TDC 4.050(6) is met because the MC designation has standards for setbacks, building heights and landscaping that buffer the medical center development to residential developed areas on the east of the site and minimize conflicts. The MC Planning District designation allows more intensive development and when built will increase the efficiency and utilization of public facilities improvements in the area, including sewer, water, stormwater and transportation.

**TDC 4.050(9) Prepare a plan providing a variety of living and working environments.**

The objective of TDC 4.050(9) is met because adding additional MC land to the SW Borland Road area would provide additional employment with proximity to Tualatin residential areas. This objective is met.

**Semi-Public Land Uses--Objectives:**

**TDC 8.050 Objective (2) Allow uses such as churches, retirement homes and hospitals in commercial and residential planning districts, subject to conditional use approval, and allow congregate care facilities, assisted living facilities and residential care facilities and hospitals as permitted uses in the Medical Center District..**

**TDC 8.050 Objective (4) Locate uses such as churches, retirement homes and hospitals that are in residential planning districts adjacent to arterial or collector streets and close to the City's park areas.**

The applicant states "The plan says that hospitals should be located in a Medical Center District as a permitted use or in commercial and residential zones as conditional uses. The current plan designation on the property is residential which would allow and its related uses as a conditional use but the level of certainty for the hospital and the neighborhood is less. Locating related uses on adjacent property supports the needs of patients and doctors to have access to hospital and office uses on the same campus. It is more straightforward and in conformity with this objective, given Legacy ownership and the adjacency to the existing hospital, to extend the MC designation already on the campus to adjacent subject property." (Attachment D, pp. 1-2)

“The objective also states that hospitals (in residential districts) should be located adjacent to arterial or collector streets and close to City’s park areas. The land in question fronts SW Borland Road, designated as a major arterial.”  
(Attachment D, pg. 1)

The proposed map amendment to designate the 19.6 acre property as MC is consistent with the objectives relating to hospital location in an MC District and adjacent to arterial streets. The LHS properties are near the Atfalati and Browns Ferry City Parks. Staff agrees that the MC designation is the appropriate Planning District for the LHS property and future expansion of the LMPMC campus, and with the applicant’s reasons, meets the objectives.

The Tualatin Tomorrow Community Vision and Strategic Action Plan, June 2007, lists under the Access to Health Care & Accessible Health Care Strategies to “Help ensure that all residents of Tualatin have access to comprehensive health care.” (Strategy HSS5) and “Promote the availability of quality health care and state-of-the-art medical facilities to all Tualatin residents, regardless of insurance.” (Strategy HSS19) The ability to expand the LMPMC campus and facilities onto the LHS property with a MC Planning District designation allows the LMPMC to continue to offer up to date and comprehensive medical and health care services in a location and system that is available to Tualatin residents.

The proposed amendments conform to the applicable objectives of the Tualatin Community Plan.

Criterion "3" is met.

**D. Criterion 4-The factors listed in Section 1.032(4) were consciously considered:**

**The various characteristics of areas in the City.**

The area of the City affected by this amendment are located on all sides of the existing LMPMC campus and includes the single family residential areas on both sides of SW Borland Road east of SW 65<sup>th</sup> Avenue including the Fox Hills & Sequoia Ridge neighborhoods; the commercial office and multi-family residential developments on the west side of SW 65<sup>th</sup> Avenue and the Zupancic/Stafford Hills Racquet & Fitness Center property north of the LMPMC/LHS properties. The Applicant states “Similar to other hospital campus locations in Portland, Meridian Park Hospital is located in a primarily residential neighborhood close to arterials and a major freeway interchange. Generally hospital campuses work best located near the residential neighborhoods they primarily service with regional access to the goods, services and employment base needed to operate.” (Attachment D, pg. 2)

The proposed amendment is appropriate in relation to the characteristics of the residential area, LMPMC campus and commercial office developments in the SW 65<sup>th</sup> Avenue/SW Borland Road area.

### **The suitability of the area for particular land uses and improvements.**

The Applicant states: "The most important characteristic of the area is that the property in question abuts the existing Meridian Park Hospital (Medical Center) campus and so is ideally located for development of buildings needing close proximity to the main hospital such as medical office buildings." "Adding the property will have minimal impact on the surrounding residential area since the property abuts the fitness center to the north, the back yards of the adjacent subdivision to the east, the existing hospital campus to the west and SW Borland Road, a major arterial to the south. Because of adjacency, internal circulation can connect into the existing campus road system from one entrance on Borland Road without the need to connect or route traffic through the residential streets of the adjacent residential subdivision." (Attachment D, pg. 2) The medical center land uses allowed in the MC Planning District with the development standards are compatible with the surrounding land uses in the SW Borland Road/SW 65<sup>th</sup> Avenue vicinity. The area is suitable for MC Planning District uses and a future expansion of the LMPMC campus.

### **Trends in land improvement and development.**

The Applicant states: "The area is nearing complete build out. Legacy Meridian Park is the cornerstone of health care services for the area and needs expansion room to continue to meet the need for medical services. Over the past 10 years Legacy has built 54,848 square feet of hospital/clinic space and 4 medical office buildings with 78,000 square feet as Tualatin and their patient base increased." "...Legacy needs to add buildable land area now to be prepared to add buildings and programs to serve future anticipated population growth as it occurs." (Attachment D, pp. 2-3)

In the future, LHS will need to expand the LMPMC facilities onto the subject property and seeks to change the Planning District designation to MC as the most appropriate for a modern medical center facility.

### **Property values.**

The Applicant provides information about development potential on the LHS property and taxation." (Attachment D, pg. 3)

While there is no evidence that the current vacant condition of the buildings on the LHS/former Grimitt property have a direct impact on property values of neighboring residential properties, it can be expected that redevelopment of the site with an appropriate use and with suitable improvements will not negatively affect property values in the area.

### **The needs of economic enterprises and the future development of the area.**

The Applicant states: "Appropriately sized and located medical services support current and future development of residential and commercial uses." "...with the addition of the 20 acres of the subject property, the campus will total 75 acres, close to the ideal size to service the size and type of population in its patient base." (Attachment D, pg. 3)

The property owner, LHS, requests a change in the Planning District designation to MC to continue to expand the medical and health services expected of the LMPMC facilities.

**Needed right-of-way and access for and to particular sites in the area.**

The Applicant states: “No development is proposed on the property at this time.” “Development of the site, when it does occur, will not restrict or affect right of way or access for and to other sites in the area.” (Attachment D, pg. 3) A need for additional ROW on the SW Borland Road frontage may be necessary and will be addressed with issues of access to SW Borland Road during a development process. The ROW and access issues related to development on the property are relevant to both the existing and proposed Planning District designation and will be addressed in the development process including the public facilities decision in Architectural Review.

**Natural resources of the City and the protection and conservation of said resources.**

The proposed map amendment does not impact or alter designated natural resources associated with a development on the LHS site. The site includes clusters of deciduous and conifer trees on the south and around the Grimitt farmhouse that the owners are aware of. LHS indicates some of the trees will be preserved when development occurs.

**Prospective requirements for the development of natural resources in the City.**

Not applicable because the proposed map amendment does not impact or alter natural resources.

**The public need for healthful, safe, aesthetic surroundings and conditions.**

The Applicant states: “...any development of this property will be guided by Chapter 56, Medical Center Planning District, standards. This chapter establishes setback and height standards to buffer development from property that abuts the boundary of the district...” “Development on the property will meet or exceed the aesthetic design and quality of the existing Meridian Park Campus development...” “...circulation will link to the existing internal road system of the existing campus and to Borland Road with no need to connect or direct traffic onto local residential streets that terminate at the (eastern) edge of the subject property.” (Attachment D, pg. 4)

Staff agrees with the Applicant that the proposed amendment for the MC Planning District comes with established development standards for separation and buffering of residential areas from the MC development and the Architectural Review process can address certain aesthetic and safety concerns. The public need for healthful and safe conditions applies here and is addressed under Criterion 1, where the finding is that granting the amendment is in the public interest.

**Proof of a change in a neighborhood or area.**

The Applicant states: “...changing the designation to MC specifically governs and permits medical center and related uses and applies the development standards need to buffer these uses from adjacent uses.” “...the area is primarily built out and the

subject property is the best remaining parcel for medical center expansion.” Attachment D, pg. 4)

As stated earlier in this Section and in the applicant’s statements quoted above (Attachment D, pg. 12), the area of the City affected by this amendment includes the existing single-family and multi-family residential developments in the vicinity of SW Borland Road and SW 65<sup>th</sup> Avenue and the LMPMC campus and nearby medical office developments in the CO Planning District. TDC Map 9-2 Neighborhood Planning Areas identifies the area in the vicinity of the LMPMC as Area 5, characterized by the mix of residential, commercial and medical office & LMPMC uses (TDC 9.035). The proposed change to MC conforms to the Area 5 mix of uses.

**A mistake in the plan map or text.**

No mistake is alleged or found.

The factors listed in Section 1.032(4) were consciously considered.

Criterion "4" is met.

**E. Criterion 5-The criteria in the Tigard-Tualatin School District (TTSD) Facility Plan were considered.**

The TTSD has not commented on the effect of removing the 19.6 acres from a residential designation on the capacity of TTSD schools. TDC 1.032(5) lists the school capacity formula for evaluating a land use action in respect to the TTSD Facility Plan. A decrease in residential density is something to be evaluated by the TTSD.

Criterion “5” was considered.

**F. Criterion 6-Oregon Statewide Planning Goals**

Of the 14 Statewide Goals, 9 Goals were considered and found to not be applicable to this proposed amendment. Staff has determined that Goals 1, 2, 10 and 12 are applicable and must be addressed.

The Applicant addresses these Goals as follows:

**Goal 1: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**

**Goal 2: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.**

The Applicant states: “This request is following the procedure for citizen involvement...” “This Plan Map Amendment request is following the procedures and addressing the approval criteria contained in the Tualatin Community Plan.” (Attachment D, pg. 5)

Staff agrees that the proposed amendment is consistent with Statewide Planning Goals 1 and 2.

**Goal 10: Housing. To provide for the housing needs of citizens of the state.**

The proposal will not jeopardize the City maintaining its regional housing density and housing mix standards that are a principal element of Goal 10 implementation (in the Metropolitan Housing Rule, OAR-660-007). Therefore, the proposed amendment complies with Goal 10. The Metropolitan Housing rule is a State of Oregon Administrative Rule that applies to the cities and counties within the metropolitan Portland urban growth boundary. While applying to the Portland region, it is not imposed by Metro, the Regional Government.

The application narrative briefly addresses Goal 10 (Attachment D, pg. 6) and describes change in capacity and mix of housing units that can result with the proposed MC designation of the 19.6 acre subject property.

Staff has prepared information on the effect of changing the designation of the property and the adjacent public ROW from the residential RL to MC on meeting the Metropolitan Housing Rule with updated analysis of planned housing density and housing mix to reflect the size of the RL properties as shown on Tables 2A & 2B. Staff determined that changing the 19.6 acres of land and .25 acres of public street ROW from RL to MC will have no significant change to the existing residential density of 8.17 du/acre, which complies with the Metropolitan Housing Rule requirement of a minimum of 8.0 du/acre planned residential density. The Metropolitan Housing Rule New Construction Mix (OAR-660-007-0035) requires cities to provide the opportunity for at least 50% of new residential units to be attached single-family housing or multiple family housing. As calculated by staff, changing 19.6 acres of RL residential land (with .25 acres of ROW) in the City's supply to the MC designation will increase the attached/multi-family housing share from 52.09 percent to 52.5 percent, which would satisfy the requirement.

Other provisions of the Metropolitan Housing Rule including calculations of the supply of buildable land and needed housing are evaluated at the time of Periodic Review. Tualatin was found in compliance in the 1994 Periodic Review by the Land Conservation and Development Commission and will be revisiting the residential land supply and needed housing issues in the next Periodic Review.

Staff agrees granting the PMA is consistent with Goal 10 because the City of Tualatin Comprehensive Plan will continue to exceed the minimum housing density and mix standards required by the Metropolitan Housing Rule.



**Table 2A**

**CITY OF TUALATIN— METRO HOUSING RULE COMPLIANCE, PMA-09-03—  
WITH PROPOSED REDUCTION OF 19.6 ACRES (+ 0.25 Acres ROW) FROM**

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,209.6	265.0	188.2	166.0	18.2	2,847.0 Acres
Acres proposed for removal from or added to residential district	-19.9					-19.9
Total acres of ROW in each residential district (+/- 0.25 acres ROW)	-442.9	-59.2	-32.4	-23.6	-3.4	-561.4
Total Gross Buildable Acres	<b>1,746.9</b>	<b>205.9</b>	<b>155.8</b>	<b>142.4</b>	<b>14.8</b>	2,265.8 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%)	-293.7	-44.4	-54.8	-76.4	-12.6	-481.8
Total Acres Minus Environmental Restrictions	<b>1,453.2</b>	<b>161.5</b>	<b>101.0</b>	<b>66.0</b>	<b>2.2</b>	1,783.9 Acres
Non-buildable land (publicly owned, golf course, school, cemetery)	-297.1	-11.8	-6.3	-0.2	-0.1	-315.4
Total net Buildable Acres	<b>1,156.2</b>	<b>149.6</b>	<b>94.7</b>	<b>65.8</b>	<b>2.2</b>	1,468.5 Acres
Maximum Density Allowed by Residential District (dwelling units per acre)	6.4	10.0	15.0	25.0	30.0	86.4
Total Dwelling Units Allowed	<b>7,399.4</b>	<b>1,496.2</b>	<b>1,421.0</b>	<b>1,646.0</b>	<b>64.8</b>	12,027.4 DUs
Dwelling units per acre						<b>8.190</b>

**Table 2B**

**PMA-09-02 Metro Housing Rule New Construction Mix**

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,209.6	265.0	188.2	166.0	18.2	2,847.0 Acres
Acres proposed for removal from or added to residential district	-19.9					-19.9
Total acres of ROW in each residential district (+/- 0.69 acres ROW)	-442.9	-59.2	-32.4	-23.6	-3.4	-561.4
Total Gross Buildable Acres	<b>1,746.9</b>	<b>205.9</b>	<b>155.8</b>	<b>142.4</b>	<b>14.8</b>	2,265.8 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%) (RL only, no shift in density as allowed in RML-RH/HR)	-293.7	0.0	0.0	0.0	0.0	-293.7
Total Acres Minus Environmental Restrictions	<b>1,453.2</b>	<b>205.9</b>	<b>155.8</b>	<b>142.4</b>	<b>14.8</b>	1,972.1 Acres
Non-buildable land (publicly owned, golf course, school, cemetery)	-297.1	-11.8	-6.3	-0.2	-0.1	-315.4
Total net Buildable Acres	<b>1,156.2</b>	<b>194.0</b>	<b>149.5</b>	<b>142.2</b>	<b>14.7</b>	1,656.7 Acres
Maximum Density Allowed by Residential District (dwelling units per acre)	6.4	10.0	15.0	25.0	30.0	86.4
Total Dwelling Units Allowed	<b>7,399.4</b>	<b>1,940.3</b>	<b>2,242.6</b>	<b>3,556.0</b>	<b>441.9</b>	<b>15,580</b> DUs
Total <b>Single Family Detached</b> Units Allowed (RL)	7399.4					<b>7,399.4</b> <b>47.49%</b> of DUs Allowed
Total <b>Attached/Multi-Family</b> Units Allowed (RML, RMH, RH, RH/HR)						<b>8,180.8</b> <b>52.51%</b> of DUs Allowed

10/2/2009

\* Removes 19.85 acres (19.6 lots + 0.25 ROW) from RL Gross; Removes 0.25 acres from RL ROW / Adds to MC.

**Goal 12: To provide and encourage a safe, convenient and economic transportation system.**

Statewide Planning Goal 12 encourages jurisdictions to provide a safe, convenient, and economic transportation system. Goal 12 is implemented through the transportation element of the City's Comprehensive Plan and through the Transportation Planning Rule (TPR), OAR 660-012-0060. The TPR requires an applicant for a plan amendment to demonstrate that the proposed change will not "significantly affect" a transportation facility within the horizon of the Transportation System Plan. If the change does significantly affect a facility, mitigation measures must be employed to address the anticipated impacts on the facility.

The Applicant states: "The TPR analysis from Kittelson & Associates submitted in the application package," "...finds that there is no change or impact to an existing or proposed transportation facility if the proposed Plan Map Amendment is approved." (Attachment D, pp. 6-7). Kittelson Memorandums find that the proposed plan amendment satisfies all of the requirements of the TPR. An October 27, 2009 comment from the Oregon Department of Transportation (ODOT) requests additional information from the applicants regarding the I-5/Nyberg Street interchange.(Attachment G-ODOT letter) The applicant is preparing the requested information for ODOT.

The Engineering Division Memorandum (Attachment G, pp. 1-3) indicates the TPR analysis information resulting determinations will be provided for the Council's public hearing as soon as it is available.

**G. Criterion 7-Metro's Urban Growth Management Functional Plan (UGMFP).**

Staff reviewed the PMA in terms of the Metropolitan Service District's Urban Growth Management Functional Plan as provided in Metro Code, Title III, Planning, Chapter 3.07 Urban Growth Management Functional Plan. The UGMFP and TDC Map 9-4 Design Type Boundaries, identify the Residential Planning District areas bordering SW Borland Road east of the current LMPMC campus as "IN Inner Neighborhood". The proposed amendment revising the Planning District from RL to MC can be accounted for in a periodic revision of Design Types with Metro.

Title 1 (Housing and Employment Accommodation) and Title 7 (Housing Choice) of the UGMFP (Chapter 3.07) are applicable to the proposed PMA.

In a November 20, 2009 letter (Attachment K), Metro requested information demonstrating that the proposed Plan Map Amendment will "...not reduce the city's dwelling unit capacity in Table 1." Metro asked for an analysis that documents how the city will maintain the dwelling unit capacity of Title 1 Table 1.

Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The housing capacity target is to be achieved by providing a potential for housing development within the City's Planning Area considering an amount of zoned and developable residential land (land designated in RL – RH/HR Residential Planning Districts) and an amount of land eligible for residential development (land in commercial or MC Planning Districts eligible for residential uses).

The PMA proposes to change the LHS Property's Low-Density Residential (RL) planning district designation which supports 1-6.4 dwelling units per acre for residential uses and allows a hospital facility (with or without a residential component) as a conditional use to MC which allows residential care, nursing & convalescent facilities with a minimum of 16 dwelling units (and up to 25 dwelling units) per development area acre [56.080(6)]. The following table shows the range of housing densities associated with the two Planning Districts.

	TLID	Total Acres	Acres subject to Change	Planning District Existing	RL Potential Dwelling Units		Planning District Proposed	MC Potential Dwelling Units	
Legacy Health Systems Property	21E19C 01700 & 21E19C 02000	19.6	19.6	RL (1-6.4)	19.6	125.44	MC (16-25)	313.6	490
Net Developable Vacant	21E19C 01700	4.63	4.63	RL (1-6.4)	4.63	29.632	MC (16-25)	74.08	115.75
	21E19C 02000	12.94	12.94	RL (1-6.4)	12.94	82.816	MC (16-25)	207.04	323.5
	Total	17.57			17.57	112.448		281.12	439.25

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Under the current RL Planning District designation, the 19.6 acre subject property is eligible for a conditional use permit (a quasi-judicial land use decision) to construct a "hospital" [TDC 40.030(h)] with a range of medical facilities including inpatient care, laboratories, clinics, outpatient clinics and medical offices that would function in a manner that is similar to the adjoining LMPMC facilities. As a "hospital" conditional use, development on the LHS 19.6 acre property may or may not include housing. Evaluating the housing capacity of the subject property under the existing RL Planning District designation and considering a residential or hospital use on the property leads to a range of housing density from 0 (hospital use with no residential component) to the maximum 6.4 du/acre (RL single family detached residential). The current UGMFP Title I Table 1 capacity of the 19.6 acre property (17.6 acres Net Developable) under the existing RL designation is **0 dwelling units to 112 dwelling units**.

The existing LMPMC campus in the MC Planning District includes a 120 bed (in apartment-style units), multi-story, residential care facility (Tualatin Senior Care LLC, assisted living). The care facility was initially developed when the LMPMC campus was designated RL and each building in the facility was approved as a conditional use (as a hospital use or the residential care facility). When the LMPMC campus property was designated in the MC Planning District in 1992, the residential care facility became a permitted use. No additional residential or housing facilities have been developed on the LMPMC properties since. Currently, LHS has no specific plans for any form of Medical Center development on the subject property or the LMPMC, including residential or housing facilities.

Under the proposed MC Planning District designation, a residential care facility (congregate care, assisted living), convalescent homes & nursing homes with a density of 16-25 dwelling units per acre are allowed as permitted uses. Evaluating the housing

capacity of the subject property under the proposed MC Planning District designation and considering a medical center with or without a residential use on the property leads to a range of housing density from 0 (medical center uses with no residential component) to the maximum 25 du/acre (MC residential care, convalescent and nursing homes). The current UGMFP Title I Table 1 capacity of the 19.6 acre property (17.6 acres Net Developable) under the proposed MC designation is a range of **0 dwelling units to 439 dwelling units**.

In terms of the Title 1 Table 1 housing capacity target for Tualatin and assuming the range of existing and proposed housing density allowed on the 19.6 acres, the proposed PMA-09-03 may represent:

1. No change to the housing capacity potential (CUP for a hospital and no recalculation of Table 1 capacity);
2. A potential loss of 125 dwelling units from the housing capacity (Remove 19.6 acres from residentially developable land capacity with no potential for residential development on subject property) (No assumption of having or obtaining housing capacity on other residential property), or;
3. A potential increase (Maximum density of MC x Net Developable acres minus Maximum density of RL x Net Developable acres) of housing capacity of 327 dwelling units (439 dwelling units in MC – 112 dwelling units in RL=327).

The City of Tualatin's Community Plan, Planning District standards and residential land capacity were deemed to meet (or exceed) the Title 1 Table 1 Housing Capacity target at the time it was established in the year 2000. This was based on the potential for housing units that Tualatin's zoning and the supply of residentially developable land provided at the time. The target capacity and an evaluation of the City's ability to meet that capacity are not based on individual development proposals and as in this case, are not changed when residential or non-residential uses allowed by a particular zoning are retained (both RL and MC allow non-residential and residential uses). Whether the 19.6 acres LHS property is changed to MC or remains RL, **the housing potential (and in this specific case, the capacity) of the property is not reduced** because it could be all "hospital" as conditional use in RL (0 dwelling units) or could be all residential as a permitted use in MC (up to 439 dwelling units).

A similar analysis applies to the Title 7 (Affordable Housing) provisions. While the property is proposed to leave a residential designation, the MC District allows needed care facility housing that can be more affordable housing than if a typical RL Planning District property is developed as single-family subdivisions.

**H. Criterion 8-Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's Planning Area.**

The submitted traffic information (Attachment D, Kittelson & Associates August 21, 2009 & October 1, 2009 memorandums) analyzes Reasonable Worst Case scenarios for existing RL conditional uses and changing the Planning District designation of the subject parcel from RL to MC for three scenarios. Under the worst case scenarios for the current RL zone and proposed MC zone in the 2029 analysis, except for SW 65<sup>th</sup> &

Sagert which is F/F under all scenarios, the study intersections are forecasted to have a LOS within the E/E prescribed in the TDC during the weekday p.m. peak hour & a.m. peak hour respectively.

The Engineering Division Memorandum (Attachment G, pp. 2-3) agrees with the submitted Supplemental Information statement "...this standard is met during all time periods for each development scenario, with the exception of the SW 65th/SW Sagert intersection. The SW Sagert/SW 65th Avenue intersection meets warrants for signalization under any scenario".

The City of Tualatin TSP Appendix C – Detailed Intersection Operations Results (Existing Conditions), completed in June 2001, shows the 65th/Sagert intersection as an all-way stop controlled intersection operated at a v/c of 1.14 and a LOS F (Attachment G, pp. 2-3). The TSP also identifies the intersection for a future traffic signal. With today's RL designation on the subject property and with the existing development in the SW Borland and 65th Area, the SW 65th/Sagert intersection is at LOS F and with today's conditions, does not meet Criterion #8.

ORDINANCE NO. \_\_\_\_\_

ORDINANCE CHANGING THE PLANNING DISTRICT DESIGNATION  
FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC)  
OF PARCELS OF LAND LOCATED AT 6001, 6021, 6031, 6041 SW  
BORLAND ROAD (21e 19c 1700 & 2000) AND AMENDING THE  
COMMUNITY PLAN MAP 9-1 (PMA-09-03)

WHEREAS upon the application by Gabriele Development Services on behalf of Legacy Health Systems (LHS), a public hearing was held before the Tualatin City Council meeting on November 9, 2009, and continued on January 25, 2010, relating to changing the planning district designation from Low Density Residential (RL) to Medical Center (MC) of parcels of land located at 6001, 6021, 6031, 6041 SW Borland Road (21e 19c 1700 & 2000) and amending the Community Plan Map 9-1 (PMA-09-03); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A", and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B", and by mailing a copy of this notice under the Tualatin Community Plan, which is evidenced by the Affidavit of Mailing marked "Exhibit C", and by emailing a courtesy notice to additional property owners near the subject property, which is evidenced by "Exhibit D"; all of which are attached and incorporated by this reference; and

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

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote \_\_-\_\_]; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, and especially the City staff report dated November 9, 2009, and continued on January 25, 2010, the Committee makes and adopts as its findings of fact the findings and analysis in the City staff report, marked "Exhibit E," which is attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that it is in the best interest of the residents and inhabitants of the city and the public; the public interest will be served by adopting the amendment at this time;

and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

Section 1. The Community Plan Map 9-1 is amended to change the Planning District designation of 19.6 acre Tax Lots 1700 & 2000 (and .25 acres of abutting public ROW) on Assessors Map 21E19C from RL to MC.

INTRODUCED AND ADOPTED this 25<sup>th</sup> day of January, 2010.

CITY OF TUALATIN, Oregon

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Recorder

# **MEMORANDUM**

DATE: January 13, 2010

TO: Will Harper, AICP  
Associate Planner

FROM: Dayna Webb, PE  
Project Engineer

SUBJECT: **PMA-09-03 – Proposed Zone Change from RL to MC  
21E 19C #1700 & 2000 – SW Borland Road**

---

The revised Engineering Division Memo will be provided at a later date.

The applicant is providing additional information for review.



From: STACY CRAWFORD  
Sent: Wednesday, October 21, 2009 10:16 AM  
To: Will Harper; Doug Rux; Sherilyn Lombos  
Subject: FW: Meridian Park Hospital Plan Map Amendment Courtesy Notice

I received this comment.

Stacy

From: Marie Fromme [mailto:mfrommel@yahoo.com]  
Sent: Wednesday, October 21, 2009 10:10 AM  
To: STACY CRAWFORD  
Subject: Re: Meridian Park Hospital Plan Map Amendment Courtesy Notice

Thank you for your email message regarding the change in zoning for the property east of the Meridian Park Hospital. If I understand this message correctly, you would like to change the single housing plats to land use for hospital expansion instead. We fully support this change.  
Marie and Donald Fromme

--- On Wed, 10/21/09, STACY CRAWFORD <SCRAWFORD@ci.tualatin.or.us> wrote:

From: STACY CRAWFORD <SCRAWFORD@ci.tualatin.or.us>  
Subject: Meridian Park Hospital Plan Map Amendment Courtesy Notice  
To: "Adam Pettitt" <tallperson23@yahoo.com>, "Agnela and Philip Hansen" <AHAN618@aol.com>, "Alan Somervell" <somervell@Verizon.net>, "Alice Gydesen" <gydesenfamily@comcast.net>, "Alisha Coppedge" <alishadyan@gmail.com>, "Angela Wrahtz" <angela.wrahtz@comcast.net>, "Anthony Caflen" <webmaster@foxhillsoregon.com>, "Anthony Laflen" <anthony@cnwre.com>, "Barbara Archer" <barcher1@email.phoenix.edu>, "Becky Luther" <becky.luther@comcast.net>, "Bev Marlett" <bevmarlett@verizon.net>, "Bill and Joy Wilson" <williamewilson@comcast.net>, "Bob Dove" <Bob\_dove@mentor.com>, "Brad Helm" <brad.helm.77@comcast.net>, "Brian" <stephenson5635@comcast.net>, "Briana Currey" <bkcurrey2002@yahoo.com>, "Bryan and Dianne Yates" <bandy8s@comcast.net>, "Burton Silverman" <burtionsilverman@comcast.net>, "Chad Sourthards" <scourthards@hotmail.com>, "Charles Brod" <cubrod@gmail.com>, "Cheri Collins" <collinscsk@msn.com>, "Cheri Emahiser" <cemahise@earthlink.net>, "Chris Pries" <jetmoney737@gmail.com>, "Christen Depweg" <cjkdepweg@verizon.net>, cindy.oubre@verizon.net, "Dana Terhune" <dmterhune@verizon.net>, "Danielle Ricca" <danielle@cincodeesign.com>, "Dave and Diane Burnette" <BBdaveburnette@cs.com>, "Derek Plank" <dplank@meacon.com>, "Diana Gowen"

To: Community Development Department  
From: Janice Dove, 19135 SW Mobile Pl., Tualatin OR 97062  
Re: Meridian Park Hospital Zone Change, Tax Map 21E 19C, Tax Lots 1700 & 2000

Without any plan for this property, besides a zone change to MC, it's hard to comment. So at this time I only have two concerns about the effects of what could happen if the property was built out as a medical use.

1. If the roads adjoining the property (Joshua, Wichita, Nachez) are connected as through streets, I have concerns about the additional traffic that would travel through the Fox Hill neighborhood. With the recent approval of the Stafford Hills Racquet & Fitness Club (SHRFC) traffic increase, I would ask that the city consider not extending the above streets so that no additional commercial traffic will come through a residential neighborhood.
2. When the property eventually has buildings and parking lots built, I have concerns about the water runoff. With the recent approval of the SHRFC build-out to pave over the property directly below the Hospital, water runoff down to Nyberg Lane is already a concern. If mass amounts of impervious surface are added to the hospital property, the below properties (including mine) and Nyberg Lane will be impacted to an even greater extent than they are now.

Thank you for considering these concerns.

To: Community Development Department  
From: Janice Dove, 19135 SW Mobile Pl., Tualatin OR 97062  
Re: Meridian Park Hospital Zone Change, Tax Map 21E 19C, Tax Lots 1700 & 2000

Without any plan for this property, besides a zone change to MC, it's hard to comment. So at this time I only have two concerns about the effects of what could happen if the property was built out as a medical use.

1. If the roads adjoining the property (Joshua, Wichita, Natchez) are connected as through streets, I have concerns about the additional traffic that would travel through the Fox Hill neighborhood. With the recent approval of the Stafford Hills Racquet & Fitness Club (SHRFC) traffic increase, I would ask that the city consider not extending the above streets so that no additional commercial traffic will come through a residential neighborhood.
2. When the property eventually has buildings and parking lots built, I have concerns about the water runoff. With the recent approval of the SHRFC build-out to pave over the property directly below the Hospital, water runoff down to Nyberg Lane is already a concern. If mass amounts of impervious surface are added to the hospital property, the below properties (including mine) and Nyberg Lane will be impacted to an even greater extent than they are now.

Thank you for considering these concerns.

## **Doug Rux**

---

**From:** coolican2307@comcast.net  
**Sent:** Saturday, October 31, 2009 12:41 PM  
**To:** Doug Rux  
**Cc:** Sherilyn Lombos  
**Subject:** Public Hearing PMA 09-03

I would like the following comments included in the record regarding the proposed amendment to Community Plan Map (PMA-09-03).

**1. Is granting the plan map amendment in the public interest?**

No determination can be made regarding this criteria. Legacy has made it clear that no plans exist for the development of this property. It is conjecture and not in the best interest of the community to assume that whatever Legacy or another owner may decide to do is in the public interest. LHS most pressing campus issue today is parking. It's not clear that a series of parking garages and the necessary street access that would be required meets even Legacy's definition "to best serve the health needs of the public".

**2. Is the public interest protected granting the plan map amendment at this time?**

No determination can be made regarding this criteria.

Again, Legacy claims there are no building plans at this time. How can it be argued that handing Legacy a blank check regarding such a rezoning appeal is in the community's best interest? It is disingenuous on the part of Legacy to make such an assertion. The result of this request by Legacy would be to prevent public discourse on their building plans. Their offering of "Trust Us" we'll do the right thing for the community, is not acceptable. We have no guarantees from LHS or whomever may own this property in the future. Our protection is our ability to require the owner to present explicit information on plans in an open forum before granting a rezoning request.

Granting this request would be a misuse of the public trust and should be rejected by council.

Sincerely,

Mark Coolican  
19050 SW Mobile Pl  
Tualatin, OR

***A break was taken from 8:50 p.m. to 9:00 p.m.***

2. Public Hearing to Consider an Ordinance Changing the Planning District Designation from Low-Density Residential (RL) to Medical Center (MC) of Parcels of Land Located on SW Borland Road (21E 19C 1700 & 2000) and Amending the Community Plan Map 9-1 (PMA-09-03)
- 

Mayor Pro tem Barhyte read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.763(5) and (6)] and opened the public hearing.

Councilor Harris noted he is a neighboring property owner to this application but does not believe it will affect his decision. No bias or ex parte contact noted.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. This is for Plan Map Amendment 09-03, and the property is depicted on Attachment A. The proposal initiated by Legacy Health Systems is to follow through on plans the hospital has had to follow through on an expansion. This proposal would match all of the other Meridian Park Hospital land. The Medical Center (MC) Planning District has specific standards. Mr. Harper listed some of the allowed uses inside the MC designation. The staff report reviews the criteria information, traffic impact, impact on Tualatin's housing obligations, trends and developments, and reasons why Legacy is proposing this.

Staff is recommending Council consider the staff report as well as testimony and provide direction.

#### PROPONENTS

*Alyson Anderson, 19300 SW 65<sup>th</sup> Avenue, Tualatin*, chief administrative officer of Legacy Meridian Park Hospital and vice president of Legacy Health Systems, was present and said Meridian Park Medical Center has been proud to serve the community for the last 36 years and they are a not-for-profit health center. The hospital bought the acreage east in 2003, and are asking for the plan text amendment (PMA) in order to be able to expand in the future. A public meeting was held in 2003, and Ms. Anderson has copies of letters sent yearly to the immediate surrounding property owners, exceeding the property notification requirements. There is no requirement to do so, but it has always been their intent to continue to be a good neighbor. The hospital has also made many improvements to the property and have been a good neighbor to the property owners along the site.

*Thomasina Gabriele, Gabriele Services, 2424 NW Northup Street, Portland, OR 97210, and Mark Vandehey of Kittleson & Associates*, consultants representing the applicant were present. Ms. Gabriele said this is the best piece of property for the campus because it is adjacent to the main facility. It benefits the hospital and the patients that receive care from the hospital. Also, by receiving the services in one place it keeps people from driving to other areas for additional services. She has heard that it would be easier if it was known what the expansion is going to be, but Legacy is not at a point to determine that at this time or when. Ms. Gabriele believes the plan map amendment is in the public interest now as it will provide Legacy Meridian Park Hospital to know they have the land to do an expansion. The City will have certainty as this will be the place where your hospital services will be served, and it would be supporting the largest employer in the city, as well as one of the uses identified in the Economic Development Plan for economic growth.

Nov. 9, 2009  
Meeting Minutes  
ATTACH I

Ms. Gabriele said there is an opportunity to be able to have a conditional use for the property, but by proceeding with the plan text amendment the building height will be less in the Medical Center (MC) Planning District than a conditional use permit (CUP).

*Linda Moholt, Tualatin Chamber of Commerce CEO, also a neighboring Fox Hills resident, said Legacy Meridian Park Hospital has been such a good neighbor and how much they have meant to the community. Tualatin is a great place to live and work, and Legacy is part of that equation.*

#### OPPONENTS

*Mark Majors, 5756 SW Joshua Street, Tualatin, OR, said his property abuts the 20 acres, and he would like Council do whatever it can to keep their property in good order.*

*Steve Day, 5712 SW Calusa Loop, Tualatin, OR, lives approximately 200 feet from the boundary of the property and said in reviewing the application, Legacy should discuss different aspects of the impact to natural resources. He was looking for sufficiency of statement that there are no natural resources impacted, particularly wetlands. Mr. Day said he attended a meeting a few years back where a consultant spoke that there is no wetlands on the south portion of the property, which he does not believe is an accurate statement. Mr. Day also said another concern is proof of a change to the neighborhood characteristic, Legacy only speaks to changes to the hospital.*

*Marylee Tolley, 5725 SW Calusa Loop, Tualatin, OR, was present and noted she also sent an e-mail. She understands the hospital has property, and hopes there will be conditions, including buffer, setback, lighting, and saving and maintaining as many trees as possible. She also did not want the three streets adjacent not become through streets, and to cap the maximum building height.*

*Renee Gunwater (sp?), 5755 SW Natchez, Tualatin, OR, reiterated what has been said, that the access to hospital remain on 65<sup>th</sup> and the three streets not become through streets.*

*Todd Allison, 5753 SW Joshua, Tualatin, OR, said it is vital to keep the hospital and not slow progress, and it is the largest employer of the city. He does not however, understand how this has come about with no notion of what will be built and encouraged Council to take their time with this proposal.*

***A break was taken from 9:39 p.m. to 9:44 p.m.***

#### REBUTTAL

Ms. Gabriele said natural resources information is addressed in the materials submitted. One off-site wetland was identified as indicated on the map. Ms. Gabriele noted the required buffer area and will take that into consideration. The other issue of initial presentation is the hospital is not interested in making any connections to the subdivision local streets, other than a fire safety devices, and not in the hospital's interest to use those local streets being connected in any way. Other issues that were raised could be part of the architectural review (AR) process.

#### COUNCIL DISCUSSION

Mayor Pro tem Barhyte asked about the change of planning designation and if there is an opportunity to apply conditions and Community Development Director said no. He also asked about the conditional use process (CUP) which puts stringent uses on the applicant, and conditions that can be placed by the Council. The MC district setbacks are ten feet. Community Development Director Rux said a Development Agreement (DA) is another tool that could be done and explained the process. An agreement between the City and Legacy

would address certain parameters and issues would be brought up, details worked out and whatever Council would like to be considered in the agreement.

Community Development Director Rux said staff could work with the applicant on a DA and continue this hearing to sometime in January to allow time to have discussions, if the applicant is willing.

Councilor Harris asked about traffic issues, and assuming the zone change is granted, there would likely be a significant increase in traffic and level of service at the intersection. City Engineer Mike McKillip said staff will be doing a Public Facilities Report that looks at impacts of the development and conditions required, such as where does the traffic go, what directions, and what are the impacts on that, and decide what are the appropriate requirements to mitigate those impacts.

*Mark Vandehey, Kittleson & Associates*, said a traffic signal would go a long way to solve traffic issues at that particular intersection, and could work out a number of ways to address the transportation issue.

Ms. Gabriele clarified that 250,000 square feet is unlikely to be developed all at one time on the site, and with an already failing intersection. Beginning with the first building there would likely be funding to fix the intersection and the hospital is fine with that particular intersection.

Community Development Director Rux said it could be possible to continue this hearing to January 25, 2010, and if the applicant is willing to extend the 120-day requirement. Ms. Anderson said she would like to work on a DA, etc. instead of requesting an extension, but Could continue the hearing to January 25, 2010.

MOTION by Councilor Maddux, SECONDED by Councilor Davis to continue the hearing to January 25, 2010. MOTION CARRIED. [7-0]

#### **G. GENERAL BUSINESS**

*None.*

#### **H. ITEMS REMOVED FROM CONSENT AGENDA**

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

#### **I. EXECUTIVE SESSION**

Mayor Ogden noted an executive session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation will be held after the regular meeting.

#### **J. COMMUNICATIONS FROM COUNCILORS**

*None.*

## **ATTACHMENT J**

### **PMA-09-03**

#### **Paul Sivley-Tualatin Planning Advisory Committee (Acting Chairman) -Questions for Applicants and Staff-**

In an October 6 email message, Paul Sivley provided the following questions for consideration at the October 8, 2009 Tualatin Planning Advisory Committee Meeting regarding the proposed PMA-09-03. Responses to questions that are best answered by Staff follow individual questions. Other questions were preliminarily answered by the Applicants in an October 7, 2009 email and listed below.

1) Why not wait to grant the zoning change until we see a development plan? At this point, we don't have a clue what they want to put where. Or at least wait until they have the first couple buildings planned. Rezoning now seems to reduce our leverage on the project somewhat in terms of conditional use, project sizing, etc. I know we can get some sense of the "worst case" development on the site via our setback, height, etc requirements, but wouldn't it be more logical to wait until they have some plans so we can really assess with some accuracy actual project impact on traffic, noise, visibility, height, etc issues?

Applicant Response. Legacy wants to be sure that the entire parcel of land that is already purchased and adjacent to the existing campus will be available for medical center development regardless of the outcome with Metro about the amount of land Tualatin needs to have available to meet housing targets.

Staff Response. Tualatin uses a "one map system" that combines a "Comprehensive Plan" and a "Zoning Map" into one Map 9-1, showing the location and designation of all property within Tualatin's Planning Area. The Plan Map Amendment process is focused on consideration of the change in Planning District at the "Plan" level and consideration of the uses and physical development issues are in land use decisions such as Conditional Use, Subdivision, Partition and Architectural Review. The Plan Amendment level will look at "worst case" scenarios, but is not intended to assess specific "impact" issues of a particular development.

2) Can we quantify how "the setback and height standards of the MC designation explicitly require more buffering to the adjacent property giving more certainty to existing adjacent residential uses"? (pg.1 staff report)

Applicant Response We will bring display boards showing height and setback lines in plan view for both RL and MC designations. Of particular note, MC allows no building within 50 feet of zoning line boundary, an allowed use in RL can be 10-15 feet of property line and a conditional use can be setback no more than 50 feet; also allowed and conditional uses can be 35 feet high at the setback line, conditional uses can be 75 high when setback 1.5 times this height from property lines, height at 50 foot setback in MC is 25 feet, 45 feet at 100 to 300 feet, and 95 feet high at 300 feet setback.



3) "Improvements directly related to development of the subject property appear to be possible using exiting right of way and possibly hospital owned property depending on actual survey of the property line" (pg 3 staff report). The terms "appear to be possible" and "possibly hospital" reinforce my concern that we are taking action on zoning with a lot of uncertainty about what will be built and the impact of the development. Can we eliminate the uncertainties in this statement in the staff report?

Applicant Response First it is important to remember that the improvements needed for future development of the property are the same for both the existing and proposed zoning (refer to the Kittelson memos). Second, the improvements needed in the future would be determined based on the "actual" development proposal, which would likely be significantly less than the "reasonable worst case" scenarios assumed in the Kittelson memos. However, if future development (under either the existing or proposed zoning) occurred to the level anticipated under the "reasonable worst case" scenarios, the transportation improvements that would be likely be needed could be accommodated within a combination of the existing Row or Row owned by Legacy.

4) "Worst case" development would add 250,000 sf of office space. What's the current sf already built and in place at Meridian?

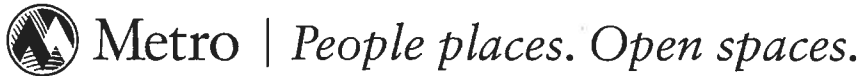
Staff Response. Records show the Legacy Meridian Park Medical Center has approximately 419,000 sq. ft. of building area.

5) The traffic analysis notes an increase from medical development vs residential over about 1300 trips, pm and am peak. Yet only two sites suffer worsened LOS results? Seems like a fair amount of new traffic.

Applicant Response. The LOS results shown in the Kittelson memo are correct. A few points are worth noting. The largest increase was in the p.m. peak hour when the "reasonable worst case" scenario resulted in an increase of 830 additional trips (not 1,300). When assessing impacts to individual intersections the 830 trips is a combination of entering and exiting trips. Further, traffic is distributed in multiple directions (some coming to/from I-5, I-205, SW 65th, SW Sagert, etc). As a result, no one intersection experiences the full increase in site-generated traffic.

6) Table 2 in the traffic report seems misleading to me, as the middle column "existing zoning w/med office dev" takes into account medical office development is a secondary allowed option under current zoning. I'm not sure of the value of that one column vs the other 2.

Applicant Response. Since the focus of the transportation evaluation should be on the impact of the zone change, we felt it would be more misleading to simply compare the existing zoning (with residential development) to the proposed zoning (with medical office). As indicated earlier in the Kittelson memo, the "reasonable worst case" scenario for both the existing and proposed zoning is the same. The second column in table 2 simply reinforces that point.



November 20, 2009

CITY OF TUALATIN  
RECEIVED

NOV 24 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

Doug Rux  
Community Development Director  
City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, OR 97082

Dear Mr. Rux:

Metro staff reviewed the material concerning PMA-09-03, an ordinance changing the planning district designation from Low-Density Residential (RL) to Medical Center (MC) for land located on SW Borland Road. As you know, Title 1 of the Urban Growth Management Functional Plan (Metro Code 3.07.120) requires cities to provide at least the housing capacity specified in Table 3.07-1.

According to the city's Analysis and Findings (Attachment F), this zone change could affect the city's ability to meet Table 1 dwelling unit capacity. To comply with Title 1, the city must demonstrate that this zone change will not reduce the city's dwelling unit capacity in Table 1. Please submit to Metro an analysis that documents how the city will maintain the dwelling unit capacity of Title 1 Table 1. I make this request on behalf of the Chief Operating Officer pursuant to Metro Code section 3.07.820A which states that "the Chief Operating Officer may request, and if so the city or county shall submit, an analysis of the compliance of the amendment with the functional plan."

If you have any questions, please contact Dick Benner, [Richard.Benner@oregonmetro.gov](mailto:Richard.Benner@oregonmetro.gov), (503) 797-1532 or me, [Sherry.Oeser@oregonmetro.gov](mailto:Sherry.Oeser@oregonmetro.gov), (503) 797-1721.

Sincerely,

A handwritten signature in black ink that reads 'Sherry Oeser'.

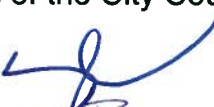
Sherry Oeser  
Principal Regional Planner


c: Councilor Carl Hosticka, District No. 3  
Robin McArthur, Planning & Development Director



## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Brenda Braden, Legal Department 

**DATE:** January 25, 2010

**SUBJECT:** RESOLUTION CONSENTING TO THE TRANSFER OF CONTROL OF THE FRANCHISEE AND OF THE CABLE FRANCHISE GRANTED TO VERIZON NORTHWEST, INC. TO FRONTIER COMMUNICATIONS CORPORATION, WITH CONDITIONS

---

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

The Council will consider whether to approve the transfer of the cable franchise granted to Verizon Northwest, Inc., to Frontier Communications Corporation.

### **RECOMMENDATION:**

The Metropolitan Area Communication Commission, ("MACC"), which negotiates and regulates cable franchises for Tualatin and other cities in the Portland Metro region, recommends that Council approve the transfer of ownership from Verizon to Frontier with the conditions proposed by the Commission.

### **EXECUTIVE SUMMARY:**

In the MACC Staff Report dated December, 2009, attached as Exhibit 1, MACC requests that Council approve the proposed Transfer of Control of Verizon Northwest to Frontier Communications and that Council adopt the thirteen conditions referred to resolution, attached as Exhibit 2. This transfer requires all jurisdictions to unanimously agree, or the transfer will not be approved.

**ALTERNATIVES TO RECOMMENDATION:**

- Deny the transfer of ownership.
- Approve the transfer of ownership.

**FINANCIAL IMPLICATIONS:**

If the Council denies the transfer, Verizon may still decide to terminate its cable services in the region, which could result in the City receiving lower revenues from franchise agreement if not replaced by another cable operator.

**Attachments:**        1. MACC Staff Report, December, 2009  
                              2. Resolution

MACC STAFF REPORT

**VERIZON NW INC. TRANSFER OF CONTROL  
TO  
FRONTIER COMMUNICATIONS CORPORATION  
BY THE CITY OF TUALATIN**

Prepared by the staff of the Metropolitan Area Communications Commission  
December 2009

**MACC RECOMMENDS APPROVAL OF THE VERIZON/FRONTIER  
TRANSFER OF CONTROL**

At their November 20<sup>th</sup> meeting, the Board of Commissioners (Commission) of the Metropolitan Area Communications Commission (MACC) unanimously recommended that your jurisdiction, and the other ten affected MACC members (affected jurisdictions), approve the Transfer of Control (Transfer) of the Verizon NW, Inc. (Verizon) cable television franchise to Frontier Communication Corporation (Frontier).

**MACC Intergovernmental Agreement and the Role of Your Jurisdiction** – The City is a member of the MACC Intergovernmental Agreement (IGA). The IGA places the responsibility with MACC to review any proposed change of ownership or control. The MACC Commission makes a final recommendation to the affected jurisdictions to either approve or deny the proposed transaction. All of the affected jurisdictions must accept the Commission recommended action in order for it to become effective – if any one of the affected jurisdictions votes no, it vetoes it for the others.

MACC staff takes the Commission's recommendation before each of the affected jurisdictional governing bodies where they will decide whether to accept or reject the Commission's recommendation. This is usually done in the form of a resolution or ordinance which will look very similar to the MACC recommending resolution (see Exhibit A - MACC Recommending Resolution).

In addition to MACC staff, representatives of Verizon and Frontier will be present at the Council meeting to answer any questions you have.

**Background** - On May 25, 2007, the following jurisdictions of the Metropolitan Area Communications Commission (MACC), Washington County and the cities of Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Lake Oswego, Rivergrove, Tigard, and Tualatin (the affected jurisdictions) granted Verizon Northwest Inc. a fifteen-

year cable franchise agreement (Franchise) which expires in 2022. Verizon Northwest, Inc. began offering its cable service, called FiOS, to area subscribers in December 2007.

The Proposed Transaction. On May 13, 2009, Verizon Communications Inc., (Verizon Communications) the parent company of Verizon Northwest Inc. (Verizon) announced that it was selling most of its landline business to Frontier Communications Corporation (Frontier). The sale includes all of Oregon and Washington and 12 additional states (Verizon is not selling its business and wireless services). This \$8.6 Billion transaction (\$5.3 billion in stock and \$3.3 billion in new debt) is set to close in the second quarter of 2010. Largely arranged in this way for tax purposes, the sale involves the change of control of the parent corporation (from Verizon to Frontier) of the current subsidiary (Verizon Northwest, Inc.).

On June 1, 2009, MACC and the affected jurisdictions received an FCC Form 394 Application (Application) from Verizon Communications. This submittal formally requests the Transfer of its cable franchise to Frontier. Upon receipt of the Form 394, MACC staff and legal counsel began a review of the proposed transaction.

MACC Review Process. Federal Law sets out a limited review process for local governments. The Federal Law allows local franchising authorities to inquire into the legal, financial, and technical qualifications of the prospective transferee. MACC may condition the transfer upon such terms and conditions as they deem reasonably appropriate – but these must relate to an incoming company's legal, financial, and technical qualifications. As a result, MACC's review is more limited than the review process undertaken by state public utility commissions in regards to telephone system transfers.

Federal Law also provides MACC a 120-day period of time to complete its review, once MACC deems the application is complete. Since MACC found Verizon and Frontier's (the companies) initial application and responses incomplete, the parties eventually agreed to extend the review time period until January 31, 2010. If all the affected MACC jurisdictions do not act by that date, the Transfer may be deemed approved by Federal Law.

During the six month review period prior to the Commission's consideration on November 20<sup>th</sup>, MACC, its legal counsel, its retained technical/financial consultants, and some neighboring non-MACC jurisdictions, all worked together to review Frontier's qualifications to own and operate the cable system. That review resulted in the following findings:

### **Legal Qualifications**

Verizon Northwest will continue to be the Franchisee after the completion of the transfer to Frontier. Frontier must gain the approval of local telephone authorities, state public utility commissions, Federal Communications Commission (FCC), and Department of Justice to complete their transaction. The Oregon PUC is scheduled to hold a hearing on

this matter in early December with final decision expected in January 2010. If the Oregon PUC fails to approve Frontier's application, there will be no transfer of cable service.

**MACC Conclusion:** Assuming Frontier obtains the required local, state, and Federal authorizations to operate Verizon, we see no legal reasons why the transfer should not take place.

### **Financial Qualifications**

In considering a company's financial qualifications to own and operate a cable system, MACC is first concerned about the incoming company's ability to finance the transaction and to manage its new debt load. We are also concerned that a heavily leveraged debt could result in adverse affects on our jurisdictions (i.e., late or non-payment of franchise fees) or subscribers (i.e., higher service rates, poor customer service, delays in installing plant in new areas, or poor program/transmission quality).

To assist with our financial review, we relied upon the financial analysis of this transaction conducted by Mike Katz of KFA Services. Mr. Katz has a long association with cable financial analysis for many local governments, including past work for MACC.

The KFA report, concludes that Frontier is "in reasonable financial health" before and after the Verizon acquisition. KFA is more concerned about the long-term stability of the company, although many of those concerns are affected by circumstances (e.g., the current economy), subject to competitive factors, and uncontrollable by any regulatory or enforcement mechanism. To ensure franchise performance, KFA recommended that Frontier provide a corporate guarantee.

To address KFA's concerns, MACC required Frontier, as a condition for its approval, to provide MACC a new Letter of Credit in the amount of \$250,000 to secure Frontier's obligations under the franchise and to further protect the affected jurisdictions and MACC. Frontier will provide this additional security for a period of five (5) years from the close of the transaction (to 2015 – beyond the midpoint of the fifteen-year original franchise). The Letter of Credit is a new requirement, over and above current obligations in the franchise, and directly related to their performance under the Franchise and any potential financial harm the affected jurisdictions could face if Frontier fails to perform.

**MACC Conclusion:** Based on the KFA Services report we conclude that Frontier has the financial qualifications to own and operate the cable system. However, as additional protection for cable subscribers, the jurisdictions, and MACC, we have negotiated additional financial protection from Frontier.

## Technical Qualifications

The Verizon Communications FiOS system is one of the most technically sophisticated telecommunications systems in the country – it is also a product on this scale unique to Verizon Communications. Our first and largest concern, when we learned of this proposed Transfer, was whether Frontier had the technical qualifications to own and operate the FiOS system.

To assist us in our review, we retained the services of CBG Communications, a technical consulting firm we have worked with for years. Working with CBG, we explored the following areas: Frontier's experience in operating cable systems; their staff experience in cable; the type of system Frontier planned to operate here; their long-term commitment to video; and above all, the likelihood that Frontier will continue to provide a viable competitive cable service to its customers.

Frontier's Cable Operations Experience – Frontier currently does not operate any cable systems – the last time they operated a cable system was in 2005. Prior to that date, Frontier acquired a number of small cable systems when they purchased telephone systems. All of these systems were either abandoned, sold, or were no longer operated by Frontier. In some cases, former subscribers to these systems were offered the satellite-based DISH Network as an alternative. The only video service Frontier currently provides to their telephone subscribers is DISH and DISH is not a cable service.

However, a key element of Frontier's purchase of Verizon is the company's retention of local staff responsible for the current Verizon cable system. Engineers and technicians have been assured that there will be no layoffs for any reason for at least 18 months after the close of the transaction. Other Verizon employees (unrelated directly to the cable system) are expected to be retained, but have no guarantees.

Frontier has also provided us with the following information and commitments to assure us that they will continue to provide a viable cable service in the MACC area:

Facilities – Frontier will operate the existing MACC-area cable system in a manner consistent with Verizon's current operations. MACC has been assured through formal submittals and the review of confidential internal documents that these components have either been, or are in the late stages of being secured. Demonstrated commitments include:

Content – Before it can operate as a cable system, Frontier must acquire the approval, through licensing agreements, of hundreds of cable programming networks. These agreements are necessary in order for Frontier to legally "re-broadcast" those services that all of us have come to expect from a cable provider: e.g., CNN, FOX, ESPN, TNT, DISNEY, HBO. Additional agreements are required to carry local network affiliates: e.g., KATU, KOIN, KGW, PBS, KPTV.



Local governments have little oversight under Federal Law of the content delivered over the cable system – it is largely a function of economics and competition. There is no guarantee, and frankly no expectation, that Frontier will duplicate every channel on the current Verizon cable service. Our sole charge is to ensure that Frontier is technically capable of providing a viable cable channel lineup to its customers.

To accommodate the gap between MACC's review period and the actual proof that Frontier has agreements with programmers, Frontier has agreed to condition the transfer on two points:

- A report to MACC no later than January 15, 2010 that details the status of all programming agreements.
- A certification, no later than March 31, 2010, by a Frontier corporate office that it has retained at least 75% of the channels currently programmed by Verizon.

Frontier has told us that they will make every effort to accommodate any customers unhappy with their ultimate channel line-up, including the potential, if necessary, of severing long term service contracts customers may have signed with Verizon. Frontier will also provide subscribers and MACC with a complete, projected cable channel line-up no later than 30 days prior to the time Frontier assumes operation of the MACC area cable system (projected to be in June or July, 2010).

**Conclusion** – After reviewing Frontier's telecommunications/cable experience, staff expertise (and the Verizon local staff they will acquire), the type of system they plan to operate, their ongoing contractual relationship with Verizon Communications, and the assurances provided regarding program acquisition, we believe Frontier has the technical qualifications to operate the Verizon FiOS cable system

**Commission Action** – The Commission met twice (in June and September) with representatives of the companies to discuss the transfer and Frontier's qualifications. At those meetings, the companies were called upon to provide sufficient information to ensure Frontier met the qualifications to provide cable service. The Commission advertised its third meeting (November 20) on this topic extensively and received public testimony regarding the proposed transaction. At the meeting, the Commission unanimously recommended that the affected MACC jurisdictions approve the proposed transfer, with the conditions listed in the Resolution.

**What Action Does MACC Recommend?** – MACC recommends that your jurisdiction approve the proposed Transfer of Control of Verizon Northwest to Frontier Communications. MACC also recommends that each jurisdiction, as part of the Transfer approval process, adopt the thirteen conditions to the approval to ensure continued performance.

Thank you for considering MACC's recommendation in this matter. We look forward to attending your meeting to discuss the Commission's Transfer recommendation and to

answer any questions you have. We have also attached a Verizon/Frontier Questions and Answers memorandum that addresses typical questions (see Exhibit B – Questions and Answers).

If you have questions about the proposed transfer or MACC's recommendation, please contact the City's representative, and MACC Chair: Chris Barhyte; or Bruce Crest, MACC Administrator, at 503-645-7365 x 200, or via email: [bcrest@maccor.org](mailto:bcrest@maccor.org).

Enclosed Exhibits:   A – MACC's Recommending Resolution  
                              B – MACC Questions & Answers regarding the Proposed Transfer

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CONSENTING TO THE TRANSFER OF CONTROL OF  
THE FRANCHISEE AND OF THE CABLE FRANCHISE GRANTED TO  
VERIZON NORTHWEST, INC. TO FRONTIER COMMUNICATIONS  
CORPORATION, WITH CONDITIONS

WHEREAS, the Metropolitan Area Communications Commission, ("MACC,") is an intergovernmental commission formed under ORS Chapter 190, with the membership of Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard and Tualatin; and

WHEREAS, Verizon Northwest, Inc., a subsidiary of Verizon Communications, Inc. is the Franchisee under a Cable Franchise Agreement approved by MACC and granted by the City of Tualatin ("City") in 2007 for a period of 15 years; and

WHEREAS, on June 1, 2009 MACC and the City received a Federal Communications Commission Form 394 Application by which Verizon Communications, Inc., the corporate parent of Franchisee, and Frontier Communications Corporation ("Frontier" or "Transferee") requested approval from MACC and the affected member jurisdictions of a proposed transfer of control of the Franchisee and its franchise to Frontier; and

WHEREAS, following the completion of the transactions constituting the transfer of control, Frontier would assume control of the local cable operations of the Franchisee, but must also secure certain other facilities and agreements to provide a comparable cable service to that currently provided by Franchisee; and

WHEREAS, Federal law and Section 11 of the Franchises authorize MACC and its member jurisdictions to review any proposed transfer of control, including the proposed transaction as described in the Application and as clarified in answers to questions presented by MACC to the Franchisee and Frontier to determine the impact on the Franchisee's ability to perform the Franchise obligations based on the legal, financial, and technical qualifications of the transferee; and

WHEREAS, Section 11 of the Franchises also authorizes MACC and its member jurisdictions to condition approval of a transfer upon such terms and conditions as they deem reasonably appropriate within the legal, financial, and technical framework provided by the Franchise and federal law; and

WHEREAS, MACC has reviewed the materials provided by the Franchisee and Frontier in the Application and in response to an RFI originally

provided to the companies on June 25, 2009 and subsequently revisited and further investigated on numerous occasions through October 30, and undertook additional joint review of the proposed transferee's financial qualifications in cooperation with the Mt. Hood Cable Regulatory Commission (MHCRC); and

WHEREAS, MACC conducted a duly noticed public hearing concerning the proposed transfer on November 20, 2009 wherein it received public testimony and written communications; and

WHEREAS, the review now being completed except for certain issues necessarily addressed in a prospective manner through conditions, the MACC Commission adopted Resolution No. 2009-05 recommending that the affected member jurisdictions approve the Application, provided those conditions and assurances are obtained from the companies, which Resolution is attached as Exhibit A; and

WHEREAS, pursuant to Section 4(E) of the MACC Intergovernmental Agreement, final approval would be granted only if all eleven affected jurisdictions also approve the Application as recommended by MACC; and

WHEREAS, the City Council deems it to be in furtherance of the public interest and the welfare of its citizens to consent to the transfer request, subject to appropriate conditions.

BE IT RESOLVED BY THE CITY OF TUALATIN, Oregon, that;

Section 1. Legal, Technical and Financial Qualifications of the Transferee.

The findings of MACC in the attached Exhibit A demonstrate that the Franchisee and Transferee have the necessary legal, technical and financial qualifications to perform the required duties under the Franchise Agreement, provided certain conditions are imposed on the proposed transfer of control.

Section 2. Consent to the Transfer of Control.

The City Council hereby consents to the transfer of control of the franchisee and of the franchise as set forth in the Federal Communications Commission Form 394, subject to the conditions set forth in Section 3, below.

Section 3. Conditions to the Transfer of Control.

The approval of the proposed transfer of control shall not take effect until such time as each of the following conditions is met:

1. All eleven affected MACC member jurisdictions consent to the transfer of control, as determined by MACC staff in a formal written certification.

2. The Verizon/Frontier merger transaction must close with all material terms substantially consistent with the Merger Agreement, as well as the information provided to MACC or the Mount Hood Cable Regulatory Commission (MHCRC) in public documents and responses to Requests for Information submitted by MACC and the MHCRC.

3. The Verizon/Frontier merger transaction is approved by all required federal agencies and the Oregon Public Utility Commission.

4. Franchisee, under the control of Transferee, agrees to remedy any franchise non-compliance issues, including any underpayment of franchise and PEG fees by Verizon, regardless of whether such non-compliance issues are discovered prior to or following the close of the Transfer of Control. Franchisee, under the control of Transferee, shall remain responsible for any and all Franchise requirements (including but not limited to payment of Franchise fees and other amounts due under the Franchise, and indemnification of the Grantor as provided in the Franchise) and non-compliance issues under the Franchise or any obligation that may now exist or may later be discovered to have existed during the term of the Franchise, even if prior to the closing of this Transfer.

5. Franchisee shall comply with all valid local laws, agreements, and Franchise requirements consistent with applicable federal and state law including all terms of the MACC/Verizon Franchise Agreement. In all respects and without exception, Franchisee, under the control of Transferee agrees to continue to abide by all terms of the existing Franchise and acknowledges that the transfer of control will not affect, diminish, impair or supersede the binding nature of the Franchise and any other valid ordinances, resolutions, and agreements applicable to the operation of the cable system in the MACC member jurisdictions.

6. In addition to the current obligations of the franchise Section 13.6, "Letter of Credit", Franchisee, under the control of Transferee, provides and maintains an irrevocable letter of credit or performance bond in a form acceptable to MACC in the amount of \$250,000, to secure the payment of franchise fees and any penalties, for a period of five years after closing of the Verizon/Frontier merger transaction.

7. Verizon has paid MACC all reimbursement costs due as a result of review of the transfer of control application, consistent with the separate agreements concerning those costs.

8. Transferee provides current contact information for notice recipients under Section 16.5 of the Franchise.

9. Transferee provides a new Exhibit E, "Franchisee Parent Structure."

10. MACC and its member jurisdictions' consent to the transfer of control shall not be construed to constitute a waiver or release of any rights they may have under the Franchise and any separate written agreements with the Franchisee and Franchisee's lawful successors.

11. During the week ending January 15, 2010, Transferee will provide MACC with a progress report of its acquisition of content, including a listing of national and local content providers and their associated channels, and video on demand providers, with which: (1) Transferee has signed agreements; (2) Transferee has pending agreements being negotiated; and (3) Transferee is pursuing agreements. By March 31, 2010, Transferee shall have delivered certification by a Corporate officer that it has acquired rights to distribute linear video, broadcast, and video on demand programming content from vendors, which rights: (a) include at least 75% of the channels provided by Franchisee on November 1, 2009; (b) include all nine Portland area local broadcasters; and (c) include commitments to carrying the majority of this content for a period of not less than two years. Transferee will provide MACC with a complete projected channel lineup no later than 30 days prior to the close of the transaction.

12. Transferee acknowledges these conditions of approval of the transfer of control in writing in a form and by a date acceptable to MACC.

13. Approvals granted by MACC and its member jurisdictions shall be valid until the Verizon/Frontier merger's Hart-Scott-Rodino Approval ("HSR") expires. Currently, the HSR expires on September 1, 2010. If the merger is not completed prior to the expiration of the HSR, Verizon and Frontier shall meet with MACC representatives and advise them on the status of the merger. MACC and its member jurisdictions shall consider the information provided by Verizon and Frontier and consider whether to extend the previously granted approvals. Such extensions shall not be unreasonably withheld.

#### Section 4. Authorization to Execute and File Resolution.

The Mayor is authorized to execute and file a copy of this Resolution with MACC.

Continued on next page.

Section 5. Effective Date.

This Resolution shall be effective upon its adoption by the Council.

Introduced and adopted this 25th day of January 2010.

CITY OF TUALATIN

By \_\_\_\_\_  
Mayor


ATTEST:



By \_\_\_\_\_  
City Recorder



## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

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

**DATE:** January 25, 2010

**SUBJECT:** ANNUAL REPORT OF THE TUALATIN PARKS ADVISORY  
COMMITTEE FOR 2009

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### ISSUE BEFORE THE COUNCIL:

The Council will receive the Annual Report of the Tualatin Parks Advisory Committee (TPARK) for 2009.

### RECOMMENDATION:

TPARK requests that Council accept the annual report and recommends that the City pursue public financing to expand the trail system and on-street bike lanes, increase the number and quality of sports fields, construct a dog park in 2010, and update the Parks and Recreation Master Plan as soon as funding is available.

Staff recommends that Council accept the annual report.

### EXECUTIVE SUMMARY:

The TPARK was established by Ordinance 418-77, adopted November 28, 1977, and incorporated into the Tualatin Municipal Code as Chapter 11-2. The ordinance prescribes TPARK's role in advising the Council on matters relating to parks and recreation. TPARK also serves as the Tree Board for the purpose of the Tree City USA program pursuant to Resolution 2013-87, adopted July 27, 1987. In this capacity, TPARK makes recommendations to staff and council on Urban Forestry related issues.



The TPARK ordinance calls for an annual report summarizing TPARK's activities in the preceding calendar year, outlining future activities of the committee, and identifying any other matters deemed appropriate by the committee for recommendation and advice to the Council.

TPARK recognizes that Tualatin's parks and recreation facilities and programs provide personal, social, economic, and environmental benefits to the people who live and work here. Recreation programs help improve health, reduce crime, promote ethnic and cultural harmony, build stronger families, and are a source of community pride. For youth especially, recreation opportunities are an essential source of self-esteem, positive self-image, and serve to combat childhood obesity. Recreation also provides positive lifestyle choices and alternatives to self-destructive behavior.

2009 members of TPARK included Travis Dunford (Chair), Debbie Wightman, D.J. DeAustria, Jill Anderson, William Hawley, and Connie Ledbetter.

#### **FINANCIAL IMPLICATIONS:**

TPARK has no annual revenue or expenditures

#### **DISCUSSION:**

2009 was the 32<sup>nd</sup> anniversary of TPARK and it was a busy year for the Committee members. In addition to regular meetings, TPARK members also sat on ad hoc committees for Arbor Week and the Tualatin-Sherwood Road Landscaping/Gateway Project, as well as the Tonquin Trail Master Plan Steering Committee.

Following is a summary of the key issues that TPARK considered during 2009:

##### **1. Park Planning and Development**

- Hedges Creek bike/pedestrian bridge design
- Tonquin Trail Master Plan / Active Transportation Demonstration Project
- Community Development Block Grant proposal for Pohl Center renovation
- The Intertwine/Connecting Green initiative
- Lower Tualatin Pump Station – Sports Field/Picnic Shelter/Dog Park and picnic shelter naming

- Tualatin-Sherwood Road Landscaping project
- Acquisition of 3.4 acres of land adjacent to Jurgens Park

## **2. Policy and Program Issues**

- Naming and Memorial Ordinance review - Renaming the Tualatin/Durham Senior Center to the Juanita Pohl Center
- Shelter naming and fee update process
- Presentation from the aquatics district advocates
- Interstate 5/Highway 99 Connector Project (the Tualatin Projects)
- Heritage Center Annual Report
- Smoking in Parks
- Arbor Week events
- Alder Creek Kayak and Canoe Concession Agreement
- Community Recreation program presentation
- Trail counts of pedestrians and bikers

## **3. Proclamations**

- Earth Day proclamation
- Arbor Week Proclamation
- National Recreation and Parks Month Proclamation
- National Senior Center Month Proclamation

## **4. Special Events**

TPARK provided input on or heard a presentation about the following programs and special events in 2009:

- Spring Fling
- 6<sup>th</sup> Annual West Coast Giant Pumpkin Regatta

- Starry Nights and Holiday Lights
- Tualatin Farmers Market
- Crawfish Festival
- TualaFest
- Foundation for Tigard-Tualatin Schools events
- 5k/10k running events

**5. Tree Board**

- Provided staff input on Street Tree Removal and Replacement (Plan Text Amendment)

**6. Other**

- TPARK co-hosted the first of three Tonquin Trail Open Houses with Metro staff. Over 40 members of the public attended.

In the year ahead the committee will address items such as reviewing capital parks projects, programs, and policies as needed.

***Recommendations to Council***

TPARK respectfully makes the following recommendations to Council. As funding allows:

1. Acquire land and construct more trails;
2. Increase the number of on-street bike lanes;
3. Increase the number and quality of sports fields in Tualatin;
4. Construct a dog park in Tualatin Community Park in 2010; and
5. Update the 1983 Parks and Recreation Master Plan.

C: Members of Tualatin Park Advisory Committee



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Paul Hennon, Community Services Department *Paul Hennon*

**DATE:** January 25, 2010

**SUBJECT:** RESOLUTION CALLING AN ELECTION ON ANNEXATION INTO  
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY

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### ISSUE BEFORE THE COUNCIL:

The Council will consider adopting a resolution calling an election on May 18, 2010, to submit to Tualatin's Clackamas County voters a measure to determine whether or not that portion of Tualatin that lies within Clackamas County should annex into the District.

### RECOMMENDATION:

The staff respectfully recommends that the Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

Approval of the attached resolution will place a measure on the May 18, 2010, election ballot that will provide an opportunity for Tualatin's Clackamas County residents to determine if the Clackamas County area of Tualatin should be included in the recently formed Library District of Clackamas County, thereby restoring full library services for those residents.

The residents of Tualatin within Clackamas County do not currently have the same full library services as most other residents in Clackamas, Multnomah and Washington counties. The three counties are part of a larger consortium of library providers (Metropolitan Interlibrary Exchange - MIX). The consortium "rule" is that residents of property subject to library taxes in their home jurisdiction have available to them the resources of all consortium members.

When Clackamas County formed the Library Services District in November, 2008, the City of Tualatin opted not to approve inclusion of the portions of the City that lay within Clackamas County at that time. The balance of Clackamas County, except Damascus

STAFF REPORT: RESOLUTION CALLING AN ELECTION ON ANNEXATION INTO  
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY

January 25, 2010

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and Johnson City, lies within the Library District of Clackamas County and are subject to the District's tax rate of \$.3974/\$1,000 of assessed value. This funds the bulk of all library services in the Clackamas County.

Residents of Washington and Multnomah counties are subject to taxes which fund libraries in these counties. The residents of Tualatin in Clackamas County are not subject to taxes funding libraries and therefore are not able to utilize any library resources in Clackamas, Multnomah and Washington counties. These residents are only able to access the City of Tualatin library since they do pay taxes to the City which funds a portion of the City library's expenses.

Currently the residents of Tualatin in Clackamas County have been granted continuing privileges by Clackamas and Washington counties because it is understood that this annexation process is underway and, if approved will resolve the situation. Other members of the consortium have not continued privileges to these residents. If the annexation is not approved by the residents, these Clackamas and Washington county privileges will cease. Thereafter, the only way to access the larger system would be to pay an out-of-district annual fee of \$95 per county.

On December 10, 2009, at the request of the City of Tualatin and with support of the District's Advisory Board, the Clackamas County Board of County Commissioners, acting as the governing body of the District, authorized the election, and directed the City of Tualatin to submit a ballot title and related explanatory statement, to provide the required notice of election and any other actions required to place this formation question on the May 18, 2010 election ballot.

This measure will be voted on only by Tualatin's Clackamas County voters since Tualatin's Washington County residents are served by the Washington County Cooperative Library Services (WCCLS) and the District serves only Clackamas County. Annexations do not require a double majority.

A ballot title (caption, question, summary) and Explanatory Statement are attached. Following Council approval of the resolution, notice will be published consistent with ORS 275(5) providing public notice of the opportunity to challenge the ballot title. Following the ballot title challenge process, the necessary documents will be filed with the Clackamas County.

The deadline to file measure elections for the May 18, 2010 election is March 18, 2010. The deadline to file the explanatory statement is March 22, 2010.

If the measure to annex into the District passes, access to the Washington and Clackamas county libraries will continue as it is now, and access will be restored to other libraries in the MIX consortium: Oregon's Hood River and Multnomah counties, and Washington's Clark, Klickitat, and Skamania counties.

STAFF REPORT: RESOLUTION CALLING AN ELECTION ON ANNEXATION INTO  
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY

January 25, 2010

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If the measure passes, an intergovernmental agreement with the District would be prepared subject to the conditions described in Resolution No. 4929-09, approved by Council on September 22, 2009.

If the measure to annex into the District fails, Tualatin's Clackamas County residents would continue to have access to Tualatin's library and its collection, programs, and facilities. Access to libraries in Oregon's Washington, Clackamas, Hood River and Multnomah counties, and Washington's Clark, Klickitat, and Skamania counties would require payment of non-resident user fees following the election. Property within the Clackamas County area of Tualatin would not be subject to the District permanent tax rate.

Pursuant to Council direction, voter information materials will be prepared and distributed prior to the election.

**FINANCIAL IMPLICATIONS:**

Property within the Clackamas County area of Tualatin would be subject to the District permanent tax rate of \$.3974 per \$1,000 of taxable assessed value, equating to approximately \$107 per year based on the average assessed value of houses in the portion of Tualatin that lies within Clackamas County, effective July 1, 2010.

Tualatin's revenue from the District would be budgeted in the FY10/11 and would be used to provide library services consistent with ORS 451 and to achieve the Service Standards of the District. Tualatin would receive approximately \$72,000 in the first year from the District.

**ATTACHMENTS**

1. Resolution

c: Members of the Tualatin Library Advisory Committee

**Ballot Title****Annex to the Library District of Clackamas County**

**Caption:** SHALL TUALATIN ANNEX INTO THE LIBRARY DISTRICT OF CLACKAMAS COUNTY?

**Question:** Shall Tualatin annex into the Library District of Clackamas County to restore full library services to Tualatin's Clackamas County residents?

**Summary:**

In July 2009, Clackamas County formed a Library Services District that includes the entire County except for the cities of Damascus, Johnson City and the Clackamas County portion of Tualatin.

Because Tualatin residents do not pay into the new District, Tualatin's Clackamas County residents lost access to Clackamas and other counties' libraries, except during a temporary grace period.

If approved, the Clackamas County portion of Tualatin would be annexed to the Library District of Clackamas County. The levy would be \$0.3974 cents per thousand with an average Tualatin house in Clackamas County paying \$107 per year.

Annexation to the Library District would:

- Provide dedicated funding to the Library District of Clackamas County and the Tualatin Public Library.
- Restore full library privileges to Tualatin's Clackamas County residents.
- Allow residents to access libraries in Hood River, Multnomah, Washington, Clark, Klickitat and Skamania Counties.

If the measure fails, residents could use the Tualatin Public Library materials but would have to pay fees to each county to use a particular county's libraries.

### **Explanatory Statement**

If the ballot measure is approved, the area of Tualatin in Clackamas County would be annexed into the Library District of Clackamas County.

### **History**

Because of declining federal funding to counties, Clackamas County Commissioners placed a measure on the November 2008 ballot asking voters to form a countywide library district to provide dedicated funding to the public libraries in Clackamas County. Damascus, Johnson City and Tualatin did not participate in the ballot measure and were not included in the proposed countywide library district.

The new district was approved by voters and was officially created on July 1, 2009. Tualatin residents in Clackamas County do not pay taxes into the new library service district, and therefore cannot access libraries in Clackamas County except for a temporary grace period ending May 19, 2010 if the measure to annex fails.

Libraries in the greater Portland area offer reciprocal privileges to residents of other counties; because the residents of Tualatin in Clackamas County are not members of the Library District of Clackamas County, they are not eligible to borrow materials at other libraries in the region. Washington County has granted a temporary grace period until residents have the opportunity to vote on annexation into the Library District of Clackamas County.

### **Current Library Services**

The libraries of Clackamas County and the Tualatin Public Library currently provide library services including:

- Books, movies and music and other materials for all ages and interest levels. Items from other libraries can be ordered online and delivered to the most convenient library.
- Children's reading and literacy programs.
- Educational programs for youth such as weekly storytimes, summer reading events and teen book clubs.
- Reference and information services for research, business development, and recreational interests.
- Artistic, musical and cultural programming for all ages.

### **If the ballot measure is approved**

- Residents could borrow library materials from all libraries in Clackamas, Washington, Multnomah and Hood River Counties in Oregon, and Clark, Klickitat and Skamania Counties in Washington.
- New revenue would provide dedicated funding for Tualatin Public Library and the Library District of Clackamas County, to be used to provide library services consistent with ORS 451 and to achieve the Service Standards of the District.

### **If the ballot measure is not approved**

- Residents would be able to borrow library materials owned by and from the Tualatin Public Library only.
- Access to the collections of other libraries would require the purchase of a non-resident card in each county to use a particular county's libraries, including: Clackamas, Washington, Hood River and Multnomah Counties in Oregon; and Clark, Klickitat, and Skamania counties.
- Residents would not be able to place holds on library materials at any library, including Tualatin Library, without the purchase of a non-resident card for that county's libraries.



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CALLING AN ELECTION ON ANNEXATION INTO THE  
LIBRARY DISTRICT OF CLACKAMAS COUNTY

WHEREAS, the residents of Tualatin within Clackamas County do not currently have the same full library services as most other residents in Clackamas, Multnomah and Washington counties because they currently are not part of a library district; and

WHEREAS, the Clackamas County residents of Tualatin have an opportunity to decide whether to annex into the Library District of Clackamas County to restore to them the same library services as Tualatin's Washington County residents; and

WHEREAS approval of the attached resolution will place a measure on the May 18, 2010, election ballot to allow Tualatin's Clackamas County residents to determine if the Clackamas County area of Tualatin should be included in the recently formed Library District of Clackamas County, thereby restoring full library services for those residents

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TUALATIN that:

Section 1. The City Council calls for the ballot measure to annex the Clackamas County portion of Tualatin into the Library District of Clackamas County to be placed on the ballot for the May 18, 2010 election..

INTRODUCED AND ADOPTED this 25th day of January 2010.

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY


Resolution No. \_\_\_\_\_




# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

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

**DATE:** January 25, 2010

**SUBJECT:** RESOLUTION APPROVING A DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF TUALATIN AND LEGACY HEALTH  
SYSTEMS

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### ISSUE BEFORE THE COUNCIL:

City Council consideration of adopting a resolution approving a Non-Statutory Development Agreement (the "Agreement") between the City of Tualatin and Legacy Health Systems (Legacy). The purpose of the Agreement is to address the development issues associated with future expansion of the Legacy Meridian Park Medical Center facility onto the 19.6 acre Legacy property (the "Property") located on SW Borland Road. (See Attachment A for location map).

### RECOMMENDATION:

Staff recommends the City Council consider the attached resolution and provide direction.

### EXECUTIVE SUMMARY:

- This action does not require a public hearing.
- The area affected by this Agreement is property generally referred to as the vicinity of the Property located at 6001, 6021, 6031, and 6041 SW Borland Road comprising approximately 19.6 acres (Clackamas County Assessors Map 21E 19C Tax Lots 1700 & 2000) in the RL (Low-Density Residential) Planning District. The Property adjoins the Legacy Meridian Park Medical Center (LMPMC) campus in the MC (Medical Center) Planning District.
- The City of Tualatin is currently considering an application by Legacy for a Plan Map Amendment (PMA-09-03) to change the designation of the Property from RL to MC. The first public hearing was held on November 9, 2009 and a

continued public hearing will be held on January 25, 2010. Legacy is the owner of the unimproved Property and owns as a parent corporation the adjacent 46 acre property occupied by the LMPMC facility. In the future, Legacy intends to expand the LMPMC onto the Property with buildings and site improvements in compliance with the standards and allowed uses of the MC Planning District. The proposed PMA-09-03 would change the property designation to the MC Planning District to match the current LMPMC site designation.

- During the November 9, 2009 public hearing for PMA-09-03, there were questions and concerns raised about future development on the Property and development issues such as public street access, pedestrian access, Historic Landmark preservation or demolition, tree protection; on-site & off-site public improvements including sanitary sewer, stormwater management & street improvements; and development standards including building & parking setbacks, building height, landscape buffers & lighting. The development issues listed are addressed in a land use process (such as Architectural Review) when a specific development or property improvement is proposed, but are not issues to mitigate or require as conditions of approval in a Plan Amendment process such as PMA-09-03.
- The Council inquired about establishing a Development Agreement (DA) with Legacy for the purpose of spelling out the issues associated with development on the Property that arose in the PMA process and provide neighbors, the City and Legacy with assurances that the issues will be addressed in a satisfactory manner. Legacy agreed to begin discussions to create a DA that would address issues raised by neighbors and the Council. The public hearing was continued to January 25, 2010.
- Mr. Larry Hill of Legacy and Staff prepared a draft of a DA that was presented to Council at the January 11, 2010 Work Session. With Mr. Hill and staff present, the Council reviewed and discussed the draft DA. Council indicated an interest in: 1. Encouraging additional tree protection in both the grove of trees on the Tax Lot 1700 portion (south) of the property (adjoining SW Borland Road & Fox Hills residential properties) and the grove of trees surrounding the former Grimitt residence at the northwest corner of Tax Lot 2000 (DA 6.2-6.2); 2. Constructing a berm and densely vegetated buffer to the residential properties on the entire east property line when the first building is developed on the Property (DA 4.7); 3. Encourage pedestrian trail or path connections from the Legacy Property and LMPMC campus to trails and paths on the Stafford Hills Racquet & Fitness Club development and the Nyberg Creek natural areas on the north of the Property (DA 4.3); 4. Consider the need for ROW dedication and street improvements on SW 65<sup>th</sup> Avenue north of SW Borland Road on the LMPMC frontage (DA 8.7);.
- The proposed Agreement would be signed by both Legacy and the City if the proposed PMA-09-03 is approved, If PMA-09-03 is not approved, the Agreement will not be signed and will not become effective.
- A series of agreement points have been reached in the Agreement with Legacy. Details of these points are outlined in the **DISCUSSION** section of this staff report.

**OUTCOMES OF DECISION:**

If the City Council approves the resolution with the accompanying Agreement and if PMA-09-03 is approved, the City, and Legacy will have an agreement, which will remain in effect for a period of 30 years after the Agreement Effective Date or until buildings and site improvements such as public facilities, loading, parking and landscaping occupy 75% of the Property area (whichever occurs first).

If the City Council does not approve the resolution with the accompanying Agreement, the City and Legacy will not have an agreement addressing the development issues associated with the Property. PMA-09-03 remains a separate decision for the Council.

If the City Council approves Plan Map Amendment PMA-09-03 changing the Property to a MC Planning District designation, but does not approve the Agreement, the City and Legacy will not have an agreement on the issues contained in the DA and any development issues associated with the Property will be addressed in individual development applications such as Architectural Review.

**ALTERNATIVES TO RECOMMENDATION:**

If the Council wishes to approve the resolution and Agreement, but with modifications, staff will coordinate with Legacy on the modifications and return at a later date with the modifications.

If the Council chooses to not move forward with the resolution and Agreement, staff will inform Legacy of the Council's decision.

**FINANCIAL IMPLICATIONS:**

Staff resources have been budgeted in Fiscal Year 09-10 to work on the Agreement and subsequent review of the project.

**DISCUSSION:**

There are 14 sections contained in the Agreement. Each is briefly described below:

1. Section 1 identifies the area affected by the Agreement.
2. Section 2 identifies the property affected by the Agreement.
3. Section 3 outlines the scope and characteristics of development on the Property including:
  - Development consistent with the purposes, uses and standards of the MC Planning District; and
  - Design compatibility with surrounding residential and medical center development.

4. Section 4 identifies specific development standards for improvements on the Legacy Property, including:
  - Access may be obtained from one new public street access on SW Borland Road and shared access with the existing LMPMC accesses on SW Borland Road and SW 65th Avenue;
  - Restrict direct motor vehicle ingress/egress access to the adjoining SW Joshua, SW Natchez & SW Wichita residential streets on the east except for emergency access as required;
  - Provide pedestrian access between the Legacy Property and LMPMC to adjoining public streets and encourage connections to a future path or trail system on the nearby Stafford Hills Racquet & Fitness Club and Nyberg Creek wetlands (located to the north);
  - Provide a minimum 20 foot setback from property line to parking area and a minimum 50 ft. for tree protection on the south and east boundaries of Tax Lot 1700 (in the tree grove adjoining SW Borland Road);
  - Provide adequate on-site parking and place parking away from public streets;
  - When the first building is developed on the Property, provide landscape berms with dense evergreen tree & shrub landscaping on the Property's east perimeter to create a buffer to adjoining residential development;
  - Building design compatible with nearby residential and medical center development; and
  - Limit building height to MC Planning District standards for height and setbacks.
5. Section 5 addresses identifying wetlands on the Property:
6. Section 6 sets out standards for protection of existing trees in the portion of the Property adjoining residential properties and SW Borland Road and trees on the northwest corner of the Property.
7. Section 7 addresses the Historic Landmark on the Property with a commitment to work with the Tualatin Historical Society on relocating it or preserving historic features.
8. Section 8 outlines existing transportation conditions in the LMPMC area and transportation impacts associated with MC development on the site and identifies transportation improvements that Legacy will construct, including:
  - SW 65th Avenue & SW Sagert Street intersection improvements to improve the intersection level of service, and
  - Frontage improvements along SW Borland Road frontage of the Legacy Property and the LMPMC campus.
  - Dedication and frontage improvements along the LMPMC SW 65<sup>th</sup> Avenue frontage. --**Subject to Traffic Information currently being obtained and reviewed--**

The section also discusses Transportation Development Tax credits. The City cannot guarantee future application of TDT credits for Legacy's public street improvement construction, but under current and soon to be adopted TDT provisions for this area, the capacity-improving street and intersection improvements addressed in the Legacy DA are eligible for full TDT credit for a period of 10 years from completion.

9. Section 9 discusses public improvements including:
  - Water, Sanitary Sewer, & Stormwater.
10. Section 10 is a general statement about a Non-Statutory Development Agreement.
11. Section 11 is the Term of Agreement. As proposed, the Agreement would remain in effect until the Property is 75% developed or 30 years has elapsed.
12. Section 12 establishes the Agreement as a Final Agreement between the parties.
13. Section 13 concerns the Agreement as a whole and in parts.
14. Section 9 is a statement concerning general compliance with laws.

**PUBLIC INVOLVEMENT:**

A formalized public involvement program is not required in the development and approval of a Development Agreement.

- Attachments:**
- A. Location Map
  - B. Resolution with Development Agreement Exhibit





**Site Plan**  
Scale 1" = 300'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER  
Tualatin, OR

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF TUALATIN AND LEGACY HEALTH  
SYSTEMS

WHEREAS Legacy Health Systems has applied for a Plan Map Amendment to change a 19.6 acre parcel site located at 6001, 6021, 6031, and 6041 SW Borland Road from RL (Low-Density Residential) Planning District (Assessors Map 21 E 19C 1700 & 2000) to MC (Medical Center) for the purpose of constructing additional medical center uses on the site in the future; and

WHEREAS the proposed Agreement has been prepared to assure that if the Council approves proposed PMA-09-03 Plan Amendment after considering the evidence in a quasi-judicial public hearing, the approval will apply to the 19.6 acre parcel that is the subject of the Development Agreement; and

WHEREAS if the Council does not approve the requested Plan Map Amendment, the agreement will be null and void and the Plan Amendment will not be enacted.

WHEREAS a series of agreement points have been reached in the Agreement with the Property Owner and Developer, all of which are incorporated by reference in the agreement attached as Exhibit A; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF TUALATIN,  
that:

Section 1. The City Council approves the accompanying Agreement and authorizes the Mayor to sign the Agreement on behalf of the City.

INTRODUCED AND ADOPTED this 25th day of January, 2010.

CITY OF TUALATIN, Oregon

By \_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

By \_\_\_\_\_  
City Manager



**DRAFT IV 1-13-10**  
**NON-STATUTORY DEVELOPMENT AGREEMENT**

This Non-Statutory Development Agreement (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_, 2010 (the "Effective Date") by and between Legacy Health System, an Oregon-based not-for-profit corporation ("Legacy") and the City of Tualatin, Oregon (the "City").

**RECITALS**

- A. Legacy is the owner of the approximately 19.6 acres of unimproved real property located within Tualatin (the "Property") (Exhibit A). Legacy owns as a parent corporation the adjacent 46 acre property occupied by the Legacy Meridian Park Medical Center (LMPMC) facility.
- B. Legacy has applied to the City for approval of a Plan Map Amendment (the "Amendment") PMA-09-03 to change the Property designation from Low-Density Residential (RL) to Medical Center (MC). In the future, Legacy intends to expand the LMPMC onto the Property with buildings and site improvements in compliance with the standards and allowed uses of the MC Planning District.
- C. The City wishes to assure that if the Amendment is approved by the City Council after a public, quasi-judicial hearing, the Amendment would only apply to the Property.
- D. The Parties desire to enter into this Agreement for the purpose of addressing the development-related issues (such as, but not limited to: public street access, pedestrian access, Historic Landmark preservation or demolition, tree protection; on-site and off-site public improvements including sanitary sewer, stormwater management, and street improvements; development standards including building & parking setbacks, building height, landscape buffers & lighting) for Legacy's future development of the Property (see Section 1). Because future development on the Property is subject to land use approval by the City, the City cannot predetermine conditions of approval; however, the Agreement sets forth the Parties' expectations for development on the property.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants of the parties set forth herein, THE PARTIES AGREE AS FOLLOWS:

**SECTION 1. AREA AFFECTED BY THIS AGREEMENT.** The area affected by this Agreement is property generally referred to as the vicinity of the Property located at 6001, 6021, 6031, and 6041 SW Borland Road comprising approximately 19.6 acres (Clackamas County Assessors Map 21E 19C Tax Lots 1700 & 2000).

**SECTION 2. PROPERTY AFFECTED BY THIS AGREEMENT.** This Agreement shall apply at such time as the Property is designated as the MC Planning.

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LEGACY DEVELOPMENT AGREEMENT

**SECTION 3. SCOPE OF DEVELOPMENT.** When development of the Property is commenced, Legacy or a succeeding property owner shall cause to be completed a development with the following characteristics:

- 3.1. Development consistent with the purposes of the MC (Medical Center) Planning District including: "...to provide care facilities, allied health care uses and limited supporting retail and service uses for the convenience of patients, patient visitors and staff." [TDC 56.010]
- 3.2. Development consistent with all the allowed uses and standards of the MC Planning District including out-patient care, medical clinics and medical office facilities [TDC 56.040-56.150].
- 3.3. Development that complies with the criteria and standards for Architectural Review Approval as specified in TDC 73.050 including: (1)(a) The proposed site development, including the site plan, architecture, landscaping, parking and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height, and appearance of the proposed development are involved; (b) The proposed design of the development is compatible with the design of other development in the general vicinity; and (c) The location, design, size, color and materials of the exterior of all structure are compatible with the proposed development and appropriate to the design character of other developments in the vicinity.

**SECTION 4. DEVELOPMENT STANDARDS.** When development of the Property is commenced, Legacy or a succeeding property owner shall cause to be completed a development with the following:

- 4.1. Access for the Property may be obtained from a new public street access on SW Borland Road that aligns with the existing SW 60<sup>th</sup> Terrace intersection and from shared access with the existing LMPMC accesses on SW Borland Road and SW 65<sup>th</sup> Avenue.
- 4.2. The Property will not have direct motor vehicle ingress/egress access to the adjoining SW Joshua, SW Natchez & SW Wichita Streets except for emergency access as required. Based on current standards at the time of an Architectural Review for buildings on the Property, emergency vehicle turnarounds located on the Property at SW Joshua, SW Natchez and SW Wichita will be provided.
- 4.3. Provide pedestrian access connections between the pedestrian walkway system on the Property to SW Joshua, SW Natchez & SW Wichita Streets on the east and SW Borland Road on the south as identified in the Architectural Review process. In the future, provide pedestrian connections to publicly accessible trails and paths to the Stafford Hills

DRAFT IV 1-13-10  
LEGACY DEVELOPMENT AGREEMENT

Racquet & Fitness Club development and the Nyberg Creek wetlands to the north of the LMPMC campus and the Legacy Property.

- 4.4. Provide a minimum 20 ft. setback from the Property's parking areas and drive aisles to adjoining public streets and to properties adjoining the east property lines parking areas and drive aisles. A 50 ft. setback for parking areas will be provided for tree protection as stated in Section 6.1.
- 4.5. Provide adequate on-site surface and structured parking for medical center facility staff, patients and visitors as approved in the Architectural Review process. Design parking areas in a manner that locates surface parking at the rear or side of all buildings located within 100 ft. of the Property's SW Borland Road frontage.
- 4.6. Limit the height of freestanding outdoor lighting fixtures to a maximum 20 ft. height. Provide outdoor lighting that does not glare onto neighboring residential property and can meet or exceed the LEED SS Credit8 LZ2 (LEED Reference Guide for Green Building Design and Construction, pg. 130) residential illumination standards.
- 4.7. At the time the first building is developed on the Property, provide landscape berms with evergreen tree & shrub landscaping on the Property's east perimeter to create a buffer to adjoining residential development as approved in the Architectural Review process.
- 4.8. Legacy will comply with all of the design criteria in the MC Planning District and will strive to make sure any new buildings will be similar in nature to existing buildings on the campus and surrounding medical developments.
- 4.9. Building height will be in compliance with the maximum structure height standards of the MC Planning District in TDC 56.070(1-6).

**SECTION 5. WETLAND PROTECTION.** The intent of this section is to establish the interest of the City and Legacy to identify wetlands on the property and preserve wetlands to the extent possible during a development process.

- 5.1. Legacy or a succeeding property owner shall identify and delineate wetlands on the Property and submit documentation with Architectural Review applications for development on the Property.

**SECTION 6. TREE PROTECTION.** The intent of this section is to establish the interest of the City and Legacy to preserve existing trees in the groves of conifer and deciduous trees located on the south portion of the Property where it adjoins the Fox Hills neighborhood and SW Borland Road and on the northwest portion of the property surrounding the former Grimitt residence. Trees should be preserved to the extent possible to provide a buffer for neighboring residential properties to the east and south

DRAFT IV 1-13-10  
LEGACY DEVELOPMENT AGREEMENT

and retain the character of the tree grove on the Property when viewed from SW Borland Road. Legacy or a succeeding property owner shall submit a Tree Protection Plan with Architectural Review applications for development on the Property that shows the following:

- 6.1. Identify existing trees on the Property that will be preserved, including trees within 50 ft. of the new ROW for a 5-lane arterial street on SW Borland Road and trees within 50 ft. of the east property line adjoining the Fox Hills neighborhoods.
- 6.2. Trees within a new ROW & Slope easement on the Property for a 5-lane SW Borland dedication and improvements may be removed when Clackamas County or City permits for construction of the improvements are issued. Trees within a proposed or required ingress/egress access improvement on the Property may be removed as approved in the Architectural Review process.
- 6.3. Trees located on the Property where a proposed medical center building will be located may be removed as approved in the Architectural Review process.
- 6.4. Avoid or minimize tree removal from the tree grove adjacent to SW Borland Road for purposes of surface parking area development.

SECTION 7. HISTORIC LANDMARK. Legacy will consult with the Tualatin Historical Society to identify ways to preserve or relocate the Minnie Skog Historic Landmark house in its entirety or its significant features. Legacy will provide documentation of the consultations and a narrative of actions recommended and taken by the Tualatin Historical Society or Legacy to preserve or relocate the landmark. If the house cannot be preserved or relocated, demolition of the house shall be reviewed as a Historic Landmark Demolition application.

SECTION 8. TRANSPORTATION IMPACT ANALYSIS AND IMPROVEMENTS.

- 8.1. The transportation impact information for PMA-09-03 (Transportation Planning Rule Analysis from Kittelson & Associates, dated August 21, 2009 and Memorandum – Transportation Analysis – Supplemental Information from Kittelson & Associates, dated October 1, 2009) identified that the SW 65th Avenue/SW Sagert Street intersection located west and south of the Property currently is currently functioning at Level of Service (LOS) “F/F” and would not improve in Year 2028 under the worst case scenario for a MC Planning District designation as proposed in PMA-09-03. To meet the requirement of Plan Map Amendment Criterion #8, the SW Sagert Street/SW 65th Avenue intersection should function at LOS E/E or better.

DRAFT IV 1-13-10  
LEGACY DEVELOPMENT AGREEMENT

- 8.2. As a means to meet Plan Amendment Criterion #8 for PMA-09-03 and to increase the capacity and function of the transportation system in the vicinity of the Legacy Property, Legacy agrees to:
  - 8.2.1 Prior to issuance of a Building Permit for the first building on the Property, dedicate SW Borland Road ROW (sufficient for a 5-Lane Arterial Street) from SW 65<sup>th</sup> Avenue to east end of Property.
  - 8.2.2 Prior to Occupancy for the first building on the Property, construct SW Borland Road ½ Street Improvements along LHS Property frontage and design and construct improvements to the SW Sagert Street and SW 65th Avenue intersection and related improvements to the SW Borland intersection as approved in Architectural Review.
  - 8.2.3 Prior to Occupancy for buildings on the Property when the combined gross floor area of development on the site is over 130,000 s.f., construct SW Borland Road ½ Street Improvements on the LMPMC Property frontage from SW 65th Avenue east to the LHS Property as approved in Architectural Review.
- 8.3. The October 28, 2009 Engineering Memorandum for PTA-09-03 determined "The submitted (Kittelson) Supplemental Information states 'this standard is met during all time periods for each development scenario, with the exception of the SW 65th/SW Sagert intersection. The SW Sagert/SW 65th Avenue intersection meets warrants for signalization under any scenario'. The City of Tualatin Transportation System Plan (TSP) Appendix C – Detailed Intersection Operations Results (Existing Conditions), completed in June 2001, shows the 65th/Sagert intersection as an all-way stop controlled intersection operates at a v/c of 1.14 and a LOS F. The TSP also identifies the intersection for a future traffic signal."
- 8.4. Washington County and Clackamas County have shared jurisdiction over SW 65th Avenue. Washington County has responsibility for operations, maintenance and improvements of SW 65<sup>th</sup> Avenue and will participate in the design & permitting of the intersection improvements. Because of the proximity of the SW Borland Road/65<sup>th</sup> Avenue intersection, the necessary street and signalization improvements for the SW Sagert Street intersection may extend to the SW Borland Road intersection.
- 8.5. If the SW 65th Avenue & SW Sagert Street intersection improvements are approved, Legacy agrees to obtain necessary permits, construct the required improvements, and pay all associated costs of permitting, construction and installation (8.2.2). Legacy may be eligible for Transportation Development Tax (TDT) credits for these improvements depending on the TDT Rules at the time of the Permits and the scope of the Permits.

DRAFT IV 1-13-10  
LEGACY DEVELOPMENT AGREEMENT

- 8.6. Frontage Improvements along SW Borland Road (8.1.2-.3). The TSP identifies SW Borland Road section adjoining the Property and the LMPMC as a 5-lane Arterial, Eb&T. As a part of this Agreement, the Developer agrees to obtain necessary permits, construct the required improvements, and pay all associated costs of permitting, construction and installation of the required improvements along the Property's frontage and LMPMC frontage on SW Borland Road.
- 8.7. LMPMC SW 65<sup>th</sup> Avenue frontage dedication & improvements --**Subject to Traffic Information currently being obtained and reviewed--**

SECTION 9. OTHER PUBLIC FACILITY IMPROVEMENTS. When development of the Property is commenced, Legacy or a succeeding property owner shall cause to be completed a development with the following public facility improvements:

- 9.1. Sanitary Sewer. The Sanitary Sewer Master Plan identifies adequate capacity in the existing public sewer collector and transmission lines to serve residential development on the Property. Legacy will submit calculations in an Architectural Review application that verify the sewer system capacity is adequate to serve a medical center development on the Property. Legacy agrees to provide public or private sanitary sewer facilities to serve development on the Property as required in Architectural Review and acquire any offsite easements needed to extend service to the Property.
- 9.2. Water. The Property will be served from the B Level Service Area. Legacy will submit calculations for water demand for the Property in an Architectural Review application for the first medical center building on the Property. Legacy will make improvements and obtain easements to provide water service for the Property.
- 9.3. Stormwater Management. On-site stormwater detention may be necessary to address the stormwater system downstream capacity and water quality facilities will be required to serve the Property when development occurs. Legacy agrees to provide public or private stormwater facilities and acquire easements to serve development on the Property as required in Architectural Review.

SECTION 10. The parties acknowledge and agree that this Agreement is not intended to be a statutory Development Agreement.

SECTION 11. This agreement will remain in effect until buildings and site improvements such as public facilities, loading, parking and landscaping occupy 75% of the Property area, or for a period of 30 years from the enactment of the agreement, whichever occurs first.

DRAFT IV 1-13-10  
LEGACY DEVELOPMENT AGREEMENT

SECTION 12. This Agreement represents the entire and final agreement of the parties with respect to this subject matter and supersedes all prior negotiations, discussions or writings with respect thereto.

SECTION 13. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute but one and the same instrument.

SECTION 14. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the day and year first set forth above.

Legacy Health System

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Attorney: \_\_\_\_\_

City of Tualatin

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Attorney: \_\_\_\_\_

APPROVED AS TO LEGAL FORM



CITY ATTORNEY



**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 No.**

*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." 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 of the Work Session and Meeting of January 11, 2010 .....120
2. Community Involvement Committee Appointments .....121
  - Cathy Croghan Alzner – Urban Renewal Advisory Committee

**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 25, 2010

**SUBJECT:** APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETING OF JANUARY 11, 2010

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*[The minutes will be distributed later in the week.]*



# STAFF REPORT

## TUALATIN DEVELOPMENT COMMISSION

**TO:** Honorable Chairman and Members of the Commission

**THROUGH:** Sherilyn Lombos, Administrator *SL*

**FROM:** Maureen Smith, Administrator *MS*

**DATE:** January 25, 2010

**SUBJECT:** COMMUNITY INVOLVEMENT COMMITTEE APPOINTMENTS

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### ISSUE BEFORE THE COMMISSION:

The Tualatin Development Commission approve appointments to the Urban Renewal Advisory Committee.

### RECOMMENDATION:

Staff recommends the City Council approve the Community Involvement Committee recommendations and appoint the below listed individuals.

### EXECUTIVE SUMMARY:

On January 4, 2010, the Community Involvement Committee met and interviewed citizens interested in participating on the Urban Renewal Advisory Committee. The committee made the recommendation to appoint the following individuals:

Individual	Committee/Board	Term
Cathy Croghan Alzner	Urban Renewal Advisory	Partial term expiring 4/30/10

### FINANCIAL IMPLICATIONS:

Not applicable.