



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
**Monday, June 8, 2009**

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 4:00 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 (voice) or 503.692.0574 (TDD). Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised “live” on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](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. Tualatin Youth Advisory Council Update
2. Library Summer Reading Program
3. Quiet Zone Update

**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 – 13)**

Page #

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

1. Resolution No. 4887-09 Certifying City of Tualatin Municipal Services .....
2. Resolution No. 4888-09 Amending Sewer and Surface Water Management Rates .....  
Inside the City of Tualatin and Rescinding Resolutions  
4681-07, 4682-07, and 4806-08
3. Resolution No. 4889-09 Awarding the Bid for the Tualatin Interstate 5 / Nyberg .....  
Interchange Landscaping Improvements
4. Resolution No. 4890-09 Granting a Conditional Use Permit for Stafford Hills Racquet .....  
and Fitness Club as a Private Club Use and for Additional  
Building Height in the Low-Density Residential (RL) Planning  
District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax Lot  
900) (CUP-09-01)
5. Resolution No. 4891-09 Authorizing a Request for a Revocable License from Washington .....  
County to Allow Installation of Photo Red Light Cameras on  
County Owned Intersections
6. Resolution No. 4892-09 Authorizing an Intergovernmental Agreement with TriMet and .....  
Washington County Regarding WES Train Horn Noise Mitigation

**D. CONSENT AGENDA – continued from previous page**

7. Resolution No. 4893-09 Authorizing the City to Administer the Washington County .....  
Transportation Development Tax Within the City of Tualatin
8. Resolution No. 4894-09 Authorizing the Mayor and Recorder to Sign an .....  
Intergovernmental Agreement for Administration of the  
Countywide Transportation Development Tax (TDT) and  
Transportation Impact Fee (TIF)
9. Resolution No. \_\_\_\_\_ Approving Washington County Urbanization Forum Actions .....  
***[Item removed from the Consent Agenda in its entirety]***
10. Resolution No. 4895-09 Resolution Approving Quitclaim of a Temporary Construction .....  
Easement at 18810 SW Boones Ferry Road
11. Resolution No. 4896-09 Approving Quitclaim of an Easement for Utility Lines on .....  
Property Located at 18810 SW Boones Ferry Road
12. Community Involvement Committee Appointments.....
13. Resolution No. 4897-09 Approving an Industrial Master Plan in a Manufacturing .....  
Park (MP) Planning District at 11555 SW Leveton Drive  
(IMP-09-01)

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

1. Resolution No. 4898-09 Public Hearing to Consider a Resolution Declaring the City's .....  
Election to Receive State Revenue Sharing Funds  
During Fiscal Year 2009-10

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

1. Ordinance Changing the Planning District Designation from Low-Density Residential  
(RL) to Medium Low-Density Residential (RML) at 19945 SW Boones Ferry Road,  
and Amending the Community Plan Map 9-1 (PMA-09-01)

**G. GENERAL BUSINESS**

1. Resolution No. 4899-09 Approving a Development Agreement Between the City of .....  
Tualatin, Tigard-Tualatin School District and Marquis Companies

**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**



Handout 5/26/09



# JUANITA POHL CENTER

COMMUNITY SERVICES DEPARTMENT

LOAVES & FISHES CENTERS



from:

Steve Ricker  
and  
The Lipscomb

FROM: LOAVES & FISHES STEERING COMMITTEE  
TO: CITY COUNCIL  
SUBJECT: MONTHLY ACTIVITY REPORT FOR APRIL

During the month the following programs and socialization opportunities took place at the Juanita Pohl Center.

**Nutrition programs -**

809 meals were served at the Center

513 meals were delivered to homes through the Meals-on-Wheels program

**Activities and classes offered -**

85 class hours of Fitness and Exercise Opportunities

30 class hours of Creative Arts Opportunities

6 class hours of Lifelong Learning Opportunities

Additional opportunities were available weekly Monday thru Friday -

**Drop-in Activities -**

Morning Coffee Social, Library, Three Pool Tables, Three Wii Screens, Card Games, Bridge, Mahjong, Bingo, Internet Access and the Tuesday Night Social

**Health and Wellness Activities -**

Blood Pressure, Foot Care, Massage services and Home Medical Equipment Loans

**Supportive Services -**

Elder Law, SHIBA, Alzheimer's Support Group and HMO informational classes

**Special Event Happenings which took place -**

Annual Center Volunteer Luncheon

And last but not least the Center's total Volunteer Hours Year to Date are 9,103



# CITY COUNCIL SIGN-UP SHEET

DATE: June 8, 2009

PLEASE COMPLETE TO GIVE TESTIMONY

**LIMIT TESTIMONY TO THREE MINUTES**

	<i>(PLEASE PRINT CLEARLY)</i> Name	Address	E-mail	Representing	Agenda Item(s) or Citizen Comments
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					



Submitted at The  
June 8, 2009 Council  
meeting - Item G-1

#### OUR MISSION

To promote vitality within each of our clients and staff members

February 18, 2009

Yvonne Addington, President  
Tualatin Historical Society  
PO Box 1055  
Tualatin, OR 97062

Dear Yvonne,

We have appreciated your continued willingness to work with us on preservation discussions and options regarding the Gerald Avery building. As you know, we have worked with our architects very closely, incorporating as much of the material as possible into our planned senior care facility building.

As of Monday, our architects have presented us with the latest schematic design layout for the site and have included the areas where they believe we can preserve and reuse materials and also where we can display the history of the Gerald Avery building. These areas include the following:

- Brick Planters outlining the sidewalk/walking trail utilizing the brick from the Gerald Avery building
- Brick Planters could incorporate plaques that highlight special teachers, students, school events, or sold to citizens with their names, etc., etc. (Memory Walk)
- Preservation of the Rhododendrons and placement near the main entry of the building
- Preservation of the Cherry Tree and relocation to the Formal Courtyard
- Reuse of the Gerald Avery gym floor in the planned Auditorium and Health Spa
- Reuse of the Douglas Fir flooring as accents in the Auditorium, Health Spa and possibly some of the community space
- Areas where display cases or pictures of the history of the Gerald Avery building can be displayed or hung – with access and control given to the Tualatin Historical Society for its displays

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## OUR MISSION

To promote vitality within each of our clients and staff members

As previously discussed, any preserved material (i.e. flooring, bricks, etc.) that Marquis is unable to use in the new building will be stored at Marquis' cost on behalf of the Tualatin Historical Society until a use for the material can be found.

As I'm sure you know, while we continue to work through the entitlement process, the ultimate outcome of carrying out the items above, is dependent not only on the actual city approvals and the new building construction itself, but the successful removal and condition of the preservation materials being discussed. Yvonne, you can be assured that Marquis is committed to preserving and reusing as much of the Gerald Avery building as possible, within economic reason, and we look forward to the Historical Society's continued participation in how to utilize the preserved material within the project.

Very truly yours,

Scott Miller

Director of Property Development

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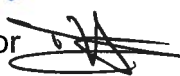


Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary W Smith

## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Donald A. Hudson, Finance Director 

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION CERTIFYING CITY OF TUALATIN  
MUNICIPAL SERVICES

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### ISSUE BEFORE THE COUNCIL:

To be eligible to receive state-shared revenues (cigarette, liquor and highway taxes), the City must certify it provides four or more of certain municipal services.

### RECOMMENDATION:

Staff recommends that Council adopt the attached Resolution certifying City of Tualatin municipal services.

### EXECUTIVE SUMMARY:

The State requires that cities located in a county having more than 100,000 inhabitants according to the most recent decennial census, must provide four or more of certain municipal services to receive state-shared revenues. The City provides six of the seven municipal services.

### OUTCOMES OF DECISION:

If the Council approves the Resolution, the City will be eligible to receive state-shared revenues. If the Council does not approve the Resolution, the City will not receive state-shared revenues and we will need to reduce its expenditures or contingencies.

### FINANCIAL IMPLICATIONS:

It is estimated, and budgeted, that the City will receive \$35,000 in Cigarette Taxes and \$313,500 in Liquor Taxes in the General Fund and \$1,049,548 in State Gas Taxes in the Road Operating/Gas Tax Fund.

**Attachments:** A. Resolution

RESOLUTION NO. 4887-09

RESOLUTION CERTIFYING CITY OF TUALATIN MUNICIPAL SERVICES

WHEREAS ORS 221.760 provides that the officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820 and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census, disburse such funds only if the city provides four or more of the following services:

1. Police Protection
2. Fire Protection
3. Street Construction, Maintenance and Lighting
4. Sanitary Sewers
5. Storm Sewers
6. Planning, Zoning and Subdivision Control
7. Water Utility Services; and

WHEREAS the City Officials recognize the desirability of assisting the State officer responsible for determining the eligibility of cities to receive such funds in accordance with ORS 221.760.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that the City of Tualatin hereby certifies that it provides the following four or more services enumerated in Section 1, ORS 221,760:

1. Police Protection
2. Street Construction, Maintenance and Lighting
3. Sanitary Sewers
4. Storm Sewers
5. Planning, Zoning and Subdivision Control
6. Water Utility Services; and

INTRODUCED AND ADOPTED this 8th day of June, 2009.

CITY OF TUALATIN, OREGON

BY

  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY

  
City Recorder





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary W. Smith

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

**THROUGH:** Sherilyn Lombos, City Manager 

**FROM:** Donald A. Hudson, Finance Director 

**DATE:** June 8, 2009

**SUBJECT:** A RESOLUTION AMENDING SEWER AND SURFACE WATER MANAGEMENT RATES INSIDE THE CITY OF TUALATIN AND RESCINDING RESOLUTIONS 4681-07, 4682-07 AND 4806-08

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### ISSUE BEFORE THE COUNCIL:

Council will consider setting sewer and surface water management rates for service performed after June 30, 2009. The FY 09/10 Budget was prepared assuming the rates for service would be split between a Regional Rate, set by Clean Water Services (CWS), and a Local Rate, set by the City of Tualatin.

The monthly regional base and usage sewer rates would increase 5.5%, with no increase in the local base and usage sewer rates. The Sewer System Development Charge would increase from \$3,100 per Dwelling Unit (DU) or Equivalent Dwelling Unit (EDU) to \$3,600/DU or EDU.

The monthly regional surface water management rate would increase from \$1.00 per Equivalent Service Unit (ESU) to \$1.06/ESU and the local rate would increase from \$3.00/ESU to \$3.30/ESU. There is no proposed change in the Surface Water Management System Development Charge.

Additionally, the previously approved monthly surcharges of \$0.15/DU and EDU for sewer and \$0.10/ESU for surface water management are being repealed.

### RECOMMENDATION:

It is recommended the Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

- This is not a public hearing.



- The FY 09/10 Budget was prepared using the CWS proposed regional increases, no local rate increases in sewer, a local rate increase for surface water management and a repeal of previously approved Tualatin surcharges.
- This proposed increase covers:
  - Rising operating costs for utilities, chemicals and personnel used by CWS and the City of Tualatin.
  - Increasing federal water quality requirements.
  - Paying for the upgrade and expansion of CWS's four wastewater treatment facilities, pump stations and pipes.
  - The debt service payment on the bonds issues by CWS.

**FINANCIAL IMPLICATIONS:**

With the new rates, and appeal of the surcharges, the average monthly Tualatin residential sewer and surface water management bill will increase from \$31.14 to \$32.47, an increase of \$1.33/month.

**Attachments:** Resolution



RESOLUTION NO. 4888-09

A RESOLUTION AMENDING SEWER AND SURFACE WATER MANAGEMENT  
RATES INSIDE THE CITY OF TUALATIN AND  
RESCINDING RESOLUTIONS 4681-07, 4682-07 and 4806-08.

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

**Section 1. System Development Charges.**

(a) The schedule for the Sewer System Development Charges, per  
Equivalent Dwelling Unit (EDU), as of July 1, 2009 is as follows:

	System Development Charge
Regional Rate	\$ 3,457
Local Rate	\$ 143

(b) The Surface Water Management System Development Charge will  
remain at \$500 per Equivalent Service Unit (ESU).

**Section 2. Monthly Rates.**

(a) The schedule of monthly sewer rates is amended as follows:

	BASE CHARGE (per Dwelling Unit, or EDU)	USE CHARGE Per CCF (hundred cubic feet), winter average
Regional Rate	\$ 17.5058	\$ 1.1783
Local Rate	\$ 3.5261	\$ 0.2373

(b) The schedule of monthly surface water management rates is amended as  
follows, per ESU:

	BASE CHARGE
Regional Rate	\$ 1.06
Local Rate	\$ 3.30

(c) The rate changes in this section shall take effect for sewer and surface  
water management after June 30, 2009.

**Section 3. Monthly Surcharges.** The surcharges for sewer and surface water management passed by the City Council on June 11, 2007 (Resolution 4682-07 and 4681-07) are hereby rescinded, effective July 1, 2009.

**Section 4. Effective Date.** The effective date of this resolution is July 1, 2009.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June 2009.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

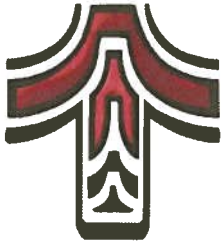
ATTEST:

BY \_\_\_\_\_

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden  
CITY ATTORNEY



Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary MSmith

## STAFF REPORT CITY OF TUALATIN

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

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

**FROM:** Daniel J. Boss, Operations Director *DJB*  
Bob Martin, Parks Maintenance Supervisor *BM*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION AWARDING THE BID FOR THE TUALATIN  
INTERSTATE 5 / NYBERG INTERCHANGE LANDSCAPING  
IMPROVEMENTS

---

### ISSUE BEFORE THE COUNCIL:

Awarding the bid for the Tualatin Interstate 5 / Nyberg Interchange Landscaping Improvements project.

### RECOMMENDATION:

Staff recommends that Council adopt the attached Resolution, awarding the bid for Tualatin Interstate 5 / Nyberg Interchange Landscaping Improvements project and authorizing the Mayor to execute a contract with Crown Landscape, Inc., in the amount of \$299,879.56.

### EXECUTIVE SUMMARY:

- This project consists of landscape construction at Interstate 5, exit 289, Tualatin, including grading, soil preparation, planting of grass seed and other plant material, and solar-powered irrigation installation on approximately 12 acres along Interstate 5 at Nyberg Street. The project will include a one-year warranty.
- The Invitation to Bid was published in the Daily Journal of Commerce on April 27 and 30, 2009.
- Bids for this project were opened on Tuesday, May 26, 2009, at 2:00 pm. Five bidders responded as follows:

Crown Landscape, Inc.	\$299,879.56
Tri-State Construction	377,064.00
Paul Brothers	377,689.61
Coffman Excavation	399,999.00
Anderson's Erosion Control	425,964.92

- Project is to be completed before October 15, 2009.
- Engineers estimate was \$430,000.00.
- The lowest responsible bidder is Crown Landscape, Inc., in the amount of \$299,879.56.

**OUTCOMES OF DECISION**

- If awarded, the contractor will begin in mid-June and be done by fall.
- If Council does not approve the Resolution, the project will not proceed.

**FINANCIAL IMPLICATIONS:**

Funds are available in this fiscal years budget in the Road Utility Fund 016-0000-651.70-08.

**Attachment:** Resolution

RESOLUTION NO. 4889-09

RESOLUTION AWARDING THE BID FOR THE TUALATIN  
INTERSTATE 5 / NYBERG INTERCHANGE LANDSCAPING  
IMPROVEMENTS

WHEREAS the project was advertised in the *Daily Journal of Commerce* on April 27 and 30, 2009; and

WHEREAS five proposals were received prior to the close of the bid period on May 26, 2009; and

WHEREAS Crown Landscape, Inc., submitted the lowest responsible bid for the project in the amount of \$299,879.56; and

WHEREAS the funding for this fiscal year 2009/2010 project is budgeted in the Road Utility Fund line item 016-0000-641.70-08.

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

Section 1. The contract is awarded to Crown Landscape, Inc.

Section 2. The Mayor and City Recorder are authorized to execute a contract with Crown Landscape, inc., in the amount of \$299,879.56.

Section 3. The Operations Director is authorized to execute change orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this 8th day of June, 2009.

CITY OF TUALATIN, OREGON

BY

  
\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
CITY ATTORNEY

ATTEST:

BY

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

Sent for Signatures  
By: operations

AGREEMENT

Original with: B. Martin

THIS AGREEMENT, made and entered into this 8th day of June, 2009, by and between Crown Landscape, Inc., ("Contractor") and the City of Tualatin (County of Washington, State of Oregon) ("Owner").

WITNESSETH THAT:

WHEREAS, pursuant to the invitation of Owner, on the 26th day of May, 2009, Contractor filed with Owner a proposal containing an offer; and

WHEREAS, Owner has determined that said offer was the best submitted;

NOW, THEREFORE, IT IS AGREED:

That Contractor shall comply in every way with the requirements of those certain documents entitled: "Contract Documents for the Tualatin Interstate 5 / Nyberg Interchange Landscape Improvements".

That, in consideration of faithful compliance with the terms and conditions of this Agreement, Owner shall pay to Contractor at the times and in the manner provided in the Contract Documents the total sum of Two Hundred Ninety-Nine Thousand, Eight Hundred Seventy-Nine and 56/100 Dollars (\$299,879.56), which sum is subject, to increase or decrease in such proportion as the quantities named in the proposal are so changed, all in conformance with the Contract Documents.

That the time of completion will be specified as it pertains to each schedule from date of notice to proceed.

That the Contract Documents are made a part of this Agreement by actual attachment.

Contractor agrees to indemnify and hold harmless Owner from any and all defects appearing or developing in the materials furnished and the workmanship performed under this contract for a period of one (1) year after date of acceptance of the work by Owner.

Contractor agrees to fully comply with the provisions of ORS 279C.800 through 279C.870 relating to prevailing wage rates, which are made a part of this contract by reference, as though fully set forth.

IN WITNESS WHEREOF, Contractor and Owner have caused this Agreement to be executed on the day and year first above written.

CONTRACTOR

Name \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
(typed or printed name)

Title \_\_\_\_\_

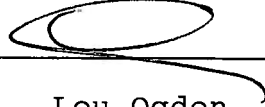
Telephone number \_\_\_\_\_

Original with:

**CITY OF TUALATIN**

(County of Washington, State of Oregon)

By

  
Lou Ogden

(typed or printed name)

Title

Mayor

Telephone number

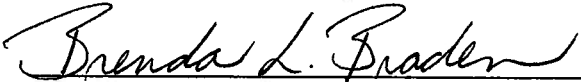
503.692.2000

Attested:

By

  
City Recorder

Approved as to form:

  
City Attorney

Sent for Signatures

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



Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary W Smith

## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Brenda Braden, City Attorney *BB*

**DATE:** June 8, 2009

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

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### ISSUE BEFORE THE COUNCIL:

The Council will consider a resolution that would grant a conditional use permit to allow the Stafford Hills Racquet & Fitness Club as a Private Club use in the RL planning district at 5916 SW Nyberg Land and allow a 40' building height.

### RECOMMENDATION:

Staff recommends that the City Council approve the resolution granting CUP 09-01.

### EXECUTIVE SUMMARY:

On April 27, 2009 the Council held a quasi-judicial public hearing on CUP 09-01 to decide whether to grant a conditional use permit to the Zupancic Group for a private racket and fitness club. Following a request that the record be left open for 7 days, the hearing was continued to May 26, 2009. At the conclusion of the continued public hearing, the Council approved the Staff Report with Mayor Ogden, Councilors Barhyte, Maddox, Beikman and Davis voting in favor, Councilor Truax opposed, and Councilor Harris recused, and directed Staff to bring back a resolution granting CUP 09-01 with the additional conditions submitted by the applicant included.



**ALTERNATIVES TO RECOMMENDATION:**

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

**FINANCIAL IMPLICATIONS:**

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

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

**Attachments:**

Resolution

RESOLUTION NO. 4890-09

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

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on April 27, 2009, and continued on May 26, 2009, upon the application of Zupancic Group, requesting a Conditional Use Permit to allow 1. The Stafford Hills Racquet & Fitness Club (SHR&F Club) as a private club use in the Low Density Residential (RL) Planning District at 5916 SW Nyberg Lane; 2. Increased building height from the maximum 35 ft. in a RL Planning District to a height of up to 40 ft.; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

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

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote 5-1]; with Mayor Ogden, Councilor Beikman, Councilor Barhyte, Councilor Davis voting for approval; Councilor Truax opposed; Councilor Harris recused; and Councilor Maddux absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff reports, dated April 27, 2009 and May 26, 2009, marked "Exhibit C," which is attached and incorporated by reference. In addition to the findings in the April 27 and May 26, 2009 Staff Reports for CUP-09-09, the City Council also finds that: with the conditions of approval #1-#6 listed in the Staff Recommendation and with the responses 1-7 in the May 4, 2009 Zupancic Group letter incorporated as Conditions #7-#13, the Council finds the Criteria of TDC 32.030 (1-5) for approval of conditional uses are met and there are no grounds to deny CUP-09-01; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

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

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

7. The Zupancic Group/SHR&F Club shall increase the buffer along the east boundary, to 20 feet at the parking lot and 25 feet at the Activity Building as shown on the site plan (Site Plan A1.10 submitted with the May 4, 2009 Zupancic Group Letter).
8. The SHR&F Club will install at "our (Zupancic Group) expense", a concrete panel fence or equal along the eastern boundary of the site extending north of the Activity Center. The Zupancic Group agrees to meet the fence approval criteria of TDC 73.050 and the objectives and standards set forth in TDC 73.210 and 73.220.
9. The SHR&F Club shall: eliminate parking located east of the Activity Center; reduce the number of total parking stalls to 122 stalls; and relocate designated staff parking to the west of the outdoor courts. The center core parking will be re-oriented to run north – south, which reduces light impacts on ("our") neighbors to the east.
10. The SHR&F Club parking lot lighting will be mounted as low as possible, include backing that prevents light "spillage" onto adjoining properties and turns off to the extent not needed for reasonable protection of health and safety. Include lighting that will not endanger wildlife or emit direct observable light in quantities substantially greater than that typically found within the vicinity.
11. The SHR&F Club Tennis Building roll up doors on the east side of the Tennis Building will remain closed before 8:00 am and after 8:00 pm to the extent necessary to confine light and noise within the building, as may be reasonably requested by an adjoining impacted property owner residing on Mobile Place.
12. To accommodate increased buffer along the eastern boundary, the size of the Tennis Building shall be reduced a total of approximately 4,100 sq. ft.
13. The Zupancic Group/SHR&F Club will work with the Wetlands Conservancy and the Audubon Society of Portland to assist in the preservation of natural resources including waterfowl and other natural habitat. Members of the SHR&F Club will be offered educational information concerning the wetlands and promote respect for, and enjoyment of, the surrounding beauty of this site. The Zupancic Group/SHR&F Club shall comply with the requirements of the Service Provider Letter from Clean Water Services, which outlines the restoration requirements associated with the area to the west development. The Zupancic Group and SHR&F Club will work with the City Operations and Parks Departments to add pavement markings at the "Duck Crossing" signs on Nyberg Lane, if deemed necessary by the City, to help protect ducks from vehicular traffic.

INTRODUCED AND ADOPTED this 8th day of June, 2009.

CITY OF TUALATIN, Oregon

By 

Mayor

ATTEST:

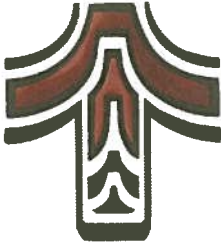
By 

City Recorder

APPROVED AS TO LEGAL FORM



CITY ATTORNEY



## STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council

Date May 26, 2009

Recording Secretary J. Kirby

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

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

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

**DATE:** May 26, 2009

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

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### ISSUE BEFORE THE CITY COUNCIL:

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

### RECOMMENDATION:

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

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

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

#### **EXECUTIVE SUMMARY:**

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

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

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

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

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

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

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

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

#### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the Council are:

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

#### **FINANCIAL IMPLICATIONS:**

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

#### **PUBLIC INVOLVEMENT:**

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



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

**Attachments:**

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

## ATTACHMENT A

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

## ATTACHMENT B

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

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

#### Letter, Email and Petition Submittals from Individuals

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

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

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

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

#### **Zupancic Group Submittals**

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

May 4, 2009

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

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

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

Dear Mr. Rux,

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

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

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

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

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

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

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

### 3. **Safety issues.**

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

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

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

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

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

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

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

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



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

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

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

Thank you.

## Will Harper

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

Fyi

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

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

Doug,

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

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

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

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

Angela Wrahtz

503-692-5123

angela.wrahtz@comcast.net

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

Angela,

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

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

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

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

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

Hope this helps answer your question.

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

April 28, 2009

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

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

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

More soon. Thank you.

**Will Harper**

---

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

---

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

Doug,

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

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

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

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

*Angela Wrahtz*  
503-692-5123  
[angela.wrahtz@comcast.net](mailto:angela.wrahtz@comcast.net)

---

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

Angela,

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5/4/2009

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Hope this helps answer your question.

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**Cc:** Julie Sepp; Janice Dove  
**Subject:** Follow up to last evening

April 28, 2009

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

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

More soon. Thank you.

5/4/2009

Dear Doug Rux and members of Tualatin City Council,

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

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

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

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

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

Where to begin?

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

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

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

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

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

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

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

Thank you for your consideration.

Sincerely,

Deborah and Tom Conchuratt

19000 SW Mobile Place

Tualatin, OR



## Will Harper

---

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

Thank you for the comments.

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

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

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

Doug,

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

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

Thanks.

Mark Coolican

May 3, 2009

Doug Rux

Director, Community Development

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

### 1. Property Buffer

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

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

designated parking area.

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

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

## 2. Tree Canopy

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

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

## 3. Hours of Operation

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

## 4. Traffic and Parking

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

## 5. Conditional Use exceptions

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

Mark Coolican

19050 SW Mobile Pl

Tualatin, OR 97062

home 503-692-2064

cell 269-569-8428

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&bcd=May5309AvgfooterNO62>

Douglas L. Rasmussen

19025 SW Mobile Pl.

Tualatin, OR 97062

May 4, 2009

To: The City of Tualatin Council and City Planners

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

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

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

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

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

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

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

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

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

Thank you for your time and consideration.

Douglas L. Rasmussen

TO: City of Tualatin

FROM: Kevan Rasmussen, 19025 SW Mobile Place, Tualatin, OR

DATE: May 4, 2009

RE: Zupancic Group Tennis Club

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

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

- TRAFFIC

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

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

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

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

This is NOT acceptable.

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

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

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

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

This is UNACCEPTABLE.

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

It is NOT acceptable.

- NOISE

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

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

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

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

This is NOT acceptable.

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

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

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

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

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

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

Sincerely,

Kevan Rasmussen



TO: City of Tualatin

FROM: Samara Rasmussen, 19025 SW. Mobile Pl.

RE: The CUP for the proposed Racquet and Fitness Club

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

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

❖ NOISE

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

❖ CRIME

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

❖ TRAFFIC

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

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

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

#### ❖ PARKING

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

#### ❖ LOCAL SMALL BUSINESSES

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

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

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

❖ INTEGRITY

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

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

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

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

Sincerely,

Samara Rasmussen

**Will Harper**

---

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

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

---

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

*Dear Doug Rux,*

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

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

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

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

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

*Best regards,*

*Elly Branch*

## Will Harper

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

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

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

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

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

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

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

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

5/5/2009

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

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

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

With My Best Regards, Richard (Hager)

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May 1, 2009

Mr. Doug Rux  
City of Tualatin Planning

***Subject: Possibility of construction of Tennis Club on Nyberg Lane***

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

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

Thank you for your consideration.

Sincerely,

Joe and Beverley Lambert  
19678 S.W. 57<sup>th</sup> Avenue



Reynolds comment FW Tennis Center.txt

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

FYI

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

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

Thanks Vern, for your comments.

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

Lou

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

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

Reynolds comment FW Tennis Center.txt

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

Thanks,

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

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May 4, 2009

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

Dear Mr. Rux,

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

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

5. According to the chart provided by Zupancic, he expects the recreational facility to be utilized at 100% of capacity between 6-8 a.m. from people using the facility before they go to work. So there will be a lot of cars exiting the facility onto Nyberg Lane between 7:30 and 8 a.m. This will coincide with traffic from the Fox Hills neighborhood and the Stones Throw apartments as *they* head to work. In the summer we already have congestion on Nyberg Lane from parents dropping their kids off at Willowbrook on *their* way to work. The addition of traffic from the recreational facility **will compound the already existing traffic problem.**
6. During the previous City Council meeting there was discussion about the formula for determining parking needs of a tennis/fitness facility. It was 1 spot per 1000 sq. ft. This calculation did NOT include the swimming pool or the added staff that will work there. Zupancic confessed that he did not know what the usage would be for the swimming pool or for special tournaments. He also said the amount of staff could easily double from his previous estimates (going from 30-40, to 60-80). How can the parking study conclude then, that 131 spots is adequate if he can't confirm (or even estimate) the number of patrons for his facility? I would request a capacity limit for his entire facility as well as additional designated "Stafford Hills" parking off the premises.

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

Dear Mr. Rux,

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

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

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

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

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

I'll even help him write the advertising copy.

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

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

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

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

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

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

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

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

Sincerely,

Bob Dove  
19135 SW Mobile Pl.  
Tualatin OR 97062

P.S.

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

William Boaz  
18342 SW 134th Terrace  
Tualatin, OR 97062

CITY OF TUALATIN  
RECEIVED

MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

May 3, 2009

City of Tualatin  
18876 SW Martinazzi Ave  
Tualatin, OR 97062

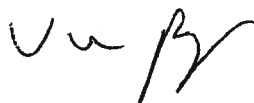
Dear Tualatin City Council,

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

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

Thank you for your careful consideration to these applications.

Sincerely,



TO: CITY OF TUALATIN, OREGON

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

DATE: MAY 4, 2009

RE: STAFFORD HILLS TENNIS CLUB

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

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



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

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

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

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

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

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

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

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

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

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

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

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

TO: CITY OF TUALATIN, OREGON

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

DATE: APRIL 27, 2009

RE: STAFFORD HILLS TENNIS CLUB/CONDITIONAL USE  
PERMIT APPLICATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

our sons. Therefore posing potential for a biased vote.

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

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



Livesay Email.txt

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

---

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

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

Thanks,

Ryan

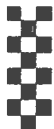
Ryan Livesay  
Pacific Real Estate Partners, Inc.  
1 SW Columbia Street Suite 850  
Portland OR, 97258  
t. 503.972.8608  
c. 503.880.0100  
f. 503.972.8001  
ryan.livesay@pacific-re.com

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recipient(s), you are hereby notified that any dissemination, distribution, or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

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



CITY OF TUALATIN  
REC.

MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

FAX COPY PAGE

Tualatin High School

**TIMBERWOLVES**

22300 SW Boones Ferry Rd.

Tualatin, OR 97062

**Tualatin**



**Athletics**

Mark Martens – Athletic Director: 503-431-5661

Syd Rabe – Athletic Secretary: 503-431-5660

Athletic Event Line: 503-431-5662

Fax: 503-431-5642

Date:

5 / 4 / 09

To:

Will Harper

From:

D. RUSTON

Fax #:

503-692-0147

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

Comments:

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CITY OF TUALATIN  
RECEIVED

MAY 04 2009



COMMUNITY DEVELOPMENT  
PLANNING DIVISION

DATED: \_\_\_\_\_

DEAR TUALATIN CITY COUNCIL:

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

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

NAME	SIGNATURE	ADDRESS
1. SCOTT DAVIS		5795 SW Sequoia St Tualatin, OR
2. COLEEN DAVIS		5795 SW Sequoia St. Tualatin, OR
3.		
4.		
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CITY OF TUALATIN  
RECEIVED

MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

DATED: 5/4/09

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NAME	SIGNATURE	ADDRESS
1. Deandra Davis	Deandra Davis	5170 SW Natchez S
2. Jamie Andrews	Jamie Andrews	21835 SW 27th Ave
DUP 3. Emily Fisher	Emily Fisher	5015 SW Greenwood Cir
4. Daniel Gimes	Daniel Gimes	14717 SW 77th Ave
5. Matt Nichols	Matt Nichols	<del>18550 SW 98th Ave</del>
6. Tony Villario	Tony Villario	5525 SW Omaha CT
7. Cameron France	Cameron France	10530 SW Crown St.
8. Ally Ward	Ally Ward	5773 SW Calista Ln
9. Krista Collins	Krista Collins	19005 SW Chesapeake Dr
10. Erin Ennis	Erin Ennis	5013 SW Greenwood
11. Brian Phillips	Brian Phillips	5525 SW Omaha CT
12. Tony Villario	Tony Villario	5525 SW Omaha CT
13. Kelsey Barnes	Kelsey Barnes	1920 SW Elm Pl
14. Emily Winters	Emily Winters	5326 SW Natchez St.
15. Dylan Moore	Dylan Moore	5573 SW Natchez st

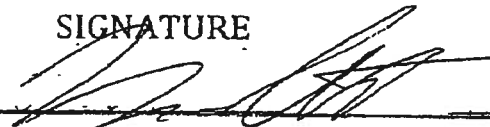
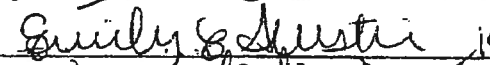



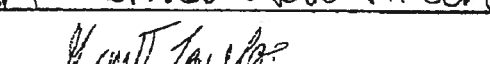
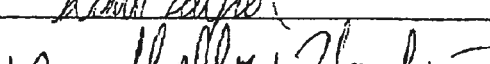
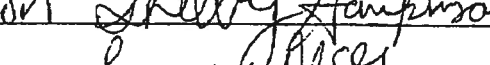
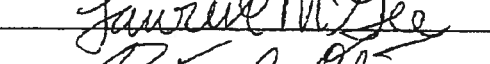
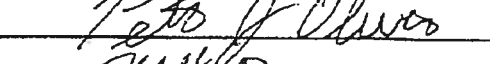
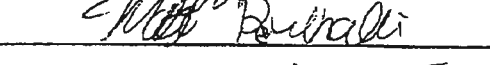
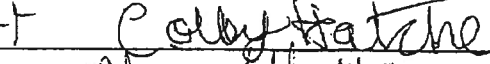
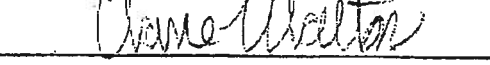


MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISIONDATED: 5/4/09

DEAR TUALATIN CITY COUNCIL:

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

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NAME	SIGNATURE	ADDRESS
1. Max Marlett		19530 SW 57 <sup>th</sup> AVE
2. Emily Austin		19200 SW 51 AVE
3. Will Peters		20307 SW 71 <sup>st</sup> AVE
4. Tanner Cheal		Sequoia Ridge
5. Hannah Hawkinson		5567 SW Joshua St.
6. Grant Taylor		7115 SW Delaware
7. Shelby Hawkinson		5567 SW Joshua St
8. Lauren McGee		19026 SW Chesapeake Dr.
9. Peter Oliver		19240 SW 56 <sup>th</sup> Place
10. Matt Derballi		22040 SW 106 <sup>th</sup> PL
11. Colby Hatchett		5566 SW natcher st
12. Claire Walton		5254 SW Greenwood Pl.
13. Alexa English		5185 SW Greenwood Circle
14. Jonathan Ny		5700 SW W. 14 <sup>th</sup> St. Thak
15. Auser Leroy		5780 SW 14 <sup>th</sup> St. Thak

DATED: \_\_\_\_\_

CITY OF TUALATIN  
RECEIVED

MAY 04 2009

DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

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

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NAME	SIGNATURE	ADDRESS
1. Jase Lemieux	Jase L	22641 SW 106th Ave Tualatin
2. Eric Rommel	Eric Rommel	10165 SW Luster Ct, Tualatin
3. Mark Roth	Mark Roth	22480 SW 107th Ave Tualatin
4. Pierre Feltz	Pierre Feltz	22050 SW Martinez Ave Tualatin
5. Preston Hildred	Preston Hildred	9195 SW Jones Dr
6. Jason Nguyen	Jason Nguyen	12579 SW Blakely St Tualatin
7. Tyler Hagushi	Tyler Hagushi	5373 SW Johnson St
8. Kelvin Rommel	Kelvin D. Rommel	10165 SW Luster Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 SW 107th Tualatin
11. Catherine Salter Feltz	Catherine Salter Feltz	22050 SW Martinez Ave Tualatin
12. Linda Platter	Linda Platter	22535 SW Chilkat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 104th CT Tualatin OR 97061
14.		
15.		

DATED: \_\_\_\_\_

CITY OF TUALATIN  
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MAY 04 2009

DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

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NAME	SIGNATURE	ADDRESS
1. Craig Hickman	Craig Hickman	22535 SW Chilkat Terr.
2. Ronald L. Garst	Ronald L. Garst	26340 SW Brokens Ferry Rd.
3. Deston Wakes	Deston Wakes	14650 SW 103 <sup>rd</sup> St.
4. Doug Pettibone	Doug Pettibone	22050 SW MARDON DR 97062
5. Preston Hiefield	Preston Hiefield	9195 SW Iowa Drive
6. Mack Stinson	Mack Stinson	2173 SW Arlene Ct
7. De H.	De H.	9195 SW Iowa Dr Tualatin OR 97062
8. Gillian Stratton	Gillian Stratton	9195 SW Iowa Dr. Tualatin OR
9. Jamin M	Jamin M	5700 SW Wichita St Tualatin OR 97062
10. David McKeen	David McKeen	22685 SW Vermilion dr.
11. Tanner Milton	Tanner Milton	9820 SW Choctaw
12. Chris Pritchard	Chris Pritchard	9144 SW Arapaho R.D.
13. Nirban Senthirajah	N. Senthirajah	22740 SW Mardon dr
14. Brenda Buck	B. Buck	5373 SW Joshua St Tual. OR 97062
15. Andrew Shin	Andrew Shin	14524 SW Chardonnay ave



DATED: \_\_\_\_\_

CITY OF TUALATIN  
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NAME	SIGNATURE	ADDRESS
1. Kelly Gramdon	Kelly Gramdon	22980 SW Erie Pl Tualatin, OR
2. Emily Fisher	Emily Fisher	5015 SW Greenwood Cir. Tualatin, OR
3. Sarah Chizum	Sarah Chizum	19650 SW 56th Ct. Tualatin, OR
4. Molly Fisher	Molly Fisher	5015 SW Greenwood Cir. Tualatin, OR
5. Maggie Blum	Maggie Blum	5205 SW Wichita St. Tualatin, OR
6. Ali Mengis	Ali Mengis	19270 SW 57th Ave. Tualatin, OR
7. Stephanie Clark	Stephanie Clark	9295 SW Palouse Ln Tualatin, OR 97062
8. Nina Yang	Nina Yang	11080 SW Koller St. Tualatin, OR
9. Sarah Fulkerson	Sarah Fulkerson	8760 SW Pamlico Ct Tualatin, OR 97062
10. Anna Hildebran	Anna Hildebran	10500 SW Bannock Ct. Tualatin, OR 97062
11. Lauren Butz	Lauren Butz	17785 SW 81 Pl Durham, OR 97224
12. ERIKA WELSH	Erika Welsh	17095 SW Cheyenne Way Tualatin, OR
13. Lauren Jones	Lauren Jones	6040 SW Cornelia Ct. Tualatin, OR 97062
14. Rebecca Koessler	Rebecca Koessler	4525 SW Mancoper Dr
15. Kathleen Shangoan	Kathleen Shangoan	5770 SW Calypso Ln

CITY OF TUALATIN  
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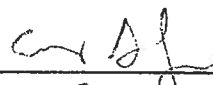
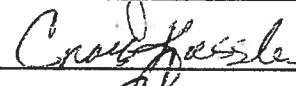

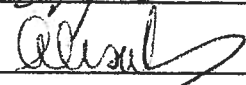
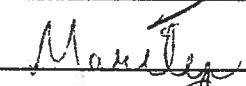
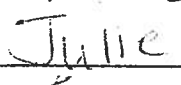
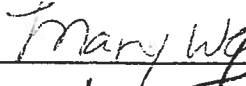
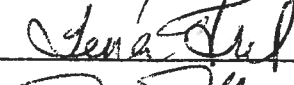

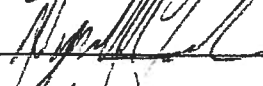
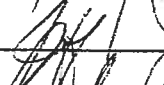
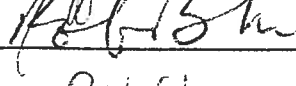
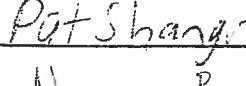
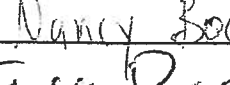

MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

DEAR TUALATIN CITY COUNCIL:

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NAME	SIGNATURE	ADDRESS
1. Greg Jones		5890 SW Omaha Ct Tualatin 97061
2. Craig Koessler		8525 SW MARICOPA DR TUALATIN
3. Jim Fisher		5015 SW Greenwood Tual.
4. Alvin Koessler		8525 SW MARICOPA DR TUAL.
5. Marilyn James		5690 SW Omaha Ct Tualat
6. Julie Fisher		5015 SW Greenwood Tualat
7. Mary Wells		17695 SW Cheyenne WA
8. Tina Freel		10485 SW Meier Dr Tualat
9. Don Freel		10485 SW Meier Dr Tualat
10. DAN GRAYDON		22980 SW ERIO PL Tualatin OR 97061
11. JEFF MENEZES		19270 SW 57TH Tualat 97061
12. Bob Bluhm		5265 SW Widata St Tualatin 97061
13. Pat Shangraw		5776 SW Colusa Pl Tualatin 97061
14. Nancy Bocchi		5564 SW Pleasant Pl Tualat 97061
15. Enca Bocchi		" "

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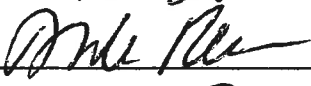
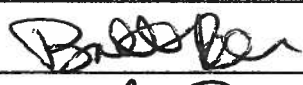

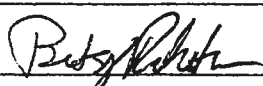
MAY 04 2009

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

May 4, 2009



**Zupancic  
Group**  
Real Estate Counsel and Developers

**CITY OF TUALATIN  
RECEIVED**

**MAY 04 2009**

**COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

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

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

Dear Doug:

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

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

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

8:00 pm to the extent necessary to confine light and noise within the building, as may be reasonably requested by an adjoining impacted property owner residing on Mobile Place.

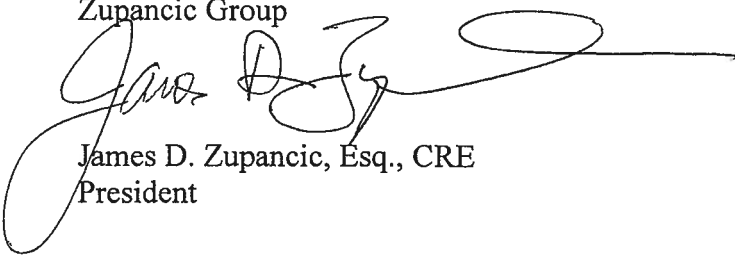
6. Reduce Tennis Building Size. In order to accommodate the increased buffer along the eastern boundary, we are willing to reduce the size of the Tennis Building a total of approx. 4100 sq. ft., which reduces building mass.
7. Protection of the Environment. We share the neighbors' appreciation and reverence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

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

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

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

Cordially,  
Zupancic Group

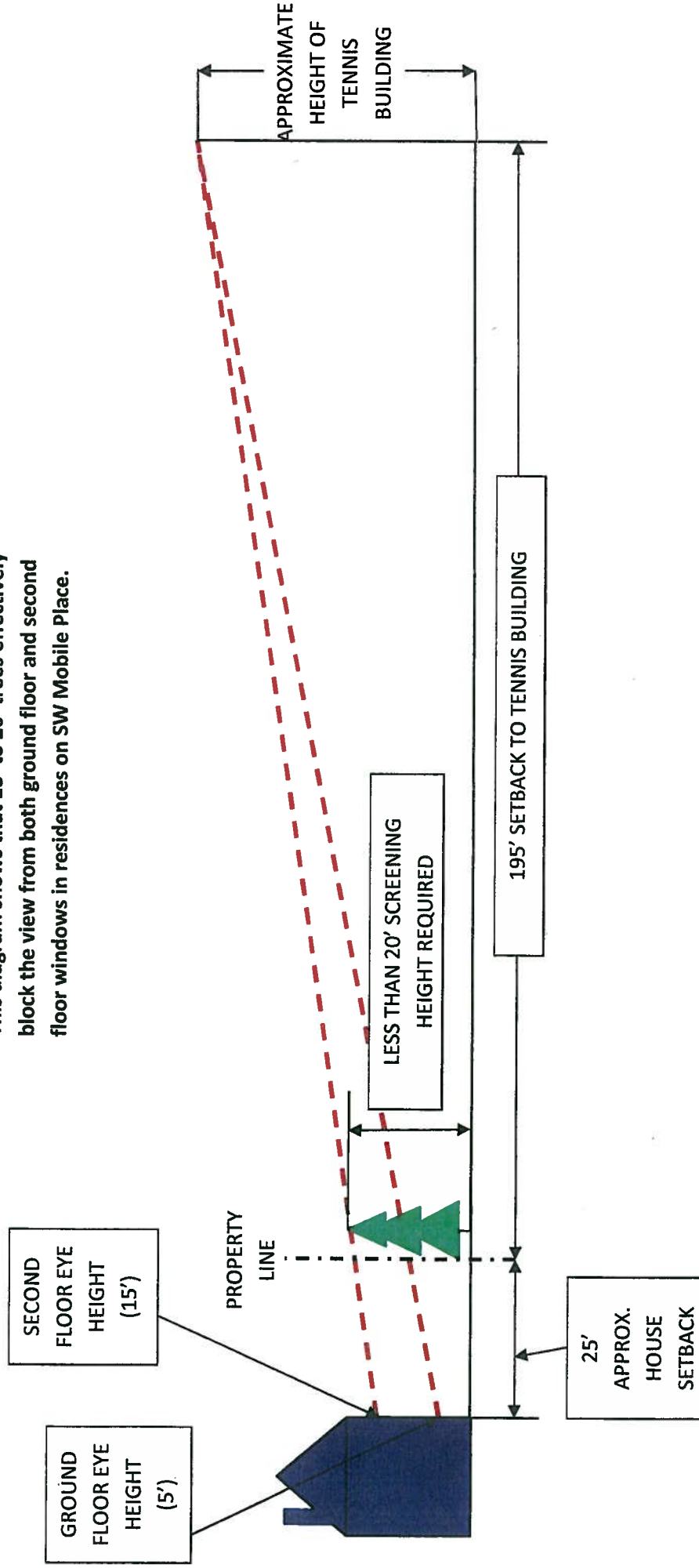


James D. Zupancic, Esq., CRE  
President



# VIEWING ANGLES AND TREE HEIGHTS

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







Zupancic  
Group  
Real Estate Counsel and Developers

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MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

May 1, 2009

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

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

Dear Doug:

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

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

Thank you,  
Zupancic Group

  
James D. Zupancic, Esq., CRE  
President





**KITTELSON & ASSOCIATES, INC.**  
TRANSPORTATION ENGINEERING / PLANNING  
610 SW Alder Street, Suite 700, Portland, OR 97205 ☎ 503.228.5230 ✉ 503.273.8169

May 1, 2009

Project #: 9700.0

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

*RE: Stafford Hills Racquet & Fitness Club*

Dear Jim:

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

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

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

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

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

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

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

trips. The development of 372 manufactured home units at the subject sites would generate approximately 195 weekday p.m. peak hour trips<sup>1</sup>.

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

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

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

No. The characteristics of Willowbrook are entirely different. Below is a brief overview of Willowbrook<sup>2</sup>:

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

---

<sup>1</sup> Trip Generation. 7<sup>th</sup> Edition. Institute of Transportation Engineers.

<sup>2</sup> Willowbrook information provided by the City of Tualatin Community Services Department.

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

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

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

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

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

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

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

Sincerely,  
KITTELSON & ASSOCIATES, INC.



Mark A. Vandehey, P.E.  
Principal



**Zupancic  
Group**  
Real Estate Counsel and Developers

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**MAY 04 2009**

**COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

May 1, 2009

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

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

Dear Doug:

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

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

Cordially,  
Zupancic Group

James D. Zupancic, Esq., CRE  
President

# Residents of Tualatin Email Comments in Support of SHR&CF

---

**Audrey MacKenzie**

4600 SW Trail Rd, Tualatin, OR 97062

---

Friday, December 5, 2008

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

---

**Betsy Robertson**

2122 SW 65th Ave, Tualatin, OR 97062

---

Wednesday, March 4, 2009

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

---

**Colleen West**

Tualatin - no address listed

---

Friday, February 6, 2009

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

Thanks,

Colleen West

---

**Dick Messenger**

17590 SW Fulton Dr., Tualatin, OR 97062

---

Sunday, January 11, 2009

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

---

**Elizabeth Payne**

Tualatin, Or - no address listed

---

Thursday, April 23, 2009

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

---

**Eloise Andrews**

Tualatin, Or - no address listed

---

Friday, February 13, 2009

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

---

**Forrest Hall**

10978 SW Oneida St., Tualatin, OR 97062

---

10978 SW Oneida St Tualatin, Oregon 97062

Tuesday, February 24, 2009

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

---

**Greg McCarty**

10983 SW Brown St., Tualatin, OR 97062

---

Tuesday, February 24, 2009

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

**Jenny Peters**

Tualatin, Or - no address listed

---

Friday, February 27, 2009

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

**John Cava**

22275 SW 102nd pl., Tualatin, OR 97062

---

Tuesday, December 9, 2008

I can't wait for this new club!!

**Sally Douglas**

Tualatin

---

Sunday, February 15, 2009

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

**Tim & Pat Brink**

7146 SW Delaware St., Tualatin, OR 9062

---

Thursday, February 26, 2009

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

**Tom Meier**

20001 SW Teton Ave., Tualatin, OR 97062

---

Tuesday, January 13, 2009

This is really great news.

# **Stafford Hills Racquet and Fitness Club**

## **FAQ**

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

## **ATTACHMENT C**

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

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

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





**Zupancic  
Group**  
Real Estate Counsel and Developers

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MAY 11 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

May 11, 2009

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

**HAND DELIVERED**

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

Dear Doug:

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

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

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

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

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

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

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

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

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

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

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

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

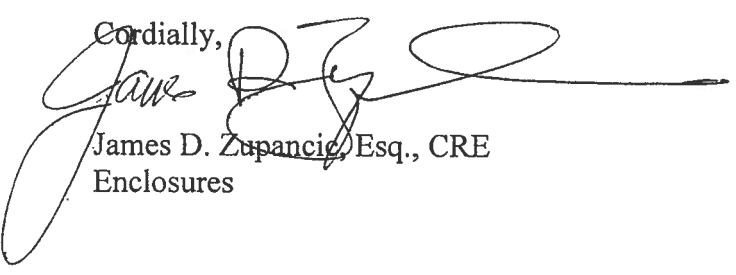
Objectors offer inflammatory assertions of unwanted speculative impact (noise, water, traffic, ect.), but no actual evidence of such impacts. On the contrary, applicant has provided substantial evidence showing that there will not be substantial limitations, impairment or impacts that preclude other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

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

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

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

Cordially,

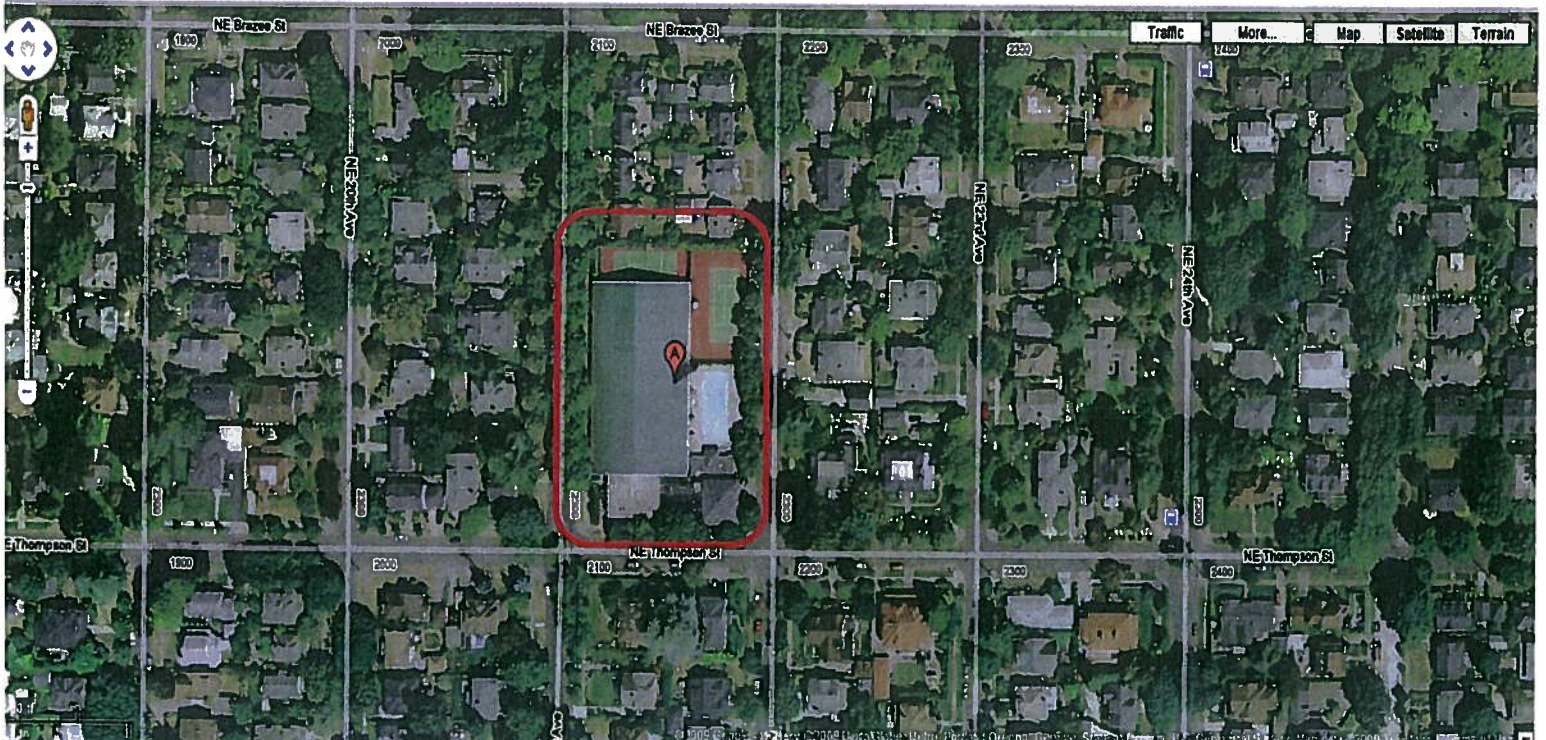


James D. Zupancic, Esq., CRE  
Enclosures



2131 NE Thompson  
Portland, OR

2131 NE Thompson  
Portland, OR



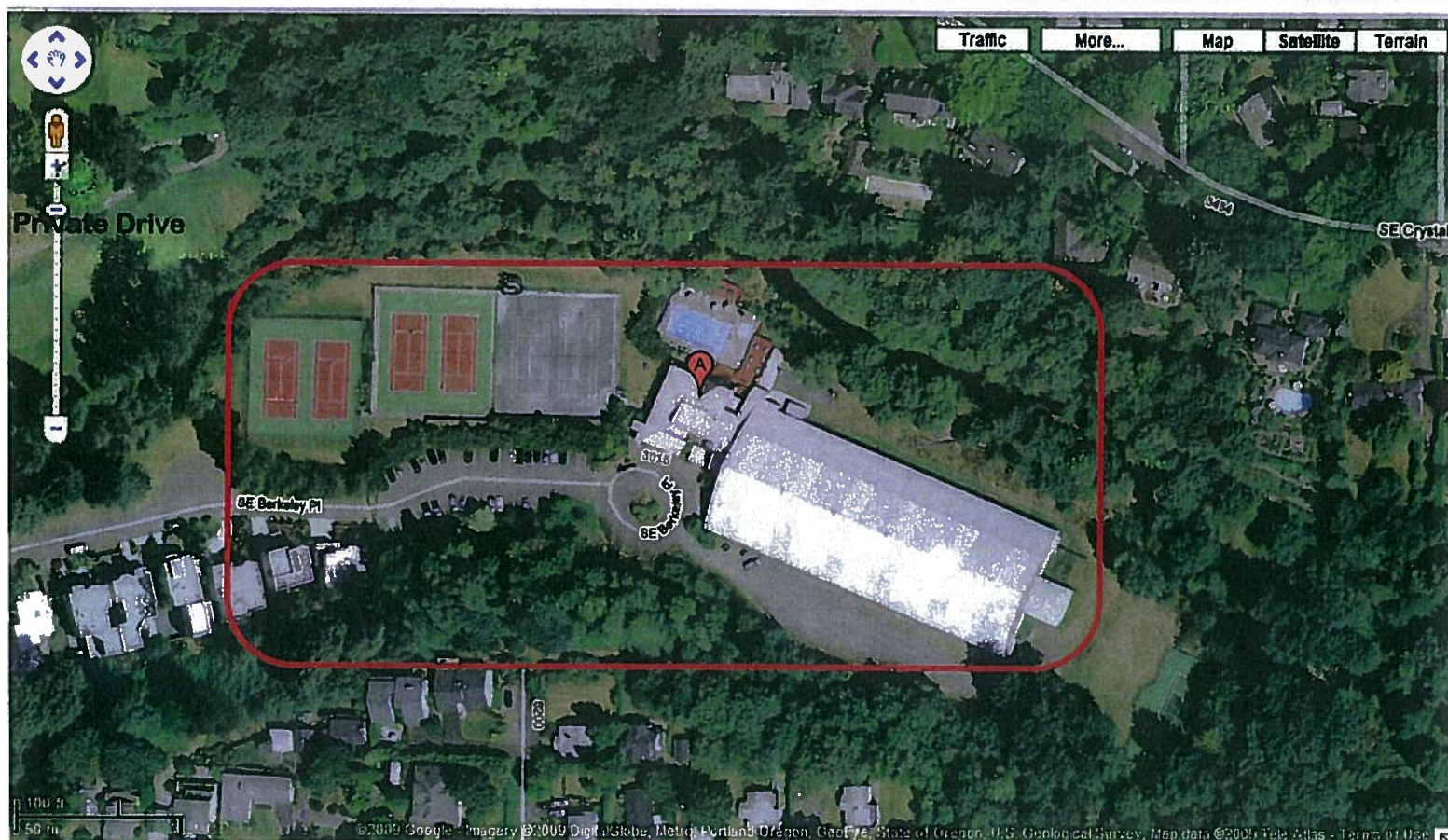
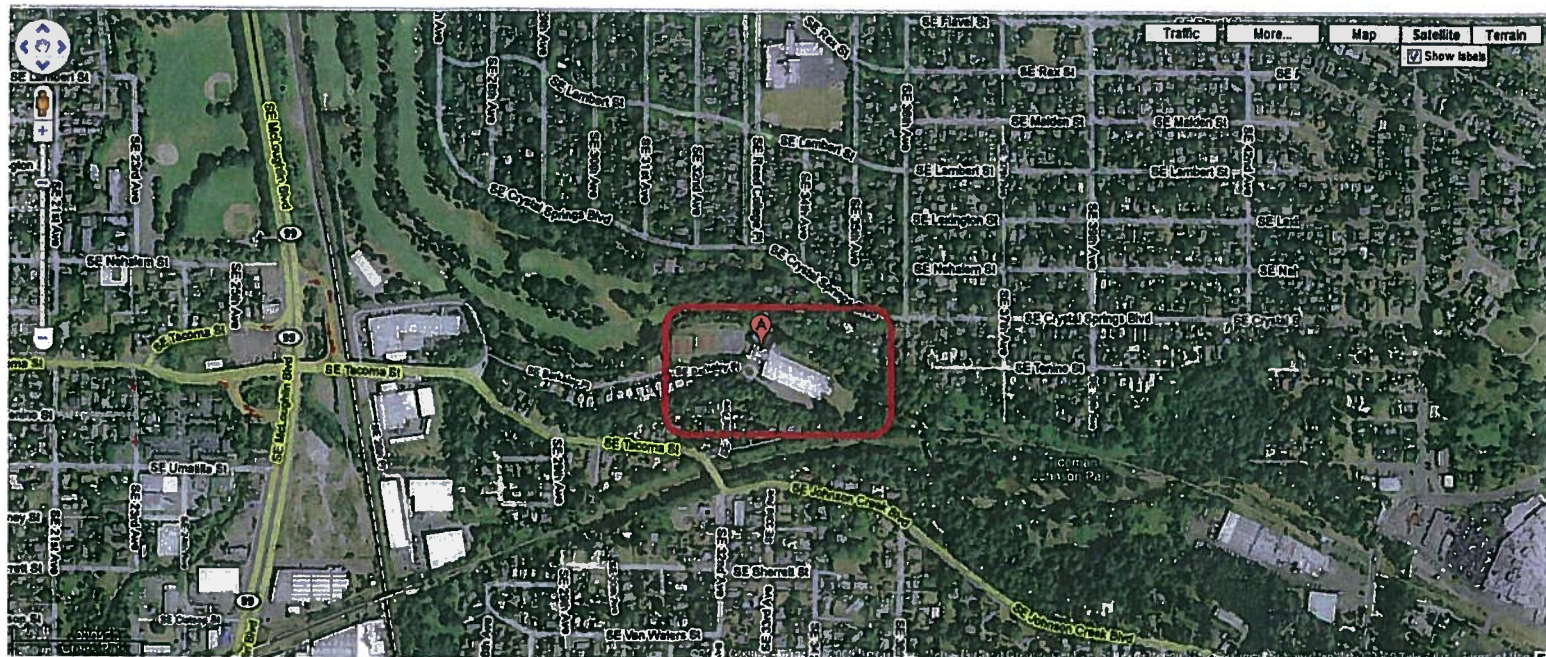
**inland Night Clubs** - [Nightlife.YellowPages.com/Portland](http://Nightlife.YellowPages.com/Portland) - Find Portland night clubs, lounges & dance clubs in your zip code. Portland, OR

Sponsored Link



# Eastmoreland Racquet Club

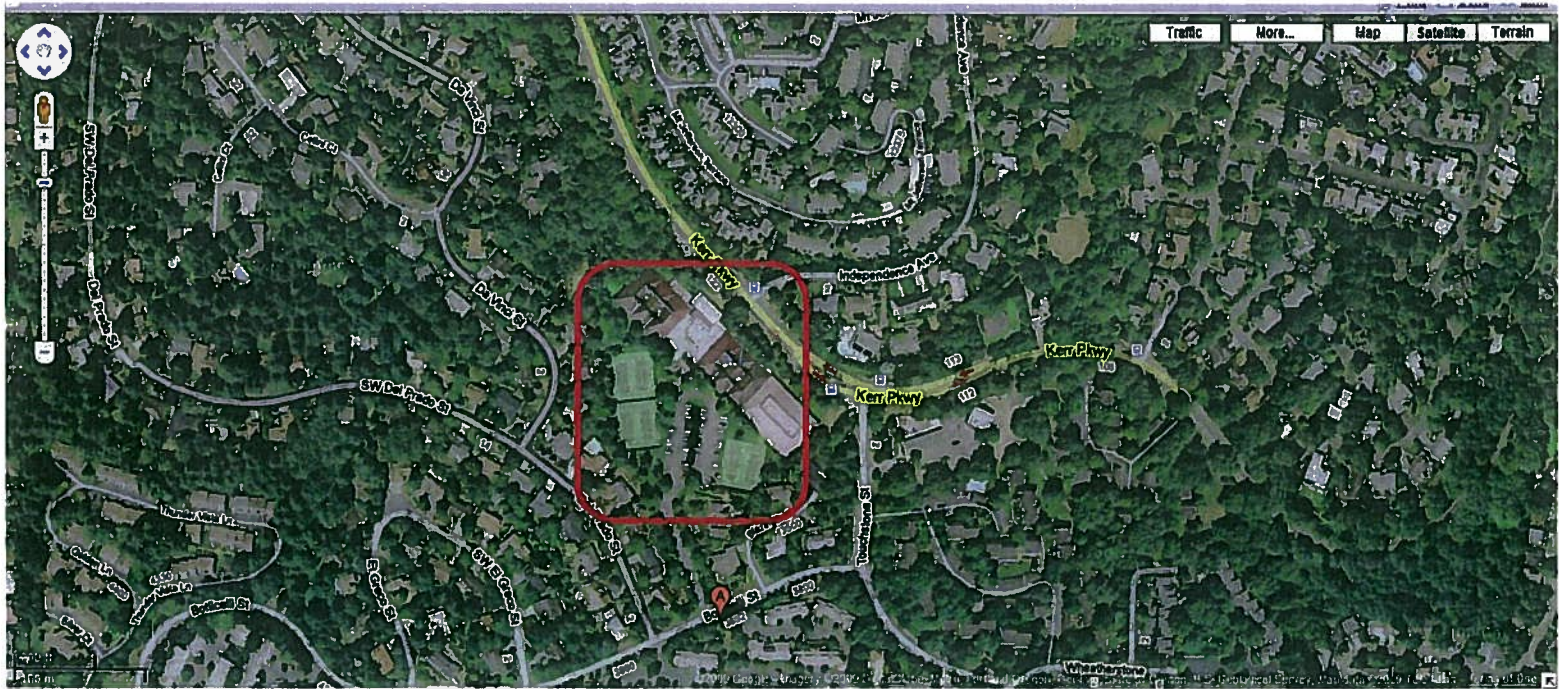
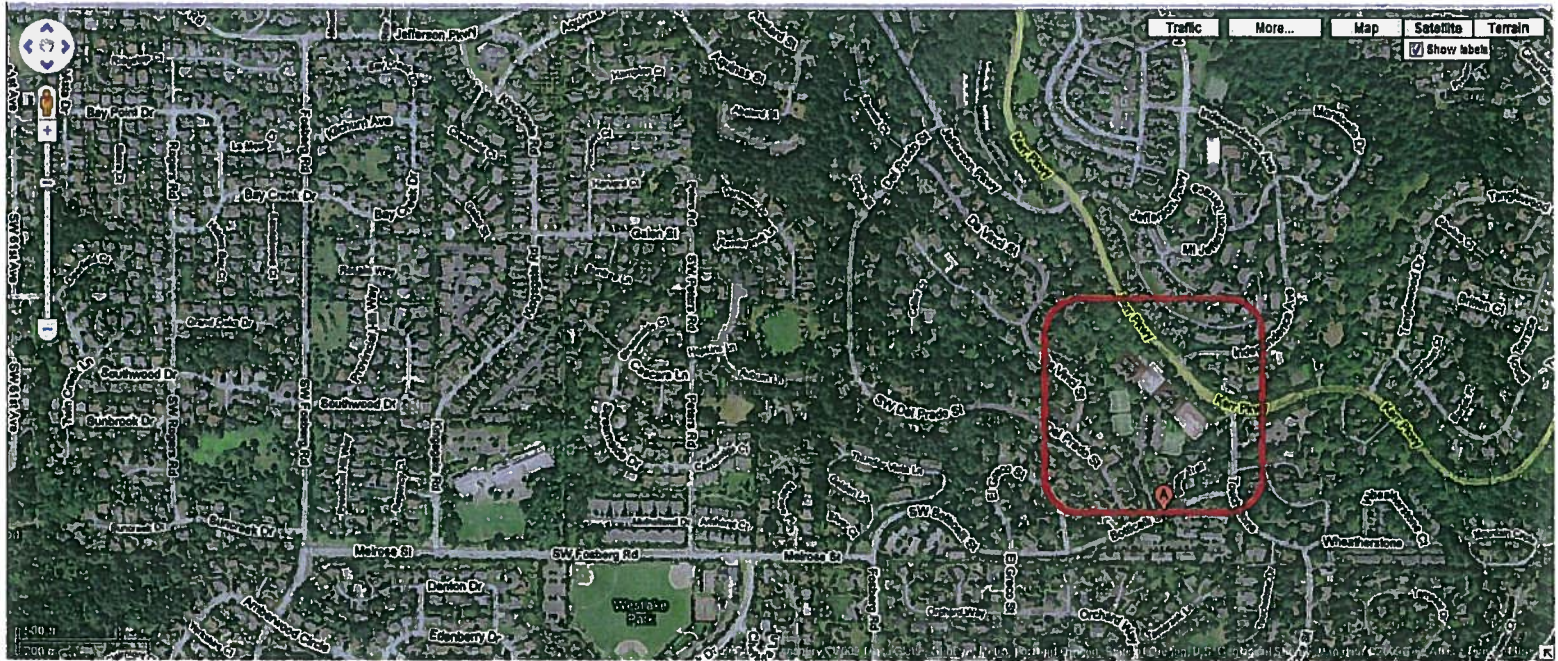
5015 SE Berkeley Place  
Portland, OR





# Mountain Park Racquet Club

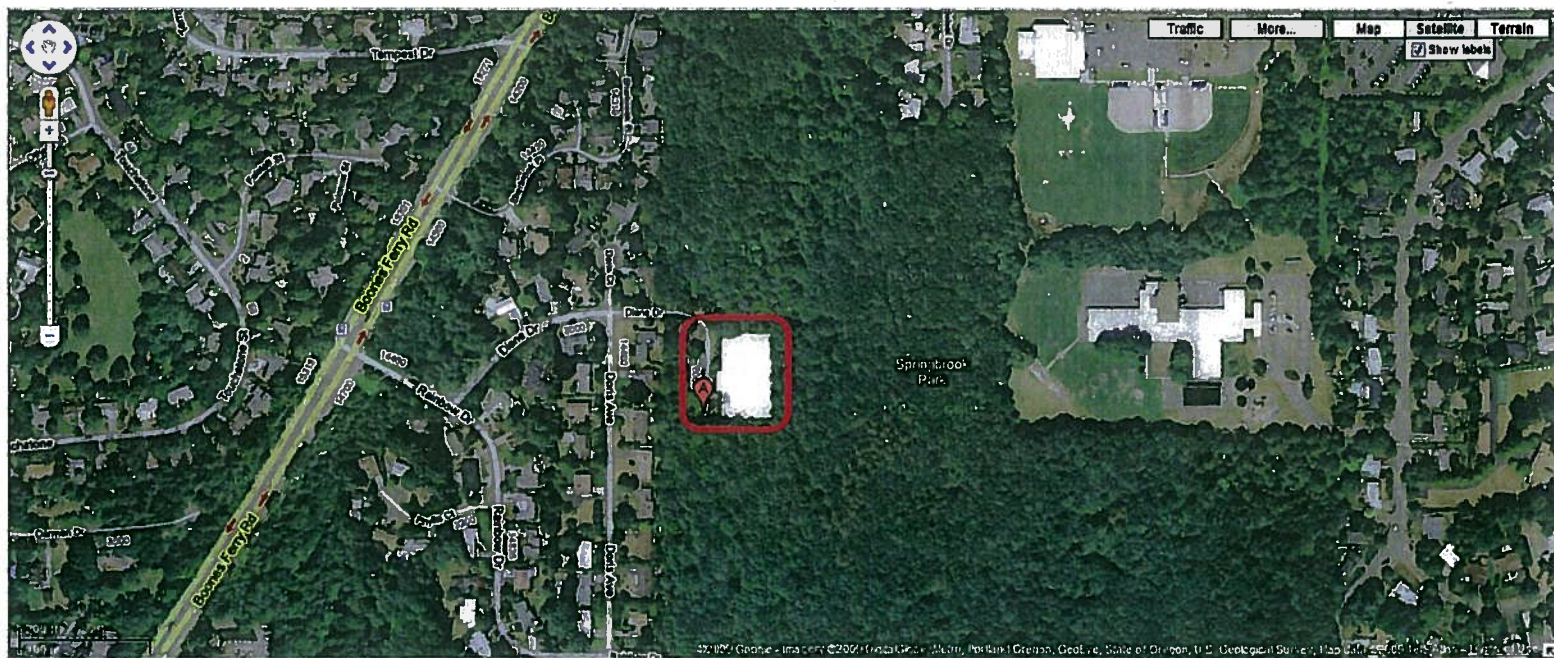
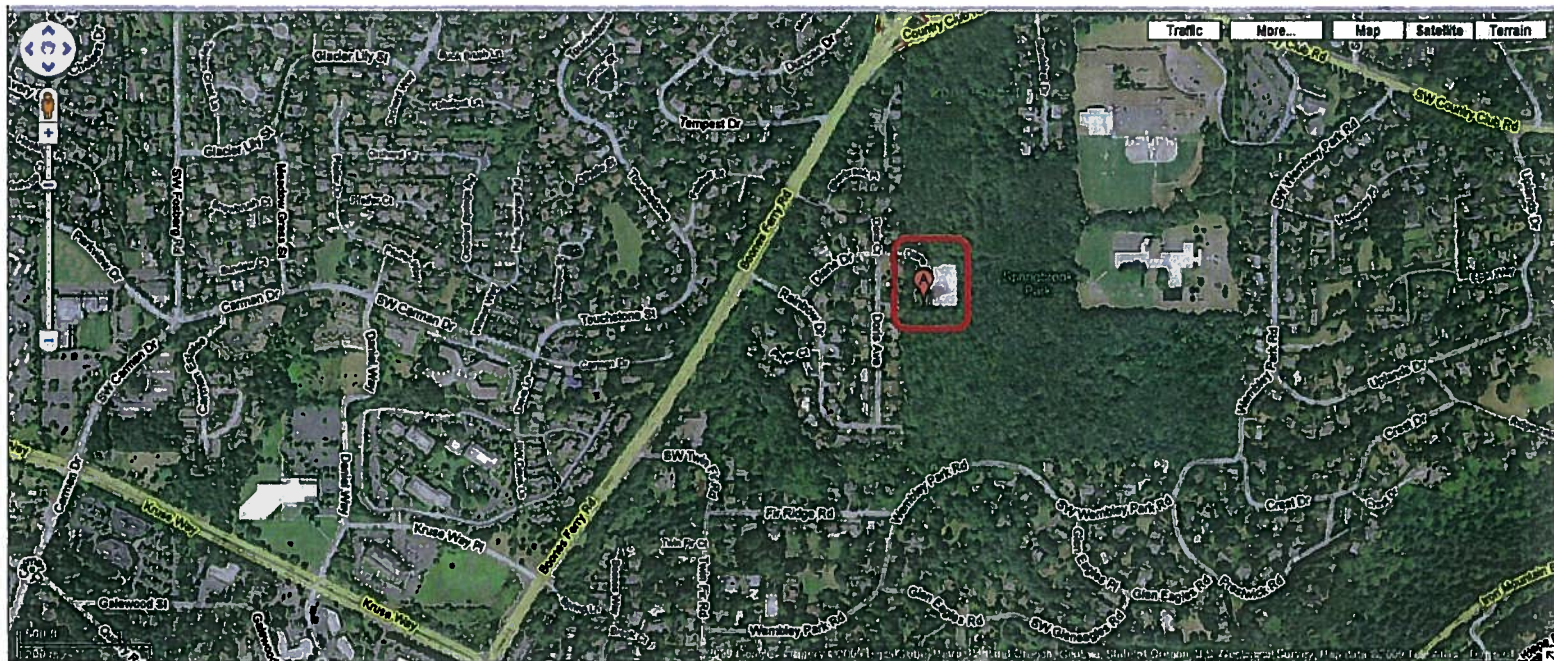
3 Botticellie Villa  
Lake Oswego, OR





# Lake Oswego Indoor Tennis Center

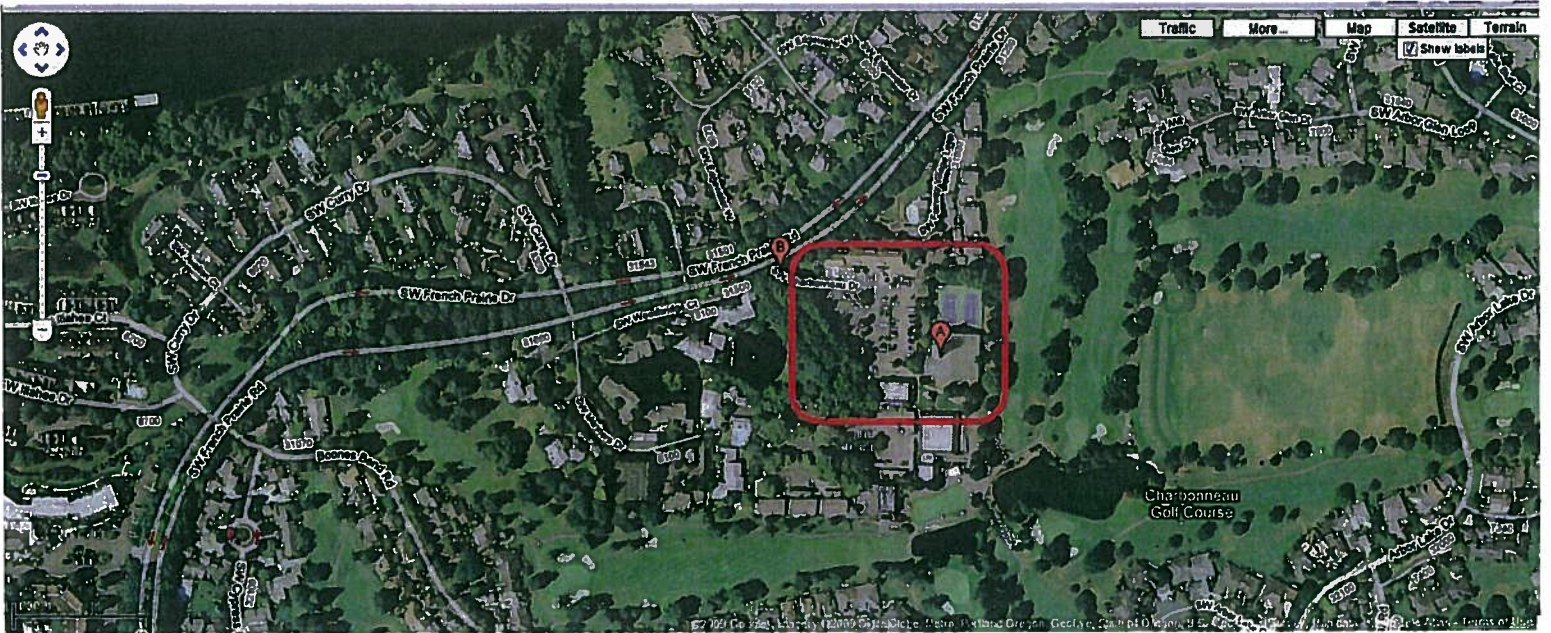
2900 Diane Drive  
Lake Oswego, OR





# Charbonneau Tennis Club

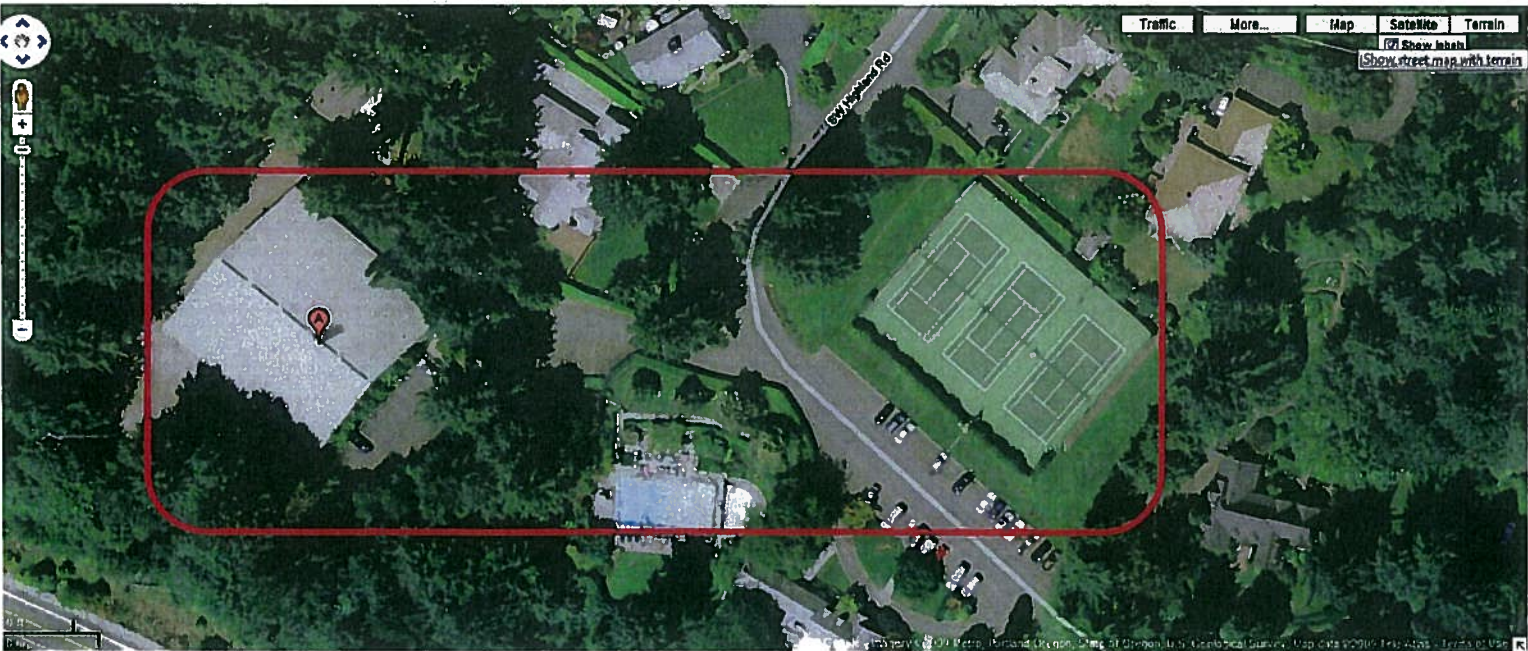
332000 Charbonneau Drive  
Wilsonville, OR





**1859 SW Highland Rd.  
Portland, OR**

**1859 SW Highland Rd.  
Portland, OR**





CITY OF TUALATIN  
REC'D

MAY 04 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

FAX COPY PAGE

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



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

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

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

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MAY 04 2009

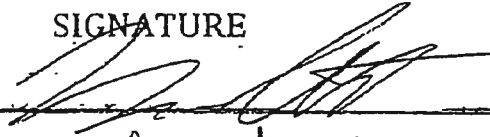
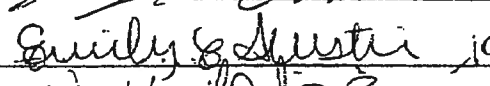

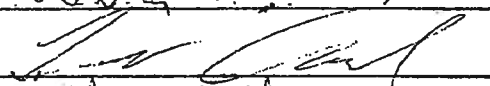

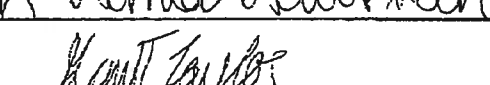
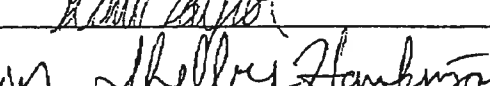
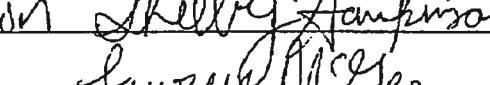
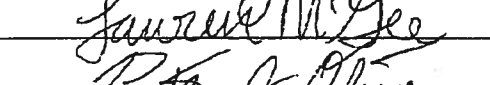
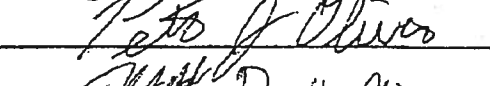
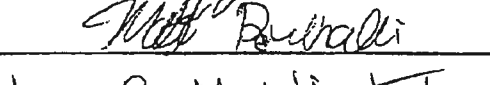
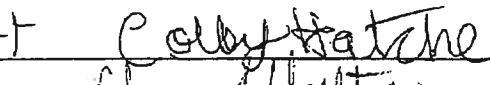
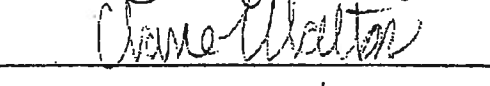
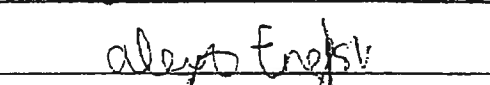
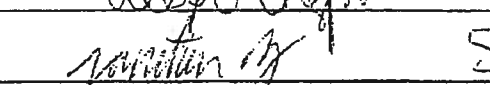
COMMUNITY DEVELOPMENT  
PLANNING DIVISION

DATED: 5/4/09

DEAR TUALATIN CITY COUNCIL:

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

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

NAME	SIGNATURE	ADDRESS
1. Max Marlett		19530 SW 57 <sup>th</sup> AVE
2. Emily Austin		19200 SW 51 AVE
3. Will Peters		20307 SW 71 <sup>st</sup> Ave
4. Tanner Cheal		Sequoia Ridge
5. Hannah Hawkinson		5567 SW Joshua St
6. Grant Taylor		7115 SW Delaware
7. Shelby Hawkinson		5567 SW Joshua St
8. Lauren McGee		19026 SW Chesapeake Dr.
9. Peter Oliver		19240 SW 56 <sup>th</sup> Place
10. Matt Derhalli		22040 SW 106 <sup>th</sup> PL
11. Colby Hatchett		5566 SW natcher st
12. Claire Walton		5254 SW Greenwood Pl.
13. Alexa English		5185 SW Greenwood Circle
14. Jonathan Ny		5700 SW Wichita St Truk
15. Auser Lemon		5780 SW Chesapeake Dr.

DATED: \_\_\_\_\_

CITY OF TUALATIN  
RECEIVED

MAY 04 2009

DEAR TUALATIN CITY COUNCIL:

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

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NAME	SIGNATURE	ADDRESS
1. Jane Lemieux	Jane L	22641 SW 106th Ave Tualatin
2. Eric Rommel	Eric Rommel	10165 SW Luster Ct. Tualatin
3. Mark Roth	Mark Roth	22480 SW 107th Ave Tualatin
4. Pierre Feltz	Pierre Feltz	22050 SW Martinazzi Ave Tualatin
5. Preston Hildebrand	Preston Hildebrand	9195 SW Towner Dr
6. Jean Nguyen	Jean Nguyen	12579 SW Blakely St
7. Tyler Hagushi	Tyler Hagushi	5372 SW Tabor St
8. Kelvin Rommel	Kelvin D. Rommel	10165 SW Luster Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 SW 107th Tualatin
11. Catherine Calder Feltz	Catherine Feltz	22050 SW Martinazzi Ave Tualatin
12. Linda Blatch	Linda Blatch	22535 SW Chilkat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 104th CT Tualatin OR 97063
14.		
15.		

DATED: \_\_\_\_\_

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NAME	SIGNATURE	ADDRESS
1. <u>Gary Fisher</u>	<u>Gary Fisher</u>	<u>22535 SW Chukar Terr.</u>
2. <u>Ronald H. Garst</u>	<u>Ronald H. Garst</u>	<u>26340 SW Crookston Terr. Rd.</u>
3. <u>Denton Wokes</u>	<u>Denton Wokes</u>	<u>14650 SW 103<sup>rd</sup> St.</u>
4. <u>Doug FETTER</u>	<u>Doug FETTER</u>	<u>22050 SW MARDIAN Ave</u>
5. <u>Preston Hiefield</u>	<u>Preston Hiefield</u>	<u>9195 SW Iowa Drive</u>
6. <u>Mack Stinson</u>	<u>Mack Stinson</u>	<u>2173 SW Arlene Ct</u>
7. <u>De H.</u>	<u>De H.</u>	<u>9195 SW Iowa Dr. Tualatin OR 97063</u>
8. <u>Gillian Stratton</u>	<u>Gillian Stratton</u>	<u>9195 SW Iowa Dr. Tualatin OR</u>
9. <u>Janette M.</u>	<u>Janette M.</u>	<u>5700 SW Wichita St. Tualatin OR 97063</u>
10. <u>David McKeen</u>	<u>David McKeen</u>	<u>22685 SW Vermilion dr.</u>
11. <u>Tanner Milton</u>	<u>Tanner Milton</u>	<u>9820 SW Choctaw</u>
12. <u>Chris Pritchard</u>	<u>Chris Pritchard</u>	<u>91441 SW Arapaho R.D.</u>
13. <u>Nathan Senthirajap</u>	<u>Nathan Senthirajap</u>	<u>22440 SW Marden dr</u>
14. <u>Brenda Buck</u>	<u>B Buck</u>	<u>5373 SW Joshua St Tual. OR 97062</u>
15. <u>Andrew Shin</u>	<u>Andrew Shin</u>	<u>14524 SW Chardonnay ave</u>

DATED: \_\_\_\_\_

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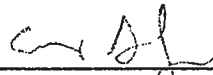
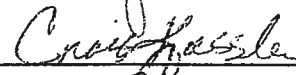
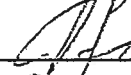

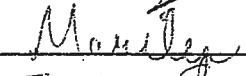
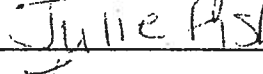
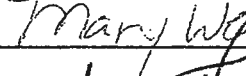
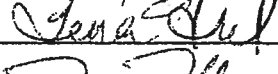


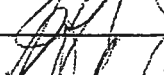
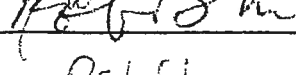
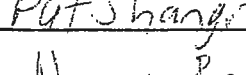
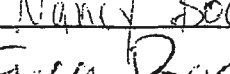
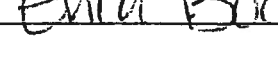
NAME	SIGNATURE	ADDRESS
1. Kelly Grandon	Kelly Grandon	22980 SW Erie Pl Tualatin, OR
2. Emily Fisher	Emily Fisher	5015 SW Greenwood Cir. Tualatin, OR
3. Sarah Chizum	Sarah Chizum	19650 SW 56th Ct. Tualatin, OR
4. Molly Fisher	Molly Fisher	5015 SW Greenwood Cir. Tualatin, OR
5. Maggie Blum	Maggie Blum	5115 SW Wichita St Tualatin, OR
6. Ali Mengis	Ali Mengis	19270 SW 57th Ave. Tualatin, OR
7. Stephanie Clark	Stephanie Clark	9345 SW Palouse Ln Tualatin, OR 97062
8. Nina Yang	Nina Yang	11080 SW Kuller St Tualatin, OR
9. Sarah Fulkerson	Sarah Fulkerson	8760 SW Pennick Ct Tualatin, OR 97062
10. Anna Hildebran	Anna Hildebran	10500 SW Bannock Ct. Tualatin, OR 97062
11. Lauren Butz	Lauren Butz	17785 SW 81 Pl Durham, OR 97224
12. ERIKA WELSH	Erika Welsh	17695 SW Cheyenne Way Tualatin, OR
13. Lauren Jones	Lauren Jones	6046 SW Cornelia Ct. Tualatin, OR 97062
14. Rebecca Koessler	Rebecca Koessler	8525 SW Mariposa Dr
15. Kathleen Mangano	Kathleen Mangano	5770 SW Calypso Ln

DATED: \_\_\_\_\_

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NAME	SIGNATURE	ADDRESS
1. Greg Jones		5890 SW Omaha Ct Tualatin
2. Craig Koessler		8525 SW MARICOPA DR TUALATIN
3. Jim Fisher		5015 SW Greenwood Tual.
4. Alan Koessler		8525 SW MARICOPA DR Tual.
5. <del>Marilyn Jones</del> Marilyn Jones		5690 SW Omaha Ct Tualatin
6. Julie Fisher		5015 SW Greenwood Tual.
7. Mary Wells		17695 SW Chayenne WA
8. Tina Freil		10485 SW Meier Dr. Tualatin
9. Don Freil		10485 SW Meier Dr Tualatin
10. Dan Grant Don		22980 SW ERIO PL Tualatin OK 97062
11. Jeff Menges		19270 SW 57 <sup>TH</sup> Ave Tualatin 97062
12. Bob Bluhm		5265 SW Wichita St Tualatin 97062
13. Pat Shangraw		5776 SW Colusueh Tualatin 97062
14. Nancy Bocchi		5564 SW Pioneer Pl OK 97062
15. Enca Bocchi		" "

DATED: \_\_\_\_\_

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NAME	SIGNATURE	ADDRESS
1. Kelly Grammon	Kelly Grammon	22980 SW Erie Pl Tualatin, OR
2. Emily Fisher	Emily Fisher	5015 SW Greenwood Cir. Tualatin, OR
3. Sarah Chizum	Sarah Chizum	19650 SW 56th Ct. Tualatin, OR
4. Molly Fisher	Molly Fisher	5015 SW Greenwood Cir. Tualatin, OR
5. Maggie Blum	Maggie Blum	51105 SW Wichita St. Tualatin, OR
6. Ali Mengis	Ali Mengis	19270 SW 57th Ave. Tualatin, OR
7. Stephanie Clark	Stephanie Clark	9345 SW Palmise Ln Tualatin, OR 97062
8. Nina Yang	Nina Yang	11080 SW Kuyper St. Tualatin, OR
9. Sarah Fulkerson	Sarah Fulkerson	8700 SW Pamlico Ct Tualatin, OR 97062
10. Anna Hildebrand	Anna Hildebrand	10500 SW Barnock Ct. Tualatin, OR 97062
11. Lauren Butz	Lauren Butz	17785 SW 81 Pl Durham, OR 97224
12. ERIKA WELSH	Erika Welsh	17695 SW Cheyenne Way Tualatin, OR
13. Lauren Jones	Lauren Jones	5640 SW Jovina Ct. Tualatin, OR 97062
14. Rebecca Kessler	Rebecca Kessler	4525 SW Marcopa Dr
15. Kathleen Shengraw	Kathleen Shengraw	5770 SW Calusa Ln



DATED: \_\_\_\_\_

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NAME	SIGNATURE	ADDRESS
1. <u>Craig Fisher</u>	<u>Craig Fisher</u>	<u>22535 SW Chilkat Terr.</u>
2. <u>Ronald L. East</u>	<u>Ronald L. East</u>	<u>26340 SW Evans Ferry Rd.</u>
3. <u>Doston Wokes</u>	<u>Doston Wokes</u>	<u>14650 SW 103<sup>rd</sup> Tr.</u>
4. <u>Doug Feltz</u>	<u>Doug Feltz</u>	<u>22050 SW MARDIAN Ave</u>
5. <u>Preston Hiefield</u>	<u>Preston Hiefield</u>	<u>9195 SW Iowa Drive</u>
6. <u>Mack Stilson</u>	<u>Mack Stilson</u>	<u>2173 SW Arlene Ct</u>
7. <u>De H.</u>	<u>De H.</u>	<u>9195 SW Iowa Dr. Tualatin OR 97062</u>
8. <u>Gillian Stratton</u>	<u>Gillian Stratton</u>	<u>9195 SW Iowa Dr. Tualatin OR</u>
9. <u>Justin M.</u>	<u>Justin M.</u>	<u>5700 SW Wichita St. Tualatin OR 97062</u>
10. <u>David McKean</u>	<u>David McKean</u>	<u>22685 SW Vermilion dr.</u>
11. <u>Tanner Milton</u>	<u>Tanner Milton</u>	<u>9820 SW Choctaw</u>
12. <u>Chris Pritchard</u>	<u>Chris Pritchard</u>	<u>91441 SW Arapcho R.D.</u>
13. <u>Nathan Senthirajap</u>	<u>N. Senthirajap</u>	<u>22440 SW Menden dr</u>
14. <u>Brenda Buck</u>	<u>B. Buck</u>	<u>5373 SW Joshua St Tual. OR 97062</u>
15. <u>Andrew Shin</u>	<u>Andrew Shin</u>	<u>14524 SW Chardonnay ave</u>

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NAME	SIGNATURE	ADDRESS
1. Jane Lemieux	Jane L	22041 SW 106th Ave Tualatin
2. Eric Rommell	Eric Rommell	10165 SW Luster Ct. Tualatin
3. Mark Roth	Mark Roth	22450 SW 107th Ave Tualatin
4. Pierre Feltz	Pierre Feltz	22050 SW Martinazzi Ave Tualatin
5. Preston Hildred	Preston Hildred	9195 SW Iona Dr
6. Jason Nguyen	Jason Nguyen	12579 SW Blackhawk St
7. Tyler Hagushi	Tyler Hagushi	5372 SW Johnson St
8. Kelvin Rommell	Kelvin D. Rommell	10165 SW Luster Ct; Tualatin
9. CHARLENE N POTTER	Charlene N Potter	22366 SW 107th Tualatin
10. Douglas C. Potter	Douglas C. Potter	22366 SW 107th Tualatin
11. Catherine Calder Feltz	Catherine Feltz	22050 SW Martinazzi Ave Tualatin
12. Linda Aldrich	Linda Aldrich	22535 SW Chilkat Terr. Tualatin
13. Brian Rinker	Brian Rinker	20530 SW 104th CT Tualatin OR 97141
14.		
15.		

CITY OF TUALATIN  
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NAME

SIGNATURE

ADDRESS

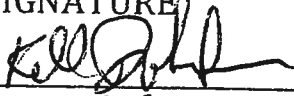

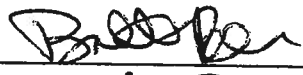


1. SCOTT DAVIS [Signature] 5795 SW Sequoia St Tualatin, OR
2. Coleen DAVIS [Signature] 5795 SW Sequoia St. Tualatin, OR
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
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NAME	SIGNATURE	ADDRESS
1. Kelly Robertson		P.O. Box 1814 Tualatin, OR 9706
2. Mike Reiss		19185 SW Mobile Pl Tualatin, OR 970
3. Debbie Reiss	Debbie Reiss	19185 SW Mobile Pl Tualatin, OR 9706
4. Brett Reiss		19185 SW Mobile Pl Tualatin, OR 9706
5. Taylor Reiss		19185 SW Mobile Pl Tualatin, OR 9706
6. Jeff Mengis	1	19220 SW 57th Ave Tualatin, OR 9706
7. Susie Mengis		19220 SW 57th Ave Tualatin, OR 9706
8. Rick Risenbower		19170 SW Tualata Ave & Tualatin, OR
9. Roskelle Risenbower		19170 SW Tualata Ave & Tualatin, OR
10. Betty Roberts		P.O. Box 1814 Tualatin, OR 97062
11. Jim Fisher		5015 SW Greenwood Cr Tualatin, OR
12. Julie Fisher		5015 SW Greenwood Cr. Tualatin, OR
13. Tracy Pinta		8409 SW BLAKE ST Tualatin, OR
14. Michael Sidoff		24011 SW 65th Tualatin, OR
15. Bonnie Sidoff		24011 SW 65th Tualatin, OR

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DEAR TUALATIN CITY COUNCIL:

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

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

NAME	SIGNATURE	ADDRESS
1. Deandra Davis	Deandra Davis	5170 SW Natchez S
2. Jarnie Andrews	Jarnie Andrews	21235 SW 70th Ave
DUP 3. Emily Fisher	Emily Fisher	5015 SW Greenhollow Ct.
4. Daniel Gines	Daniel Gines	14717 SW 57th Ave
5. Matt Nichols	Matt Nichols	<del>10570 SW Crown St.</del>
6. Tony Villario	Tony Villario	5525 SW Omaha Ct
7. Cameron France	Cameron France	10570 SW Crown St.
8. Ally Ward	Ally Ward	5773 SW Chelsea Ln
9. Krista Collins	Krista Collins	19005 SW Chesapeake Dr
10. Erin Ennis	Erin Ennis	5013 SW Greenwood
11. Brian Phillips	Brian Phillips	5525 SW Omaha Ct
12. Tony Villario	Tony Villario	5525 SW Omaha Ct
13. Kelsie Barnes	Kelsie Barnes	19120 SW 61st Place
14. Emily Winder	Emily Winder	5326 SW Natchez St.
15. Dylan Moore	Dylan Moore	5573 SW Natchez St

RESOLUTION NO.       - - - -      

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

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on April 27, 2009, and continued on May 26, 2009, upon the application of Zupancic Group, requesting a Conditional Use Permit to allow 1. The Stafford Hills Racquet & Fitness Club (SHR&F Club) as a private club use in the Low Density Residential (RL) Planning District at 5916 SW Nyberg Lane; 2. Increased building height from the maximum 35 ft. in a RL Planning District to a height of up to 40 ft.; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

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

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

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff reports, dated April 27, 2009 and May 26, 2009, marked "Exhibit C," which is attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

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

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

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

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

CITY OF TUALATIN, Oregon

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

ATTEST:

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

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary USmith

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

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

**FROM:** Michael A. McKillip, City Engineer *MAK*  
Dayna Webb, Project Engineer *DN*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION AUTHORIZING A REQUEST FOR A REVOCABLE  
LICENSE FROM WASHINGTON COUNTY TO ALLOW  
INSTALLATION OF PHOTO RED LIGHT CAMERAS ON COUNTY  
OWNED INTERSECTIONS

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### ISSUE BEFORE THE COUNCIL:

Council will consider requesting a Revocable License from Washington County to allow installation of Photo Red Light Cameras on County owned intersections.

### RECOMMENDATION:

Staff recommends Council adopt the attached resolution requesting a Revocable License from Washington County and authorize the Mayor to sign the attached license.

### EXECUTIVE SUMMARY:

The City Council previously accepted a contract with Redflex Traffic Systems for installation of Photo Red Light systems at specific intersections within the City. A Revocable License will be required from Washington County to allow installation of the necessary equipment within Washington County right-of-way.

**OUTCOMES OF DECISION:**

Authorizing the request for a Revocable License from Washington County to allow installation of Photo Red Light Cameras on County owned intersections will result in the following:

- Ability to move forward with installation of the Red Light Cameras at Washington County owned intersections.

Not authorizing the request for a Revocable License from Washington County to allow installation of Photo Red Light Cameras on County owned intersections will result in the following:

- Inability to move forward with installation of the Red Light Cameras at Washington County owned intersections.

**FINANCIAL IMPLICATIONS:**

There is no cost to requesting the Revocable License.

**Attachments:**      A. Resolution  
                              B. Revocable License

RESOLUTION NO. 4891-09

RESOLUTION AUTHORIZING A REQUEST FOR A  
REVOCABLE LICENSE FROM WASHINGTON COUNTY TO  
ALLOW INSTALLATION OF PHOTO RED LIGHT CAMERAS  
ON COUNTY OWNED INTERSECTIONS

WHEREAS the City adopted Resolution No. 4831-08 on September 22, 2009,<sup>8</sup>  
that authorized a contract with Redflex Traffic Systems; and

WHEREAS the City would like to install Photo Red Light Cameras on County  
owned intersections; and

WHEREAS Washington County requires a Revocable License to install the  
necessary equipment within the County right-of-way; and

WHEREAS the Revocable License will allow us to move forward with installation  
of the Photo Red Light Cameras; and

WHEREAS the Mayor is authorized to enter into said Revocable License.

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

Section 1. The Mayor is authorized to sign the attached Revocable License.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.

CITY OF TUALATIN, OREGON

BY   
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY   
City Recorder

**REVOCABLE LICENSE AGREEMENT**  
**Between**  
**WASHINGTON COUNTY**  
**And**  
**CITY OF TUALATIN**

THIS AGREEMENT is made and entered into by and between WASHINGTON COUNTY, OREGON, hereinafter referred to as "County"; and the CITY OF TUALATIN, hereinafter referred to as "Licensee".

**ARTICLE I – RECITALS**

1. Washington County owns or controls certain property known as the right of way of SW 72<sup>nd</sup> Avenue, together with poles, traffic signals, cabinets, wiring and associated facilities. Licensee wishes to place on and under that property its personal property, generally described as follows:

Cabinets, poles, equipment, detection loops, wiring and associated facilities for automated red light photo enforcement.

**ARTICLE II – COUNTY OBLIGATIONS**

1. County hereby grants to Licensee a revocable license to place its personal property, described above, on and under the property owned or controlled by County and described as follows:

The right of way of SW 72<sup>nd</sup> Avenue in the vicinity of SW Bridgeport Road & SW Lower Boones Ferry Road, together with the facilities described above.

2. County's contact person to be responsible for coordination of this License Agreement with Licensee shall be: Greg Miller, County Engineer or his designee Thomas Tushner, County Traffic Engineer. This individual shall have the authority to add any further conditions or limitations on the location and use Licensee's property, as are reasonably necessary to prevent interference with County functions.

3. County shall make available the following services with regard to Licensee's property:

Provide red phase indication output from traffic signal cabinet on County owned and/or maintained signals.

### **ARTICLE III – LICENSEE OBLIGATIONS**

1. Licensee shall be solely responsible for its personal property, shall keep said property neat, orderly, and in good repair. Licensee shall be responsible for all expenses associated with its personal property, including operation maintenance, repair, and replacement. Licensee shall be responsible for affixing its property to the County property in a secure and safe manner, and for maintaining its property in a safe condition.
2. Licensee shall, upon execution of this Agreement, assign a liaison person to be responsible for coordination of tasks under this Agreement with County.
3. Licensee shall be responsible for obtaining right-of-way permit, facilities permit or any other permit required prior to performing any of the activities authorized by this agreement.
4. For intersections in which traffic signals or right of way are owned by or under the jurisdiction of others, Licensee shall obtain the necessary permits or approvals from those persons for installation of red-light cameras and related equipment on non-County property.

### **ARTICLE IV – COMPENSATION**

1. There shall be no monetary compensation to either party under this Agreement.

### **ARTICLE V – ADDITIONAL FACILITIES**

1. The parties may add additional locations and facilities within the City of Tualatin to this Agreement by written amendment to this Agreement, or by following the provisions of this section.
2. Licensee may in writing request permission to add one or more additional locations for its automated red light photo enforcement program by letter from its contact person to the County's representative. The letter shall state the additional locations requested, include a plan and description of the Licensee's equipment, and reference this agreement. Upon review and signature of the letter by the County's representative, and issuance of a County Right of Way permit for the installation, the letter shall constitute an addendum to this License with respect to the additional locations. All terms and provisions of this License Agreement shall apply to the approved additional locations.

## **ARTICLE VI – GENERAL PROVISIONS**

### **1. Laws of Oregon**

The parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be governed by the laws of the State of Oregon. All provisions required by OR Chapter 279C to be included in public contracts are hereby incorporated by reference and made a part of this Agreement, as if fully set forth herein.

### **2. Default**

Either party shall be deemed to be in default, if it fails to comply with any provision of this Agreement. Time is of the essence in the performance of any of the obligations within this Agreement. Complaining party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

### **3. Liability; Indemnification**

The County shall have no liability to Licensee for the loss of or damage to its personal property that is subject to this License Agreement, as a result of the actions of third persons. Licensee shall defend, indemnify and hold harmless County, including its officers, employees, agents, and representatives, from and against all claims, demands, and causes of actions and suits of any kind or nature for personal injury, death, or damage to property on account of or arising out of its acts or omissions under this Agreement, and the use of its personal property pursuant to ORS 810.434-436. Licensee's defense and indemnification obligations under this paragraph shall be subject to the provisions of the Oregon Tort Claims Act, ORS 30.265 through 30.300.

### **4. Modification of Agreement**

No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in specific instances and for the specific purpose given.

### **5. Severability**

If any terms or provisions of this Agreement or the application thereof to an person or circumstance shall, to any extent, be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application

of those terms and provisions shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

6. Nondiscrimination

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination, or suspension in whole or in part by the County.

7. Integration

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this contract.

## **ARTICLE VII – TERM OF AGREEMENT**

1. The term of this Agreement shall be five years from the date of signatures of this License Agreement
2. This agreement may be amended or extended for periods of up to one year by consent of the parties, subject to the provisions of this Agreement. Notwithstanding any other provision of this Agreement, County may, in its sole discretion, terminate this license without cause, and require Licensee to remove its personal property within forty-five (45) business days. In the event multiple locations are included in this License Agreement, County may exercise its right to terminate under this section as to one or more of the individual locations.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

DONE AND DATED this 8<sup>th</sup> day of JUNE, 2009.

**WASHINGTON COUNTY, OREGON**

**LICENSEE – CITY OF TUALATIN**

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

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


Title: \_\_\_\_\_

Title: Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Loretta S. Skurdahl  
Senior Assistant County Counsel

  
\_\_\_\_\_  
Brenda L. Braden  
Tualatin City Attorney





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary MSmith

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

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

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

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH TRIMET AND WASHINGTON COUNTY REGARDING WES TRAIN HORN NOISE MITIGATION

---

### ISSUE BEFORE THE COUNCIL:

Council will consider authorizing an Intergovernmental Agreement (IGA) with TriMet and Washington County regarding WES train horn noise mitigation.

### RECOMMENDATION:

Staff recommends Council adopt the attached resolution authorizing the IGA with TriMet and Washington County and authorize the Mayor to sign the attached IGA.

### EXECUTIVE SUMMARY:

This agreement is a result of several parties, TriMet, Washington County and City of Tualatin obtaining funds for train horn noise mitigation. The parties intend to proceed with planning and designing potential noise mitigation treatments under this Agreement, while seeking funding to implement these measures through a future amendment or separate Intergovernmental Agreement.

TriMet has circulated for approval a request for proposals for planning services, and with participation of the parties, has selected the consultant and will manage the planning contract. The consultant will make a recommendation as to the most appropriate treatments to achieve optimum train horn noise mitigation at each of the grade crossings in Tualatin.

The consultant will lead a coordinated review of proposed intersection treatments in diagnostic sessions that will involve the Portland & Western Railroad, Inc., the Oregon Department of Transportation, the Federal Railroad Administration, the parties, and the affected jurisdictions.

The consultant will plan the agreed upon treatments to the extent necessary to support permits and construction documents. To the extent design documents are required, they will be secured through a separate, follow-on request for proposals, with participation of the parties.

**OUTCOMES OF DECISION:**

Authorizing the IGA with TriMet and Washington County regarding WES train horn noise mitigation will result in the following:

- Ability to move forward with the review of the proposed intersection treatments.

Not authorizing the IGA with TriMet and Washington County regarding WES train horn noise mitigation will result in the following:

- Inability to move forward with the review of the proposed intersection treatments.

### FINANCIAL IMPLICATIONS:

There is no cost to Tualatin in moving forward with the review of the proposed intersection treatments.

**Attachments:**

- A. Resolution
- B. Intergovernmental Agreement

RESOLUTION NO. 4892-09

RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL  
AGREEMENT WITH TRIMET AND WASHINGTON COUNTY  
REGARDING WES TRAIN HORN NOISE MITIGATION

WHEREAS the parties intend to proceed with planning and designing potential noise mitigation treatments under this Agreement, while seeking funding to implement these measures through a future amendment or separate Intergovernmental Agreement; and

WHEREAS TriMet has circulated for approval a request for proposals for planning services, and with participation of the parties, has selected the consultant and will manage the planning contract. The consultant will make a recommendation as to the most appropriate treatments to achieve optimum train horn noise mitigation at each of the grade crossings in Tualatin; and

WHEREAS the consultant will lead a coordinated review of proposed intersection treatments in diagnostic sessions that will involve the Portland & Western Railroad, Inc., the Oregon Department of Transportation, the Federal Railroad Administration, the parties, and the affected jurisdictions; and

WHEREAS the consultant will plan the agreed upon treatments to the extent necessary to support permits and construction documents. To the extent design documents are required, they will be secured through a separate, follow-on request for proposals, with participation of the Parties; and

WHEREAS the Mayor is authorized to enter into said Intergovernmental Agreement.

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

Section 1. The Mayor is authorized to sign the attached Intergovernmental Agreement.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.

CITY OF TUALATIN, OREGON

BY

  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY

  
City Recorder

INTERGOVERNMENTAL AGREEMENT BETWEEN  
TRIMET, CITY OF TUALATIN AND WASHINGTON COUNTY  
REGARDING WES TRAIN NOISE MITIGATION

This Intergovernmental Agreement ("Agreement") ("IGA") is made and entered into by and between the Tri-County Metropolitan Transportation District of Oregon, an Oregon mass transit district ("TriMet"), the City of Tualatin, Oregon, a political subdivision of the State of Oregon ("City"), and Washington County, Oregon, a political subdivision of the State of Oregon ("County") (each a "Party" and collectively, "the Parties") as of this \_\_\_\_ day of May, 2009.

**RECITALS**

A. In accordance with various intergovernmental agreements between the Parties, TriMet has completed construction of the project commonly referenced as the Wilsonville to Beaverton Commuter Rail Project on approximately 14.7 miles of the existing railroad line between Wilsonville and Beaverton (the "Subject Line"), including that portion of the Subject Line running through Tualatin.

B. As of February 2, 2009, TriMet has commenced revenue operations of its Westside Express commuter rail service ("WES") along the Subject Line.

C. WES operations are governed by the Federal Railroad Administration's Train Horn Rule (the "Rule"), which requires that locomotive horns be sounded at all public highway-rail grade crossings, except in quiet zones established and maintained in accordance with the Rule.

D. Introduction of WES service between Beaverton and Wilsonville has resulted in concerns being raised regarding train noise along the Subject Line. To address these concerns, with particular focus on reducing train horn noise through Tualatin residential areas, the Parties intend to secure consultants and contractors for the purpose of studying the problem and designing cost effective treatments at the following grade crossings within the Tualatin segment: Tualatin Road; Nyberg Road; Tualatin-Sherwood Road; Tualatin-Sherwood Road Pedestrian Crossing; 95<sup>th</sup> Avenue; Teton Avenue; Avery Street; Industrial Way (private); Browns Transfer (private); and Tonquin Road.

E. The parties intend to proceed with planning and designing potential noise mitigation treatments under this Agreement (the "Project"), while seeking funding to implement these measures through a future amendment or separate Intergovernmental Agreement.

The Parties agree as follows:

**AGREEMENT**

1. TriMet has circulated for approval a request for proposals for planning services, and with participation of the Parties, has selected the consultant and will manage the planning

contract. The consultant will make a recommendation as to the most appropriate treatments to achieve optimum train horn noise mitigation at each of the grade crossings in Tualatin. Noise mitigation measures to be evaluated under the planning contract include, but are not limited to: no change from present, four-quadrant crossing gates, wayside horns, private rail crossing closure, or other potential solution identified by the planning consultant.

2. The consultant will lead a coordinated review of proposed intersection treatments in diagnostic sessions that will involve the Portland & Western Railroad, Inc., the Oregon Department of Transportation ("ODOT"), the Federal Railroad Administration, the parties, and the affected jurisdictions. The County will make \$55,650 available for funding the consultant contract. If any further work is done, this \$55,650 will be subtracted from the County's future obligation.

3. The consultant will plan the agreed upon treatments to the extent necessary to support permits and construction documents. To the extent design documents are required, they will be secured through a separate, follow-on request for proposals, with participation of the Parties.

4. The Parties will conduct monthly coordination meetings in Tualatin through completion of the Project.

5. Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

6. Implementation of noise mitigation measures for all identified crossings is expected to require approximately \$5.7 million. The Parties will cooperate to seek funding to implement feasible noise mitigation treatments. No Party shall be obligated to expend or commit funds to implementation, except by amendment to this Agreement, or by separate intergovernmental agreement.

## 7. General Provisions

- a. Relationship of the Parties. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be an employee, agent or contractor of another Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- b. Indemnification. Within the limits of the Oregon Constitution and the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the Parties shall hold harmless, indemnify and defend the other and its officers, employees and agents from and against all claims, demands, penalties, and causes of action of any kind

or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent acts or omissions of the indemnitor, its officers, employees, or agents.

- c. Compliance with Laws. The Parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, which hereby are incorporated by reference. Without limiting the generality of the foregoing, the Parties expressly agree to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- d. Inspection of Records. Each of the Parties shall have the right to inspect, at any reasonable time, such records in the possession, custody or control of any other Party as it deems necessary for review of the other Party's obligations and its rights under this Agreement. The cost of such inspection shall be borne by the inspecting Party.
- e. Amendments. This Agreement may only be amended by means of a writing signed by an authorized representative of each of the Parties hereto. No amendment to any provision of this Agreement shall be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party's performance or failure to perform, or any failure or delay by any Party to enforce its rights hereunder.
- f. Integration. Except as otherwise expressly provided in this Agreement, this document constitutes the entire agreement between the Parties and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind. No course of dealing between the Parties and no usage of trade will be relevant to supplement any term used in this Agreement.
- g. Waivers. No waiver by any Party of any provision of this Agreement shall be of any force or effect unless in writing. Except as otherwise provided herein, no waiver made by a Party with respect to the performance, or manner or time thereof, or obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver or a waiver by the other Party not joining in such waiver, and no such waiver shall be construed to be a continuing waiver.
- h. No Third-Party Beneficiary. Except as set forth herein, this Agreement is between the Parties and creates no third-party beneficiaries. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or

otherwise to any third parties unless such third party is expressly described as an intended beneficiary under this Agreement.

- i. Effective and Termination Dates. This Agreement shall be effective as of the date set forth above, and shall remain in effect until the completion of all obligations created by this Agreement.
- j. Early Termination of Agreement.
  - i. The Parties, by mutual written agreement, may terminate this Agreement at any time.
  - ii. Any Party may terminate this Agreement in the event of a breach of the Agreement by one of the other Parties. Prior to such termination, however, the Party seeking the termination shall give the other Parties written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within thirty (30) days of the notice, then the Party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.
- k. Remedies. The remedies provided under this Agreement shall not be exclusive. The Parties also shall be entitled to any other equitable and legal remedies that are available.
- l. Oregon Law, Dispute Resolution and Forum.
  - i. This Agreement shall be construed according to the laws of the State of Oregon.
  - ii. The Parties shall negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within fourteen (14) calendar days, the Parties are free to pursue any legal remedies that may be available.
  - iii. Any litigation between the Parties arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Washington County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon located in Portland, Oregon.
- m. All notices required under this Agreement will be deemed to be properly served if sent by U.S. mail to the last representative of the Party identified below in this paragraph. Until hereafter changed by the Parties by notice in writing, notices must be sent:

If to the City:        Sherilyn Lombos, City Manager  
                                 City of Tualatin

18880 SW Martinazzi Avenue  
Tualatin, OR 97062  
Telephone: (503) 691-3010  
Facsimile: (503) 692-5421

With a copy to: Brenda Braden, City Attorney  
City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062  
Telephone: (503) 691-3015  
Facsimile: (503) 692-5421

If to TriMet: Ken Kirse  
TriMet  
Capital Projects and Facilities Division  
710 NE Holladay St.  
Portland, OR 97232  
Telephone: (503) 962-2266  
Facsimile: (503) 962-2283

With a copy to: Tamara H. Lesh  
Deputy General Counsel  
TriMet  
710 NE Holladay Street  
Portland, OR 97232  
Telephone: (503) 962-2212  
Facsimile: (503) 962-2299

If to the County: Kathy Lehtola, Director  
Washington County Dept. of Land Use and Transportation  
155 N. First Avenue  
Suite 350/MS-16  
Hillsboro, OR 97124-3072  
Telephone: (503) 846-8740  
Facsimile: (503) 846-3588

With a copy to: Dan Olsen, County Counsel  
Washington County  
155 N. First Avenue  
Hillsboro, OR 97124-3072  
Telephone: (503) 846-8747  
Facsimile: (503) 846-8636

- n. Subcontracting. Each Party acknowledges that the Parties may intend to contract or subcontract their work under this Agreement, in whole or in part. Each Party agrees to the other Parties' contracting or subcontracting and no specific approval of any contractors or subcontractors is required. Each Party shall require any





contractor or subcontractor to agree, as to the portion contracted or subcontracted, to fulfill all applicable obligations of such Party as specified in this Agreement.

- o. Severability/Survivability. If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken. All provisions concerning indemnity survive the termination of this Agreement for any cause.
- p. Interpretation of Agreement. This Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provision. The Section headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.
- q. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON

CITY OF TUALATIN

By:   
Name: Neil McFarlane  
Title: Executive Director  
Date: June 1, 2009

By:   
Name: SHERILYN LOMBOS  
Title: City Manager  
Date: June 8, 2009

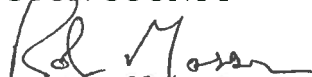
Approved as to Form for TriMet

  
TriMet Legal Department

Approved to Form for Tualatin

  
Tualatin City Attorney

WASHINGTON COUNTY

By:   
Name: Rob Massar  
Title: Asst. County Administrator  
Date: \_\_\_\_\_

Approved as to Form for Washington County

  
Washington County Counsel



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary W. Smith

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

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

**FROM:** Michael A. McKillip, City Engineer *MAK*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION AUTHORIZING THE CITY TO ADMINISTER  
THE WASHINGTON COUNTY TRANSPORTATION  
DEVELOPMENT TAX WITHIN THE CITY OF TUALATIN

---

### ISSUE BEFORE THE COUNCIL:

Should Tualatin adopt a resolution indicating that it desires to implement the Washington County Transportation Development Tax (TDT) within the City limits of Tualatin.

### RECOMMENDATION:

Staff recommends that Council adopt the attached resolution authorizing Tualatin to implement the TDT in the Tualatin City limits.

### EXECUTIVE SUMMARY:

In November 2008 the voters in Washington County authorized a new Transportation Development Tax to be implemented in Washington County. This tax is implemented by placing a tax on the trips generated by new development. The tax is collected through the building permit process.

This tax is anticipated to generate more funding for transportation projects than the previous tax the Traffic Impact Fee.

There has been some discussion about delaying the implementation or reducing the fees for the TDT. Both of these decisions would be made by the Washington County Board of County Commissioners. Because these changes would need to follow the SDC process, no decision or change could be made before the September/October time frame. The TDT will be implemented on July 1, 2009 as approved by the voters.

**OUTCOMES OF DECISION:**

Adopting this resolution will allow Tualatin to collect the new TDT and use the funds for projects identified in the TDT methodology report.

If Tualatin does not implement the TDT in Tualatin it will be implemented by Washington County. Persons seeking building permits will have to travel to Hillsboro to pay the tax before receiving a building permit from Tualatin. Project funding would be decided by Washington County.

McK/StfRpt\_TDT 060809

**Attachments:** A. Resolution

RESOLUTION NO. 4893-09

A RESOLUTION AUTHORIZING THE CITY TO ADMINISTER THE  
WASHINGTON COUNTY TRANSPORTATION DEVELOPMENT TAX  
WITHIN THE CITY OF TUALATIN

WHEREAS, on November 4, 2008 the electors of Washington County approved Washington County ordinance No. 691-A, amending the Traffic Impact Fee, renaming the charge as the Transportation Development Tax, and providing for an effective date of July 1, 2009; and

WHEREAS, Section 3.17.120 of the Washington County Code, as amended by Ordinance 691-A, entitles each city to collect the tax, administer its provisions and retain 100% of the proceeds upon adoption of a resolution or ordinance and intergovernmental agreement in accordance with amended section 3.17.120; and

WHEREAS, the City of Tualatin desires to collect and administer the tax within its city limits in accordance with the provisions of county ordinance 691-A.

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

Section 1. The City of Tualatin agrees to administer the tax within its city limits in full compliance with all of the terms of Ordinance 691-A.

Section 2. The City of Tualatin accepts full and sole responsibility for proper administration of the Tax within its city limits in accordance with the provisions of County Code, including financial responsibility for any fund deficiencies arising at any time including upon termination.

Section 3. The City of Tualatin shall provide Washington County no less than 90 days written notice of termination of this resolution and, in such event shall transition to County administration of the tax in a reasonable and good faith manner.

Section 4. The City agrees to abide by the terms in the Intergovernmental Agreement for Administration of the Countywide Transportation Development Tax (TDT) and Transportation Impact Fee (TIF) attached as Exhibit A and incorporated by reference herein; and,

Section 5. City administration of the Tax shall commence on July 1, 2009, or the date this resolution and an intergovernmental agreement are

filed with the Clerk of Washington County Board of Commissioners,  
whichever date occurs last.

INTRODUCED AND ADOPTED this 8th day of June 2009.

CITY OF TUALATIN, Oregon

By 

Mayor

ATTEST:

By 

City Recorder

APPROVED AS TO LEGAL FORM



CITY ATTORNEY



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council

Date

6-8-09

Recording Secretary

*[Signature]*

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

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

**FROM:** Michael A. McKillip, City Engineer *mgk*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION AUTHORIZING THE MAYOR AND RECORDER TO SIGN AN INTERGOVERNMENTAL AGREEMENT FOR ADMINISTRATION OF THE COUNTYWIDE TRANSPORTATION DEVELOPMENT TAX (TDT) AND TRANSPORTATION IMPACT FEE (TIF)

---

### ISSUE BEFORE THE COUNCIL:

Should Tualatin enter into an Intergovernmental Agreement with Washington County allowing Tualatin to administer the TDT in Tualatin.

### RECOMMENDATION:

Staff recommends the Council adopt the attached resolution authorizing the Mayor and Recorder to sign an Intergovernmental Agreement with Washington County allowing Tualatin to administer the TDT and TIF in Tualatin.

### EXECUTIVE SUMMARY:

In November 2008 the voters in Washington County authorized a new Transportation Development Tax to be implemented in Washington County. This tax is implemented by placing a tax on the trips generated by new development. The tax is collected through the building permit process.

This tax is anticipated to generate more funding for transportation projects than the previous tax the Traffic Impact Fee.

There is a procedures manual being developed to guide the administration of the TDT and TIF. This is similar to the current procedures manual guiding the TIF implementation.

RESOLUTION – IGA For Administration Of  
The Countywide TDT And TIF  
June 8, 2009  
Page 2

There has been some discussion about delaying the implementation or reducing the fees for the TDT. Both of these decisions would be made by the Washington County Board of County Commissioners. Because these changes would need to follow the SDC process, no decision or change could be made before the September/October time frame. The TDT will be implemented on July 1, 2009 as approved by the voters.

**OUTCOMES OF DECISION:**

Adopting this resolution will allow Tualatin to collect the new TDT and use the funds for projects identified in the TDT methodology report.

If Tualatin does not implement the TDT in Tualatin it will be implemented by Washington County. Persons seeking building permits will have to travel to Hillsboro to pay the tax before receiving a building permit from Tualatin. Project funding would be decided by Washington County.

McK/StfRpt\_TDT\_TIF IGA 060809

**Attachments:**      A. Resolution  
                             B. IGA

RESOLUTION NO. 4894-09

RESOLUTION AUTHORIZING THE MAYOR AND RECORDER  
TO SIGN AN INTERGOVERNMENTAL AGREEMENT FOR  
ADMINISTRATION OF THE COUNTYWIDE TRANSPORTATION  
DEVELOPMENT TAX (TDT) AND TRANSPORTATION IMPACT  
FEE (TIF)

WHEREAS on November 4, 2008, the electors approved Ordinance No. 691-A, amending the exiting countywide "TIF" and known as the Transportation Development Tax (TDT). The TDT is codified at Chapter 3.17 of the Washington County Code; and

WHEREAS Ordinance No. 691-A takes effect July 1, 2009. TIF will remain in effect prior to that date for all development, and after that date for certain developments as stated in Ordinance No. 691-A; and

WHEREAS pursuant to WCC 3.17.120, City filed with County a resolution accepting responsibility for administration of the TDT within the corporate limits of the City, and the parties have prepared and Intergovernmental Agreement (IGA) setting forth administrative and funding procedures to ensure uniform and fair application of the TDT.

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

Section 1. The Mayor and City Recorder are authorized to sign the attached Intergovernmental Agreement with Washington County.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.

CITY OF TUALATIN, OREGON

BY

Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

BY

City Recorder



**Intergovernmental Agreement for Administration of the Countywide  
Transportation Development Tax (TDT) and Transportation Impact Fee (TIF)**

This Agreement is between Washington County, a political subdivision of the State of Oregon (County) and the City of Tualatin, a municipal corporation (City).

**I. Recitals**

1. On November 4, 2008, the electors approved Ordinance No. 691-A, amending the existing countywide "TIF" and known as the Transportation Development Tax (TDT). The TDT is codified at Chapter 3.17 of the Washington County Code.
2. Ordinance 691-A takes effect July 1, 2009. TIF will remain in effect prior to that date for all development, and after that date for certain developments as stated in Ordinance 691-A. For purposes of this Agreement, all references to the TDT will include both TIF and TDT.
3. Pursuant to WCC 3.17.120, City filed with County a resolution or ordinance accepting responsibility for administration of the TDT within the corporate limits of the City, and the parties have prepared this intergovernmental agreement setting forth administrative and funding procedures to ensure uniform and fair application of the TDT;

In consideration of the mutual promises and covenants herein, the parties agree as follows:

**II. Terms**

1. City shall administer the TDT in accordance with Ordinance 691-A, and as it may be subsequently amended from time to time by County. In addition, the parties shall comply with the TDT Procedures Manual, dated June 2009. Notwithstanding this provision, each party may make such minor modifications to the forms and procedures as are necessary to accommodate its administrative, data processing, and record keeping systems, provided that it coordinates such changes with the other party.
2. It is recognized that issues raised on an appeal of a discretionary decision of the director, as provided in WCCC 3.17. 150B, may have ramifications on the overall administration of the TDT. City shall not object to County seeking party status on any appeal that the County finds has such potential impacts. Each party hereto shall vigorously and conscientiously defend its actions with respect to the TDT to the extent resources allow.

3. The Washington County Transportation Coordinating Committee hereby is designated as the body responsible for reviewing and making recommendations on the expenditure of TDT funds. The purpose of this review shall be to promote coordination of expenditures so as to encourage the completion of projects recognized as priorities by the committee and to minimize inefficiencies in the construction of improvements. To that end, the parties shall obtain review and approval of the WCCC prior to authorizing any expenditure of TDT revenues for a public improvement.

4. County shall consult with City and provide at least thirty (30) days for input from City prior to adoption of any amendments to the TDT ordinance.

5. City and County will consult with one another, and notify the WCCC prior to adopting or modifying any System Development Charge for transportation facilities.

6. County will prepare a combined Countywide Annual Accounting for the TIF and TDT funds as required by ORS 223.311. City shall provide timely and complete information to County for purposes of this report. County will provide a copy of the Countywide Annual Accounting to City

7. In accordance with WCC 3.17.120 and the resolution or ordinance adopted by City, City accepts full responsibility for proper administration of TDT within its city limits in accordance with Ordinance 691-A and this Agreement, including for any fund deficiencies notwithstanding any termination of City administration.

8. County may terminate City administration of TDT if County finds that City has failed and refused to administer TDT in accordance with the Code and this Agreement. County shall provide City 90 days written notice of termination specifying the basis therefore. Such notice shall provide City with a minimum of 30 days in which to correct the identified deficiencies. If County finds that the deficiencies have been corrected, the termination shall be rescinded. If requested in writing by City within 45 days of mailing of the initial notice, the Washington County Board of Commissioners shall conduct a public hearing at which City and interested parties may appear and present evidence as to why termination should not occur. The decision of the Board shall be appealable as provided in ORS 34.001 to 34.100.

9. City may terminate this Agreement unilaterally upon 90 days written notice to County. In accordance with WCC 3.17.120, termination shall transfer administration of TDT, and use of TDT proceeds, to County.

10. The parties agree to work cooperatively and in good faith to ensure uniform, fair and efficient administration of TDT. This obligation shall include such steps as are necessary to ensure a smooth transition in the event of termination for any reason.

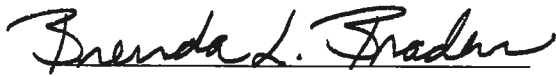
Dated this 8th day of June, 2009.


City of Tualatin

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

Title: Mayor

Approved as to form:

  
City Attorney

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

Title: City Recorder

Washington County

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

Title: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Counsel



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary [Signature]

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

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

**FROM:** Michael A. McKillip, City Engineer *McKillip*  
Tony Doran, Engineering Associate *TD*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION APPROVING QUITCLAIM OF A TEMPORARY  
CONSTRUCTION EASEMENT AT 18810 SW BOONES FERRY  
ROAD

---

### ISSUE BEFORE THE COUNCIL:

To approve a quitclaim of a temporary construction easement over private property located at 18810 SW Boones Ferry Road.

### RECOMMENDATION:

Approve a quitclaim of a temporary construction easement

### EXECUTIVE SUMMARY:

- A temporary construction easement, Parcel II – Temporary Construction Easement, was obtained for construction of Phase 1 of SW Boones Ferry Road improvements in 2004.
- After the Robinson Store building was relocated it was determined the building was placed on a portion of the easement.
- Construction of the SW Boones Ferry Road Phase 1 project is complete and this easement is no longer needed.
- Quitclaiming this easement will allow the condominium plat for Robinson Store to be recorded without this encumbrance.

**Attachments:** A. Existing easement  
B. Resolution

RESOLUTION NO. 4895-09

RESOLUTION APPROVING QUITCLAIM OF A TEMPORARY  
CONSTRUCTION EASEMENT AT 18810 SW BOONES FERRY  
ROAD

WHEREAS the City Council has accepted and recorded Document  
#2003-046237 – Grantor: Robert F. Miller; Grantee: City of Tualatin; and

WHEREAS this temporary construction easement was adopted by City  
Council as a Recorded Document and can be quitclaimed; and

WHEREAS the City Council has reviewed the quitclaim of the temporary  
construction easement identified as Parcel II – Temporary Construction  
Easement; and

WHEREAS the Council finds that the recommendations of the City  
Engineer should be accepted and the quitclaim approved.

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

Section 1. The quitclaim of Parcel II – Temporary Construction Easement  
(Washington County Document #2003-046237) as shown on Exhibit A (attached  
hereto) is adopted and by this reference incorporated herein.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.


CITY OF TUALATIN, OREGON

BY   
Mayor

ATTEST:

BY   
City Recorder

Approved as to legal form:

  
City Attorney



## CITY OF TUALATIN, OREGON

### SANITARY SEWER LINE AND ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that ROBINSON CROSSING, LLC (the "GRANTOR"), grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the permanent right to design, construct, reconstruct, operate and maintain Sanitary Sewer Line and Access Easement on the following described land:

*See attached map & legal description*

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

GRANTOR reserves the right to use the surface of the land for walkways, landscaping, parking, and other uses undertaken by the GRANTOR that are not inconsistent and do not interfere with the use of the subject easement area by the CITY. No building or utility shall be placed upon, under or within the property subject to this easement during its term without the written permission of the CITY.

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

The true and actual consideration paid for this transfer consists of \$0 or includes other property or other value given or promised, the receipt of which is acknowledged by the GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances and that GRANTOR, and the GRANTOR'S heirs and personal

representatives shall warrant and forever defend the premises to the CITY, its agents, successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

Executed this 1 day of June, 2009.

[Signature]  
Signature

DAVID EMAMI  
Name (print or type)

MANAGER  
Title

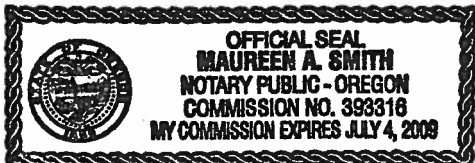
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (print or type)

\_\_\_\_\_  
Title

STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 1st day of June, 2009, before me, the undersigned, a Notary Public, personally appeared David Emami, Manager, Robinson Crossing, LLC, and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Maureen A. Smith  
Notary Public for Oregon

My Commission Expires: July 4, 2009

CITY OF TUALATIN, OREGON

By [Signature]  
City Manager

The City Manager of the City of Tualatin, being duly authorized and directed by the Council of the City of Tualatin, pursuant to Ordinance 787-89, approves and accepts the foregoing Deed of Dedication on behalf of the City of Tualatin.

Dated this 8th day of June, 2009.

[Signature]  
City Manager

**W.B. Wells**  
**& Associates, Inc.**  
Surveyors • Engineers • Planners



Exceptional Service,  
Creative Solutions,  
Quality Beyond  
Your Expectations

May 29, 2009

W.B. WELLS & ASSOC., INC.  
JOB NO. 2008-073

**DESCRIPTION**  
**EASEMENT AREA**

AN EASEMENT AREA BEING OVER A PORTION OF THAT TRACT OF LAND DESCRIBED IN TRACT II OF DOCUMENT NO. 2009-018102, WASHINGTON COUNTY DEED RECORDS, SITUATED IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TUALATIN, COUNTY OF WASHINGTON AND STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY NORTHWEST CORNER OF SAID TRACT II; THENCE SOUTH 88°36'53" EAST, ALONG THE MOST WESTERLY NORTH LINE OF SAID TRACT II, A DISTANCE OF 65.90 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 01°23'36" WEST, A DISTANCE OF 146.79 FEET TO THE SOUTH LINE OF SAID TRACT II AND THE NORTH RIGHT-OF-WAY LINE OF S.W. SENECA STREET (WIDTH VARIES); THENCE NORTH 88°36'58" WEST, ALONG SAID SOUTH LINE AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 14.00 FEET; THENCE NORTH 01°23'36" EAST, A DISTANCE OF 146.79 FEET TO THE MOST WESTERLY NORTH LINE OF SAID TRACT II; THENCE SOUTH 88°36'53" EAST, ALONG THE MOST WESTERLY NORTH LINE OF SAID TRACT II, A DISTANCE OF 14.00 FEET TO THE POINT OF BEGINNING.



EXPIRES: 12-31-10



# EASEMENT MAP

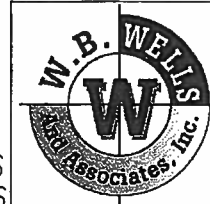
CLIENT: ROBINSON CROSSING, LLC

LN./JOB NO. 07-258

ATTN.: -

DATE: MAY 27, 2009

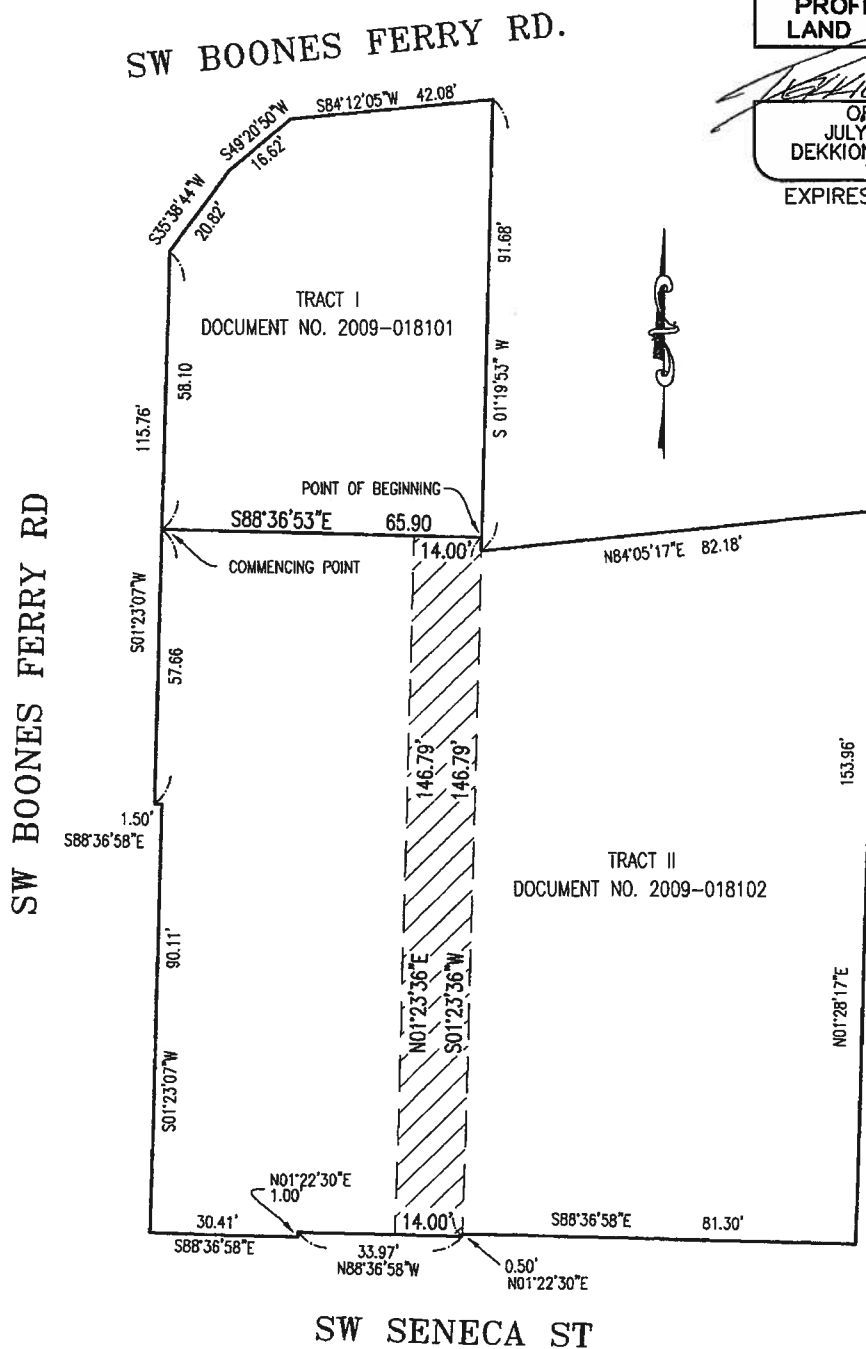
SCALE: 1"= 30'



ENGINEERS  
SURVEYORS

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*DeKkion T. Mackai*  
OREGON  
JULY 12, 2005  
DEKKION T. MACKAI  
73427  
EXPIRES 12-31-10



LOCATED IN THE NW 1/4 OF SECTION 24,  
T2S, R1W, W.M. CITY OF TUALATIN,  
WASHINGTON COUNTY, OREGON

4230 N.E. FREMONT STREET, PORTLAND OREGON 97213 (503) 284-5896

JOB NO. 08-073 SS ESMT.DWG

KN

## QUITCLAIM DEED

CITY OF TUALATIN, OREGON, releases and quitclaims any and all interest in the temporary construction easement as described in attached Exhibit A identified as Parcel II – Temporary Construction Easement, which is situated in Washington County, Oregon, and conveyed to CITY by Document #2003-046237, Washington County, Oregon.

CITY no longer has a need for the Parcel II – Temporary Construction Easement described above. Document #2003-046237 including a legal description and map describing the existing easement is attached and incorporated in by this reference. Parcel I – Permanent Utility Easement, part of Document #2003-046237 with legal description and map described in attached Exhibit A, is to be retained.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

The true consideration for this conveyance is \$0 and other valuable consideration, the receipt of which is hereby acknowledged.

Dated this 8th day of June 2009.

CITY OF TUALATIN, Oregon

By

Mayor

ATTEST:

By

City Recorder

STATE OF OREGON

)

) ss

County of Washington

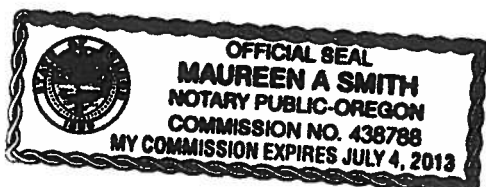
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On this 8th day of June, 2009, before me, the undersigned, a Notary Public, personally appeared Lou Ogden, Mayor and Sherilyn Lombas, City Recorder and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Maureen A Smith  
Notary Public for Oregon

My Commission Expires: July 4, 2013



CITY OF TUALATIN, OREGON

By

City Manager

116-25  
20



## CITY OF TUALATIN, OREGON

### PUBLIC UTILITY EASEMENT

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

See Parcel I of Exhibits "A" and "B" attached to and by reference made a part of this document

This Public Utility Easement is granted for the purpose of design, construction, installation, operation, reconstruction, maintenance, and repair of public utility systems in this area.

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

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

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

The true and actual consideration paid for this transfer consists of THREE THOUSAND ONE HUNDRED EIGHT AND NO/100 DOLLARS (\$3,108.00) or includes other property or other value given or promised, the receipt of which is acknowledge by the GRANTOR.

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



EXECUTED this 1 day of NOVEMBER, 2002.

**IMCO PROPERTIES, LLC**

*Robert F. Miller*  
Signature

Robert F. Miller  
Name (print or type)

OWNER  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (print or type)

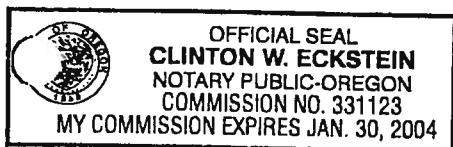
\_\_\_\_\_  
Title

STATE OF OREGON

County of Washington

)  
) ss.  
)

On this 1 day of Nov, 2002 before me the undersigned, a  
Notary Public, personally appeared Robert Miller, and  
\_\_\_\_\_, who acknowledged to be the owner and  
\_\_\_\_\_, of IMCO Properties, LLC and acknowledged the foregoing  
instrument to be their voluntary act and deed.



Before Me:

*Clinton W. Eckstein*  
Notary Public for Oregon

My commission expires: 1/30/04

CITY OF TUALATIN, OREGON

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

ATTEST:

By *Steve Wheeler*  
City Recorder

After recording, return to:  
City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062





2003-46237

## EXHIBIT A

SW Boones Ferry Rd.  
Utility Planning Project  
August, 2002

Robert F. Miller  
Assessor No. 2S 1 24 BC 03000  
Doc. No. 99128767

### Parcel I – Permanent Utility Easement

A portion of that property deeded to Robert F. Miller in Parcel II of Document No. 99128767 of Washington County Deed Records, located in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

Beginning at a point being the northeast corner of said property; thence S 1°22'41" W, 17.13 feet along the easterly line of said property; thence parallel with and 17.00 feet southerly of the south right of way line of SW Boones Ferry Road, S 84°12'05" W, 8.06 feet; thence parallel with and 8.00 feet westerly of the east line of said property, N 1°22'41" E, 17.13 feet to said right of way line; thence along said line N 84°12'05" E, 8.06 feet to the point of beginning.

The area of land to which this description applies contains 0.003 acres (137 Sq. feet), more or less.

### Parcel II – Temporary Construction Easement

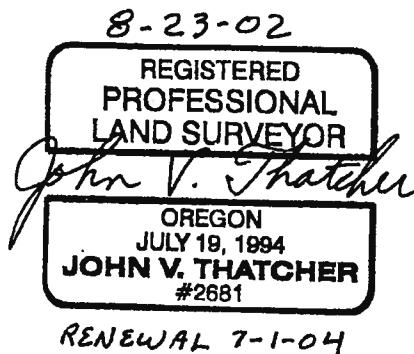
A portion of that property deeded to Robert F. Miller in Parcel II of Document No. 99128767 of Washington County Deed Records, located in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

Beginning at a point being the northeast corner of said property; thence S 1°22'41" W, 34.27 feet along the easterly line of said property; thence parallel with and 34.00 feet southerly of the south right of way line of SW Boones Ferry Road, S 84°12'05" W, 32.25 feet; thence parallel with and 32.00 feet westerly of the east line of said property, N 1°22'41" E, 34.27 feet to said right of way line; thence along said line N 84°12'05" E, 32.25 feet to the point of beginning.

EXCEPT therefrom all that portion lying within the above described Parcel I.

The area of land to which this description applies contains 0.022 acres (960 Sq. feet), more or less.

Bearings are based on the Oregon State Plane Coordinate System, North Zone NAD 83(91).



## EXHIBIT B



1"=30'



Permanent Utility Easement



Temporary Construction Easement

S.W. BOONES FERRY ROAD

S.W. TUALATIN ROAD

POB

Parcel I

Parcel II

2S124BC 03000  
Miller, Robert F.  
Doc. No. 99128767  
(Parcel II)



2003-46237

CH2MHILL

Washington County, Oregon

03/27/2003 10:45:45 AM

2003-046237

D-E

Cnt=1 Stn=22 I REED

\$25.00 \$8.00 \$11.00 \$20.00 - Total = \$62.00



00285533200300462370050050

I, Jerry Hanson, Director of Assessment and Taxation  
and Ex-Officio County Clerk for Washington County,  
Oregon, do hereby certify that the within instrument of  
writing was received and recorded in the book of  
records of said county.

*Jerry Hanson*

Jerry R. Hanson, Director of Assessment and Taxation,  
Ex-Officio County Clerk





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council

Date 6-8-09

Recording Secretary MSmith

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

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

**FROM:** Michael A. McKillip, City Engineer *McKillip*  
Tony Doran, Engineering Associate *TD*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION APPROVING QUITCLAIM OF AN EASEMENT FOR  
UTILITY LINES ON PROPERTY LOCATED AT 18810 SW  
BOONES FERRY ROAD

---

### ISSUE BEFORE THE COUNCIL:

To approve a quitclaim of an easement for utility lines over private property located at 18810 SW Boones Ferry Road.

### RECOMMENDATION:

Approve a quitclaim of an easement

### EXECUTIVE SUMMARY:

- This easement was created in 1969 when sewer lines were installed.
- These sanitary sewer lines served properties fronting on SW Boones Ferry Road between SW Seneca Street and the east/west portion of SW Boones Ferry Road.
- After the Robinson Store building was relocated it was determined the building was placed on a portion of the easement that was located up to 40 feet from the sewer lines.
- Quitclaiming this easement will allow the condominium plat for Robinson Store to be recorded without this encumbrance.

**Attachments:** A. Existing easement  
B. Resolution



RESOLUTION NO. 4896-09

RESOLUTION APPROVING QUITCLAIM OF AN EASEMENT  
FOR UTILITY LINES ON PROPERTY LOCATED AT 18810 SW  
BOONES FERRY ROAD

WHEREAS the City Council has adopted the Recorded Document  
Easement No. 4A – Grantor: Harry & Margaret Paepier; Grantee: City of Tualatin;  
and

WHEREAS this easement was adopted by City Council as a Recorded  
Document can be quitclaimed; and

WHEREAS the City Council has reviewed the quitclaim of the public  
easement; and

WHEREAS the Council finds that the recommendations of the City  
Engineer should be accepted and the quitclaim approved.

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

Section 1. The quitclaim of a portion of the public easement (Washington  
County Document #1051, Easement 4A, Book 763, Page 915) as shown on  
Exhibit A (attached) is adopted and by this reference incorporated herein.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.

CITY OF TUALATIN, OREGON

BY


  
Mayor

ATTEST:

BY

  
City Recorder

Approved as to legal form:

  
City Attorney

Resolution No. 4896-09

## QUITCLAIM DEED

CITY OF TUALATIN, OREGON, releases and quitclaims any and all interest in the public easement as described in attached Exhibit A, which is situated in Washington County, Oregon, and conveyed to CITY by Document #1051, Easement 4A, Book 763, Page 915, Washington County, Oregon.

CITY no longer has a need for the easement described above. Document #1051 describing the existing easement is attached and incorporated in by this reference.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

The true consideration for this conveyance is \$0 and other valuable consideration, the receipt of which is hereby acknowledged.

Dated this 8th day of June, 2009.

CITY OF TUALATIN, Oregon

By

Mayor

ATTEST:

By

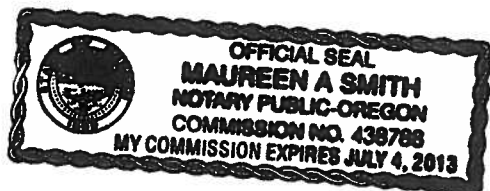
City Recorder

STATE OF OREGON           )  
  ) ss  
County of Washington    )

On this 8th day of June, 2009, before me, the undersigned, a Notary Public, personally appeared Lou Ogden, Mayor & Sherilyn Lombos, City Recorder and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Maureen A Smith  
Notary Public for Oregon

My Commission Expires: July 4, 2013



CITY OF TUALATIN, OREGON

By

City Manager

1051

EASEMENT NO. 4 A

KNOW ALL MEN BY THESE PRESENTS, That Harry and Margaret Paepier hereafter called grantor, in consideration of \$ (1.00) ONE AND NO/100 DOLLAR(S) to grantor paid, the receipt whereof hereby is acknowledged, does hereby grant to the City of Tualatin, Oregon, its successors and assigns, referred to herein as the City, a permanent right to construct, reconstruct, operate and maintain utility lines, and all necessary related facilities under the following described land:

Beginning at the southeast corner of a tract of land described in Book 712, Page 478, deed of records, Washington County, Oregon; thence north 185.2 feet more or less; thence 82° 49' west 55 feet, more or less; thence south along property line 40 feet more or less; thence North 82° 49' east 40.9 feet more or less; thence south 145 feet more or less; thence east 14 feet to point of beginning.

TO HAVE AND TO HOLD the above easement unto said City its successors and assigns, forever.

The City shall fill all excavations as soon as practicable after opening; dispose of all brush and debris, and replace in like condition all improvements; trees, ornamental shrubs and crops, if practicable, and as soon as practicable after damage or destruction, but if not practicable then pay to Grantors, their heirs and assigns, the reasonable value thereof.

Grantors reserve the right to use the surface of the land for walkways, buildings, driveways, planting, and related purposes; and all utility facilities shall be at a depth consistent with these purposes.

The only other persons, firms, or corporations known by Grantors to have any interest in the granted property are: \_\_\_\_\_

Dated this 21st day of November, 19 69.

Margaret Paepier  
Harry Paepier

STATE OF OREGON )  
County of Washington ) ss.

Nov 21, 1969

Personally appeared the above-named Margaret and Harry Paepier and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me Thomson L. Osdington  
Notary Public for Oregon  
My Commission expires Jan. 7, 1971



BOOK 763 PAGE 915

INDEXED

STATE OF OREGON  
County of Washington  
I, Roger Thompson, Director of Records and Elections and Recorder of Deeds of said County, do hereby certify that the within instrument of writing was received and recorded in Book of records No. 763 Page 915

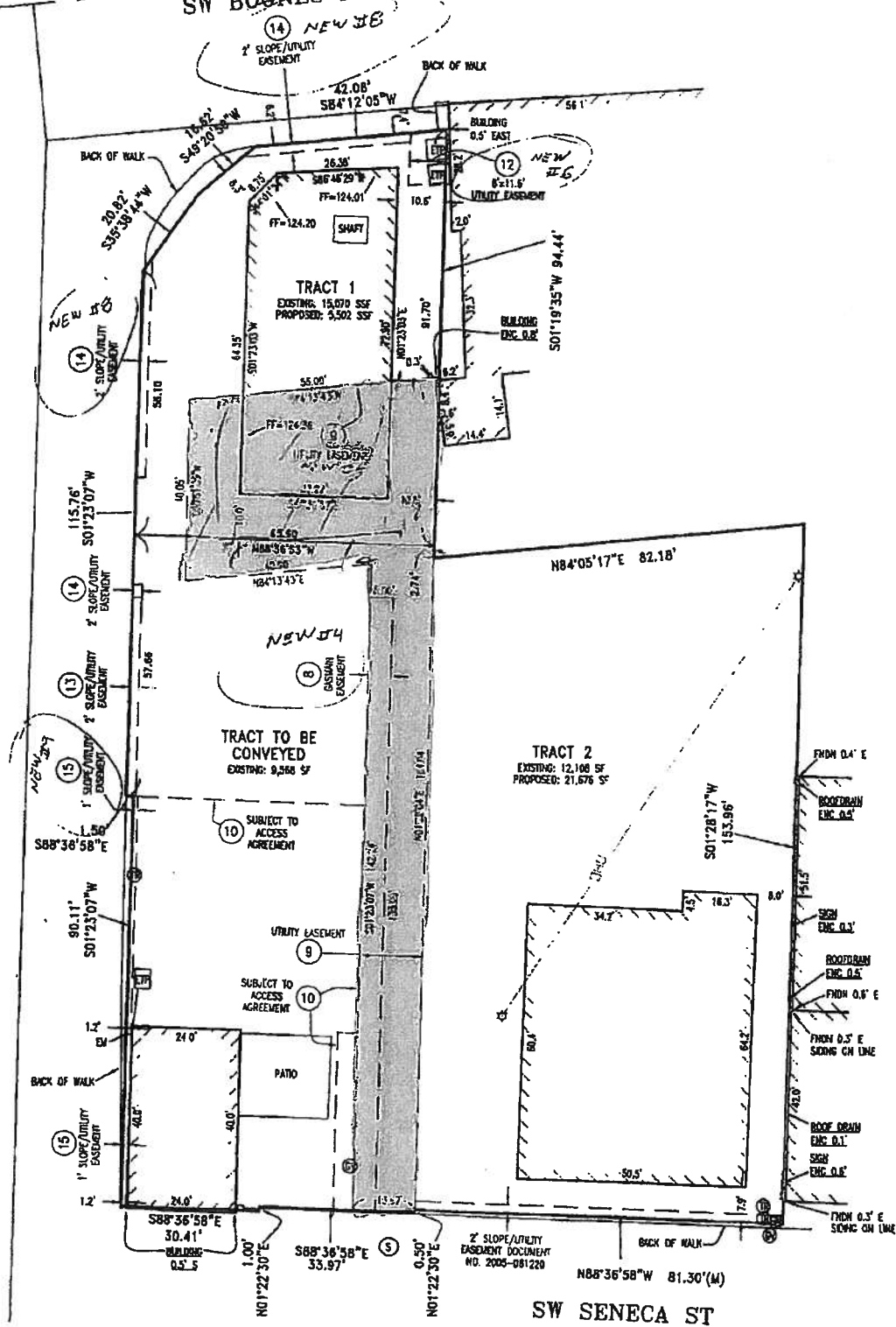
Witness my hand and official seal this 21st day of November, 1969.

ROGER THOMPSON, Director of Records and Elections and Recorder of Deeds of said County.

THOMSON L. OSDINGTON  
Notary Public for Oregon

SW BOONES FERRY RD. (SW TUALATIN RD)

SW BOONES FERRY RD.





# STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary M. Smith

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

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

**FROM:** Maureen Smith, Administration *M. Smith*

**DATE:** June 8, 2009

**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 June 1, 2009, the Community Involvement Committee met and interviewed citizens interested in participating on City Committees and Boards. The Committee recommends appointing the following individuals:

Individual	Committee/Board	Term
John Howorth	Architectural Review Board Engineer	Full term ending 6/30/11
John Medvec	Architectural Review Board Alternate Architect	Full term ending 6/30/11
Terry Novak	Architectural Review Board Lay Member	Full term ending 6/30/11
Rob Perron	Architectural Review Board Landscape Architect	Full term ending 6/30/11
Skip Stanaway	Architectural Review Board Architect	Full term ending 6/30/11
Art Barry	Arts Advisory Committee	Full term ending 3/31/12
Bill Jordan	Core Area Parking District Board	Full term ending 12/31/11

## FINANCIAL IMPLICATIONS:

Not applicable.



## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Brenda Braden, City Attorney *BB*

**DATE:** June 8, 2009

**SUBJECT:** A RESOLUTION APPROVING AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT 11555 SW LEVETON DRIVE (IMP-09-01)

---

### ISSUE BEFORE THE COUNCIL:

The Council will consider a resolution that would approve an Industrial Master Plan in a Manufacturing Park (MP) Planning District at 11555 SW Leveton Drive (IMP-09-01).

### RECOMMENDATION:

Staff recommends that the City Council approve the resolution approving IMP 09-01.

### EXECUTIVE SUMMARY:

On May 26, 2009 the Council held a quasi-judicial public hearing on IMP 09-01 to decide whether to approve an Industrial Master Plan in a Manufacturing Park (MP) Planning District at 11555 SW Leveton Drive (Tax Map 2S122B, Tax Lot 200). At the conclusion of the public hearing, the Council approved the Staff Report with a 6-0 vote with Councilor Barhyte absent, and directed Staff to bring back a resolution approving IMP 09-01.

**PUBLIC INVOLVEMENT:** The Public Hearing occurred on May 26, 2009.

### Attachments:

Resolution

RESOLUTION NO. 4897-09

A RESOLUTION APPROVING AN INDUSTRIAL MASTER PLAN  
IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT  
11555 SW LEVETON DRIVE (IMP-09-01)

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on May 26, 2009, upon the application of JAE OREGON, INC.; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

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

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote 6-0]; with Councilor Barhyte absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff report, dated May 26, 2009, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to an Industrial Master Plan Request have been satisfied and that approving an Industrial Master Plan in a Manufacturing Park (MP) Planning District at 11555 SW Leveton Drive (Tax Map 2S122B, Tax Lot 200) is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

Section 1. The City Council agrees with the Community Development Director's Facts and Findings and affirms and adopts the Industrial Master Plan in a Manufacturing Park (MP) Planning District at 11555 SW Leveton Drive.

INTRODUCED AND ADOPTED this 8th day of June, 2009.

CITY OF TUALATIN, Oregon

By

  
Mayor

ATTEST:

By

  
City Recorder

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY



## AFFIDAVIT OF MAILING

STATE OF OREGON                    )  
  ) SS  
COUNTY OF WASHINGTON        )

I, Stacy Crawford, being first duly sworn, depose and say:

That on the 1<sup>st</sup> day of May, 2009, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of an Industrial Master Plan Notice of Hearing marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail at Tualatin, Oregon, with postage fully prepared thereon.

Stacy Crawford  
Stacy Crawford

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of May, 2009.

Cortney Rae Cox  
Notary Public for Oregon  
My commission expires: 9/21/2011



RE: IMP-09-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN  
IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT 11555 SW  
LEVETON DRIVE (TAX MAP 2S122B, TAX LOT 200)

EXHIBIT A

## Exhibit "A"

2S115C001700 R523400  
RIVERCREST ACQUISITION LLC BY  
UNICO INVESTMENT GROUP LLC  
1215 4TH AVE STE 600  
SEATTLE WA 95161

2S115DC02500 R524150  
FARMINGTON CENTER  
TUALATIN  
5100 SW MACADAM STE 360  
PORTLAND OR 97239

2S122B000500 R2035253  
MITTLEMAN PROPERTIES BY  
DELAP WHITE CALDWELL & CROY  
LLP  
4500 SW KRUSE WAY STE 200  
LAKE OSWEGO OR 97035

2S1220000300 R2035452  
PHIGHT LLC ONE BOWERMAN  
DR  
BEAVERTON OR 97005

2S115C001600 R523393  
RIVERCREST ACQUISITION LLC BY  
UNICO INVESTMENT GROUP LLC  
1215 4TH AVE STE 600  
SEATTLE WA 95161

2S115C002803 R523614  
HOFFART HERBERT J  
4632 SW VERMONT ST  
PORTLAND OR 97219

2S122AB00200 R2107974  
NOVELLUS SYSTEMS INC  
4000 NORTH 1ST ST  
SAN JOSE CA 95134

2S122B001000 R2054129  
IDM-OREGON LLC STE #150  
1498 SE TECH CENTER PL  
VANCOUVER WA 98683

2S115CC00200 R523543  
WOODRIDGE LTD  
PARTNERSHIP  
2164 SW PARK PL  
PORTLAND OR 97205

2S122B000200 R2002048  
JAE OREGON INC  
ACCOUNTING DEPT  
11555 SW LEVETON  
TUALATIN OR 97062

2S122AB00100 R2107971  
NOVELLUS SYSTEMS INC  
4000 NORTH 1ST ST  
SAN JOSE CA 95134



# City of Tualatin

www.ci.tualatin.or.us

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Tuesday, May 26, 2009**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

**IMP-09-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT 11555 SW LEVETON DRIVE (TAX MAP 2S122B, TAX LOT 200)**

Before approving the Industrial Master Plan proposed for JAE Oregon Inc., the City Council must find that:

- (1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.
- (2) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity;
- (3) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 unless otherwise approved through the Industrial Master Plan.

All citizens are invited to attend and be heard upon the application. Failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals (LUBA) based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing.

Copies of the applications, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the City Library and Planning Division at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper, Associate Planner, at (503) 691-3027.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

file: IMP-09-01

Mailed: 5/1/2009

# AFFIDAVIT OF POSTING

STATE OF OREGON                     )  
  ) SS  
COUNTY OF WASHINGTON        )

I, Stacy Crawford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted two copies of the Notice of Hearing on the 1<sup>st</sup> day of May, 2009, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:


1.     U.S. Post Office - Tualatin Branch
2.     City of Tualatin City Center Building

Dated this 1<sup>st</sup> day of May, 2009.

  
\_\_\_\_\_  
Stacy Crawford

Subscribed and sworn to before me this 1<sup>st</sup> day of May, 2009.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires: 9/21/2011

RE: IMP-09-01—REQUEST FOR APPROVAL OF AN INDUSTRIAL MASTER PLAN  
IN A MANUFACTURING PARK (MP) PLANNING DISTRICT AT 11555 SW  
LEVETON DRIVE (TAX MAP 2S122B, TAX LOT 200)

EXHIBIT B



# City of Tualatin

www.ci.tualatin.or.us

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CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

file: IMP-09-01

Mailed: 5/1/2009



# City of Tualatin

www.ci.tualatin.or.us

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CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

file: IMP-09-01

Mailed: 5/1/2009

## **ATTACHMENT F**

### **IMP-09-01: ANALYSIS AND FINDINGS**

The approval criteria of the Tualatin Development Code (TDC) 37.030 must be met if approval of the proposed JAE Oregon, Inc. Industrial Master Plan (IMP) is to be granted. The Applicants prepared a narrative that explains the proposed IMP and addresses the IMP criteria (Attachment D). Staff has reviewed the Applicants' material and included pertinent excerpts below.

#### **ALTERNATIVE DEVELOPMENT STANDARDS**

TDC 37.020(4) states "An Industrial Master Plan may specify, for the Industrial Master Plan Area as a whole or for each individual parcel therein, the following alternate development standards which shall supersede conflicting provisions otherwise applicable:"

The following analysis addresses alternative development standards requested:

#### **TDC 37.020(4)(b) Locations of shared parking and circulation areas and access improvement, including truck maneuvering and loading areas and common public or private infrastructure improvements.**

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

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

EXHIBIT C

Private infrastructure including sewer, water and storm drainage are identified on the IMP Plans. The existing private stormwater detention and treatment facilities on the site are located on the south portion of the JAE Oregon, Inc. property and on proposed Parcel 1. With IMP approval and a subsequent partition, the common public and private infrastructure improvements may be shared or cross the two parcels. Because of the IMP layout, a partition and proposed improvements on the JAE Oregon, Inc. site will require shared access, circulation, loading areas and common public and private infrastructure. To ensure the adequate provision of facilities between the two parcels allowed by the IMP, shared circulation and loading, common access and common public and private facilities shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared loading and circulation easements, access easements and common facility agreements and easements shall be established.

No alternative public infrastructure development methods are proposed in the JAE Oregon, Inc. IMP submittal.

**TDC 37.020(4)(c) Building heights and placement and massing of buildings with respect to parcel boundaries.**

Building heights are limited to 70 feet under the base MP Planning District standards (TDC 62.080) with a variable height of 28 ft.-70 ft. allowed beginning at the building setback where an MP Planning District development property line is adjacent to a residential district. The north property line of the site adjoins SW Tualatin Road and the RMH (Medium High Density Residential) Planning District Boundary. No IMP alternative height is proposed.

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

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



**TDC 37.020(4)(d) Location and orientation of building elements such as pedestrian ways or access, main entrances and off-street parking or truck loading facilities, including the number of off-street parking spaces and loading docks required.**

The existing JAE Oregon, Inc. building and site improvements including pedestrian connections, off-street parking and truck loading facilities on the site were approved in Architectural Reviews. The proposed IMP does not propose alternative methods of locating and orienting pedestrian ways or access, main entrances and off street parking for the existing building and additions, the proposed Buildings 1 & 2 or for the two proposed lots.

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

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

Each lot will have shared or building-specific loading docks that meet TDC 73.390. The existing loading and truck maneuvering area on the north side of the JAE Building on the IMP proposed Parcel 1 and Buildings 1 & 2 on proposed Parcel 2 may be shared as addressed under TDC 37.020(4)(b).

**TDC 37.020(4)(e) Lot dimensions and area provided that no individual parcel shall be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive unless otherwise provided under TDC 62.050(1).**

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

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

The average lot widths of IMP Parcels 1 & 2 exceed the 250-foot requirement of TDC 62.050(2). The minimum lot widths at the street exceed the 250-foot requirement of TDC 62.050(3). There are no flag lots or cul-de-sac streets proposed; no remnant areas created by the location of public streets and no wetlands on the site.

The two proposed JAE Oregon, Inc. IMP parcels would meet the minimum lot size required under 37.020(4)(e) as part of the IMP review process. To ensure compliance with the IMP, all parcels created in a partition of the site shall have a minimum lot size of 15 acres and meet the lot dimension requirements of TDC 37.020(4) and TDC 62.050.

The applicant shall submit a partition application to the City to partition the site into the proposed two individual parcels.

**TDC 37.020(4)(f) Location of required building and parking facility landscape areas.**

The proposed IMP does not propose alternative methods of locating required building and parking facility landscaping. The application narrative states that each partition lot will exceed the minimum 20% landscape requirement and will meet or exceed the landscape requirements of 73.230-73.210, 73.320, 73.340 and 73.360-410 (Attachment 4, pp. 8, 16, IMP Site Plan). In a review of the IMP plan, staff concurs that the landscaping associated with the buildings and parking areas with the two parcels and proposed Buildings 1 & 2 will meet the required landscaping standards.

**TDC 37.020(5) Except as specifically provided in subsection (4) above, all other provisions of this Code shall apply within an Industrial Master Plan Area.**

The proposed IMP does not propose alternative methods beyond those identified and discussed in this report. The applicant has not identified any future need to amend an IMP approval. To ensure compliance with the TDC, when building or site improvements to the JAE Oregon, Inc. site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-09-01.

If modifications to the alternative standards approved in IMP-09-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-09-01 are to be exceeded, a new IMP application shall be submitted for review.

**INDUSTRIAL MASTER PLAN CRITERIA**

**37.030(1) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.**

**Transportation**

The Engineering Division reviewed the Applicant's submitted traffic information that showed the proposed IMP will result in a decrease in the JAE Oregon, Inc. site's developable area, from 639,000 s.f. down to 589,660. (Attachment G, pp 1-2) This is due to partition of the property into two parcels with no change to the 50 and 100 ft. building setback standards required in the MP Planning District. The decrease in the site's developable area under the IMP reduces the potential building floor area the site can support and reduces resultant "worst case" traffic generation. The TIA estimates a reduction of 630 Average Daily Trips. The table below shows the Trip Generation Summary presented in the JAE Oregon IMP March 27, 2009 Transportation Letter:

JAE Reasonable Worst-Case Trip Generation					
Land Use (ITE Code)	Scenario	Potential Development (Square Feet)	ADT	Weekday PM Peak Hour	
				Enter	Exit
Business Park (770)	Current MP	639,000	8,154	190	635
	Proposed IMP	589,660	7,524	175	586
<b>Difference</b>		<b>-49,340</b>	<b>-630</b>	<b>-15</b>	<b>-49</b>

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

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

"As the developable area does not increase, the proposed IMP does not change the functional classifications of, SW 118th Avenue, SW 124th Avenue, SW Leveton Drive, SW Pacific Highway, or SW Tualatin Road for the City of Tualatin. As the developable area does not increase, the proposed IMP will not necessitate changes to the standards implementing the functional classification system. As the current TSP was based on acceptable LOS, a the lack of change in traffic generation potential will not increase LOS for this development, therefore will not significantly affect any transportation facilities in the area, reduce performance of streets as planned in the TSP, or necessitate changes to the standards implementing the functional classification system."

"In summary, this IMP is consistent with the City of Tualatin transportation plan and meets TDC Section 1.032 Burden of Proof (8)."

The applicant's narrative states, "The entire site is served by existing public facilities." "As all necessary public facilities are available to the subject property and will be extended to serve future building at the time of development, this criterion is met." (Attachment D, pp 8-9)

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

**TDC 37.030(2) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity.**

The general vicinity identified for this review is the Manufacturing Park (MP) Planning District. Across SW Tualatin Road to the north is the Rivercrest Apartments and Tualatin Woods Townhouses (in RMH-Medium-High Density Residential). Within the vicinity industrial developments have located buildings to meet required setbacks, and orienting building entrances and office components towards SW Leveton Drive, SW Tualatin Road or SW 124th Avenue. The Rivercrest Apartments and Tualatin Town Homes are 2-story wood-frame apartments with frontage on SW Tualatin Road and SW 115<sup>th</sup> Ave.

The typical industrial buildings in the vicinity of the JAE Oregon, Inc. site are generally 1-3 stories in height with an overall height of 22' to 46' and have flat roofs. Office components of the buildings are typically 1-2 stories and manufacturing buildings are 1-3 stories. Windows in manufacturing areas are generally associated with the office components. Examples of multi-story buildings that are part of the above described character of the vicinity include the 4-story Novellus Systems Technical Services Building and 3-story Novellus Engineering/R&D Building that have a height of 68 ft., and the approved 3-story Phight Campus Computer Graphic (CG) Building that has a height of 56 ft. The two Novellus buildings located near SW Leveton Drive and the Phight CG buildings are multi-story buildings that have the appearance of Class A office buildings with strong masonry or architectural metal exterior features and extensive ribbon windows on each floor.

Parking areas and loading docks are typically oriented or buffered to reduce visibility from public rights-of-way and to residential areas located north of the vicinity in accordance with TDC Chapter 73.

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

Building sizes vary based on parcel size and stage of overall development. The following Table gives a breakdown of existing (and anticipated) development from Architectural Review files or projections for anticipated building coverage:

**Manufacturing Park Planning District**

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

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

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

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

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

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

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

The other neighboring industrial buildings also include:

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

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

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

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

**TDC 37.030(3) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 unless other wise approved through the Industrial Master Plan.**

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

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

The Engineering Division Memo states:

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

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

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

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

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

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

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

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

The existing JAE Oregon, Inc. building and proposed additions are internal to the site and not adjacent to or relative to the public streets. The locations of proposed Buildings 1 and 2 are 190 ft. from the SW Tualatin Road frontage on the north and the building entries are oriented toward the parking areas and the street on the north, which is satisfactory. The proposed JAE building additions and the existing or proposed locations and orientations of Buildings 1 & 2 are in conformance with TDC Chapter 62.

The street frontage for the two proposed lots meets the minimum requirements required in TDC 62.050 for width, and street frontage.

The JAE Oregon, Inc. IMP proposes a total of 1,118 parking spaces as surface parking. The number of spaces proposed in the Master Plan concept exceeds the minimum requirement of 646 total spaces based on the concept of 337,800 square feet of building space with manufacturing tenants. Parcel #1 (JAE Oregon, Inc.) will have 439 spaces (314 required) and Parcel #2 (Buildings 1 & 2) will have 425 spaces at build out (301 required).

The JAE Oregon, Inc. IMP does not propose an alternative building height. The building height maximum is 70 feet allowed by TDC 62.080(1) including Buildings 1 & 2 located on Parcel #2 adjoining SW Tualatin Road across from the RH residential Planning District where a maximum 28 ft. building height is in effect at the 100 ft. setback line (extending up to the maximum 70 ft. at a 1:1 rate) [TDC 68.020(2)]. The heights of Buildings 1 & 2 are not provided. Rooftop mechanical units do not apply to building height limitations based in the TDC definitions. Mechanical units and screening create an additional 6 -8 feet of height and are acceptable.

The proposed street frontage setbacks for Buildings 1 & 2 exceed the setbacks contained in TDC 62.060.

Lot sizes are proposed at 15.1 acres and 24.6 acres based on IMP approval. This is allowed through the IMP process and meets the requirements of TDC 62.62.050.



Site accesses, as previously discussed, are located off of SW Leveton Drive and SW Tualatin Road. The existing locations meet the requirements of TDC 62.090. The proposed new (west) SW Tualatin Road access location for Parcel 2 is subject to a condition of approval.

### **RECOMMENDED CONDITIONS**

The proposed JAE Oregon, Inc. IMP-09-01 will satisfy the IMP approval criteria of TDC 37.030 with the following recommended conditions:

1. To ensure the adequate provision of facilities between the two parcels allowed by the IMP, shared parking, circulation, common access and common facility shall be addressed and evaluated through the Partition and Architectural Review processes. Where necessary, shared parking and circulation easements, access easements and common facility agreements and easements shall be established.
2. To ensure compliance with the IMP, all parcels created in a partition of the JAE Oregon, Inc. IMP site shall have a minimum lot size of 15 acres and meet the lot dimension requirements of TDC 37.020(4) and TDC 62.050. The applicant shall submit a partition application to the City to partition the site into the proposed two individual parcels.
3. To ensure compliance with the TDC, when building or site improvements to the JAE Oregon, Inc. IMP site are proposed, the applicant shall submit an Architectural Review application meeting the requirements of the TDC and the alternative methods approved in IMP-09-01.
4. If modifications to the alternative standards approved in IMP-09-01 are necessary or if the total building floor area or total number of parking spaces approved in IMP-09-01 are to be exceeded, a new IMP application shall be submitted for review.
5. To ensure that the Parcel 2 Buildings 1 & 2 include the building design and material elements that are characteristic of the campus style architecture of the MP Planning District and meet the requirements of TDC 37.030(2), an Architectural Review application for the proposed Parcel 2 buildings shall be presented for approval showing building design and materials that include the materials identified in the IMP-09-01 application and include: One and multi-level buildings with office floors or wings; use of architectural metal treatments on exterior walls; use of masonry on exterior walls; and extensive use of windows on street-oriented elevations.
6. To ensure the proposed new Parcel 2 west ingress/egress access on SW Tualatin Road meets the standard of TDC 37.030(3), the applicant shall submit a Partition application that proposes an additional interim access for Parcel 2 to SW Tualatin Road. If approved, the access will remain an interim access until a future time when either: 1) closure of the existing access on the adjacent lot to the west (Mittleman), or; 2) closure of the proposed interim access on the JAE lot, or; 3) closure of both the existing access on the Mittleman lot and an interim

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



## STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council

Date

6-8-09

Recording Secretary

*[Signature]*

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

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

**FROM:** Donald A. Hudson, Finance Director *[Signature]*

**DATE:** June 8, 2009

**SUBJECT:** PUBLIC HEARING TO CONSIDER A RESOLUTION DECLARING  
THE CITY'S ELECTION TO RECEIVE STATE REVENUE  
SHARING FUNDS DURING FISCAL YEAR 2009-10

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### ISSUE BEFORE THE COUNCIL:

Whether or not to receive State Revenue Sharing Funds

### RECOMMENDATION:

Staff recommends adopting the attached Resolution after conducting the required public hearing.

### EXECUTIVE SUMMARY:

In order for the City to receive state shared revenues, the City must have levied property taxes in the prior fiscal year, pass a resolution approving participation in the program and hold two public hearings on the use of state revenue sharing funds. The first public hearing, before the budget committee, is to discuss possible uses of the funds. This public hearing was held on May 18, 2009. The second public hearing, before the City Council this evening, is to discuss the proposed uses of the funds.

### OUTCOMES OF DECISION:

If the Council approves the Resolution, the City will be eligible to receive state-shared revenues. If the Council does not approve the Resolution, the City will not receive state-shared revenues and we will need to reduce its expenditures or contingencies.

### FINANCIAL IMPLICATIONS:

The City has budgeted \$212,400 in the General Fund for general city operations.

**Attachments:** A. Resolution

RESOLUTION NO. 4898-09

A PUBLIC HEARING DECLARING THE CITY'S ELECTION TO RECEIVE  
STATE REVENUE SHARING FUNDS DURING THE 2009-10 FISCAL YEAR

WHEREAS ORS 221.770 requires that the City Council pass a resolution  
declaring the City's election to receive State Revenue Sharing funds; and

WHEREAS the 2009-10 budget for the City of Tualatin contains State Shared  
Revenues as a resource in the budget year beginning July 1, 2009; and

WHEREAS the Budget Advisory Committee held a public hearing to discuss  
possible uses of state revenue sharing funds on May 18, 2009 and the City Council held  
a public hearing on June 8, 2009 to discuss the proposed use of the funds for Fiscal  
Year 2009-10.

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

Section 1. Pursuant to ORS 221.770 the City hereby elects to receive State  
Revenue Sharing Funds for Fiscal Year 2009-10.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of June, 2009.

CITY OF TUALATIN, OREGON

BY

Mayor

ATTEST:

BY

City Recorder

APPROVED AS TO LEGAL FORM

*Brenda L. Braden*


CITY ATTORNEY





Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary MSmith

## 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:** June 8, 2009

**SUBJECT:** CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD, AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-01)

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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 Medium Low-Density Residential (RML) of a parcel of land located at 19945 SW Boones Ferry Road at the Old Tualatin Elementary School site and to the centerline of the abutting public rights-of-way (ROW) of SW Boones Ferry Road and SW Sagert Street.

### RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) voted 6-0 on May 14, 2009, recommending that the City Council approve PMA-09-01.

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.

- The applicant is Scott Miller of Marquis Companies and the property owner is the Tigard-Tualatin School District (TTSD). Marquis Companies is represented by Kirsten Van Loo of Emerio Design.
- The subject property is a 5.44 acre parcel on the eastern portion of the 12.75 acre Old Tualatin Elementary School site located at 19945 SW Boones Ferry Road in the RL (Low-Density Residential) Planning District (Assessors Map 2S123DD 500 portion). The subject parcel (Attachment D, Plat Map-Sheet 1/3) adjoins the west side of SW Boones Ferry Road and the north side of SW Sagert Street. This PMA applies to the 5.44 parcel on Tax Lot 500 and does not apply to the western 7.31 acres. Staff recommends also changing the designation of the approximately 0.69 acres of abutting public ROW of SW Boones Ferry Road and SW Sagert Street (RL changed to RML 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.
- Marquis Companies proposes to purchase and redevelop the 5.44 acres eastern portion of the Old Tualatin Elementary school property as a senior housing facility. The proposed development would include:
  - approximately 80 “independent living” senior residential units;
  - an assisted living facility with 40 or more beds;
  - skilled nursing facility with approximately 50 beds; and;
  - supporting living, dining, health and community facilities for the residents.
- The TTSD property includes the 11 buildings of the Old Tualatin Elementary School. HIST-08-01 approved the demolition of the Historic Landmark Gerald Avery Building and gymnasium on the site. The building and the other Tualatin Elementary School buildings will be demolished prior to construction of the proposed senior housing facility.
- The (existing) RL Planning District allows Residential facilities for up to 15 residents, not including staff as a permitted use [TDC 40.020(7)] and allows Nursing or convalescent home and Retirement Housing conforming to the standards in TDC 34.160 - 34.170 as conditional uses [TDC 40.030(4)(o, p)]. The RL Planning District limits the maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) to 10 dwelling units per net acre. The proposed Marquis senior housing/assisted living/skilled nursing facility will have more than 80 dwelling units, which will exceed the 54 units allowed as a conditional use under the current RL designation.
- Changing the designation on 5.44 acres to RML would allow various forms of attached housing and residential facilities up to 10 dwelling units per acre (54 dwelling units) as a permitted use and with a conditional use permit for retirement housing, would allow Nursing or Convalescent home and Retirement Housing with up to 15 dwelling units per acre (82 dwelling units) [TDC 41.015(3)]. Marquis Companies seeks the Map Amendment to change the designation to RML and will seek a conditional use permit for retirement housing to allow development of the proposed senior housing on the site.

- The submitted traffic analysis (Attachment D, TIA Report- Dunn Traffic Engineering LLC) analyzes Reasonable Worst Case scenarios for existing RL and changing the Planning District designation of the subject parcel from RL to RML for four scenarios: the Old Elementary School; RL single family homes; RML apartments; and the Marquis development. The TIA assumes two SW Boones Ferry Road accesses for the Marquis Companies development (see discussion in Attachment G, pg. 2). The Engineering Division Memorandum (Attachment G, pg. 3) provides the following summary of Trip Generation figures:

*Reasonable Worst Case Site Trip Generation:*

<b>Trip Generation</b> <u>Scenario</u>	<u>ITE</u>	<u>Units</u>	<u>ADT</u>	<u>AM Peak</u>			<u>PM Peak</u>		
				<u>In</u>	<u>Out</u>	<u>Total</u>	<u>In</u>	<u>Out</u>	<u>Total</u>
Elementary School	520	186 Students	<b>240</b>	32	27	<b>59</b>	19	23	<b>42</b>
RL Single Family Home	210	35 Units	<b>396</b>	9	25	<b>34</b>	26	16	<b>42</b>
RML Apartments	220	55 Units	<b>481</b>	6	25	<b>31</b>	31	17	<b>48</b>
Marquis Development	252 & 254	*	<b>590</b>	13	8	<b>21</b>	16	17	<b>33</b>

\* See Attachment D-Table 6 of Dunn TIA for 80 unit Independent Living/110 bed Assisted Living & Skilled Nursing Analysis

<u>Trip Differentials Between Scenarios</u>	<u>ADT</u>	<u>AM Peak</u>			<u>PM Peak</u>		
		<u>In</u>	<u>Out</u>	<u>Total</u>	<u>In</u>	<u>Out</u>	<u>Total</u>
RL vs. Elementary School	+156	-23	-2	-25	+7	-7	+0
RML vs. Elementary School	+241	-26	-2	-28	+12	-6	+6
RML vs. RL	+85	-3	+0	-3	+5	+1	+6
Marquis vs. Elementary School	+350	-19	-19	-38	-3	-6	-9
Marquis vs. RL	+194	+4	-17	-13	-10	+1	-9
Marquis vs. RML	+109	+7	-17	-10	-15	+0	-15

Under the Reasonable Worst Case Development Scenarios the proposed RML Apartments and Marquis Senior Housing traffic have an increase in the average daily trips for the site (Tables I and II above) compared to RL single-family or the former Tualatin Elementary School. Both the RML Apartments and Marquis Senior Housing development will result in a minimal increase or a decrease in the number of trips at the AM and PM Peak compared to the RL uses.

Intersection LOS (Level of Service) and capacity analysis was only performed for Reasonable Worst Case for RL and RML zones. Under either scenario, all the study intersections are forecast to operate acceptably during the weekday a.m. & p.m. peak hours for the 2009 analysis. The TIA 2029 analysis included the benefits of the planned SW Boones Ferry Road intersection & street improvements listed in TDC Chapter 11. In the 2029 analysis shown in Attachment G, under the worst case scenarios for both the current RL designation (Single Family) and proposed RML designation (RML Apartments and Marquis Senior Housing), the study intersections of Boones Ferry Road &

Avery Street and Martinazzi Avenue & Sagert Street are forecasted to have a Level of Service (LOS) of "F" during the weekday p.m. peak hour & a.m. peak hour, respectively. (Attachment 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).
- The City has prepared a development agreement with the applicant (Marquis Companies) and TTSD that will ensure that if the RML Planning District designation is approved in PMA-09-01, the implementing Ordinance will have an effective date tied to Marquis Companies obtaining conditional use and AR approval within 18 months. Construction of the proposed senior housing development then must commence within 12 months or the property will return to the RL Planning District designation. Marquis Companies and TTSD have both signed the agreement, known as the "Non-Statutory Development Agreement". The agreement will be presented to the City Council for approval and authorization at the June 8, 2009 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 41 Medium Low-Density Residential 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.
- The 120th day within which the City Council must make a decision in the quasi-judicial process is August 15, 2009. The scheduled June 8, 2009 public hearing before the City Council is on the 52nd day.
- 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 a 5.44 acre portion of Tax Lot 500 on Assessors Map 2S123DD from RL to RML. The RML Planning District allows more residential housing types including multi-family attached and apartment housing with a maximum density of up to 10 dwelling units per acre (du/acre) and up to 15 du/acre with a conditional use permit for retirement housing.



2. Allows the applicant to develop the property in the RML Planning District with the desired senior housing uses at the desired residential density with approval of a conditional use permit for retirement housing.
3. As a (near term) Reasonable Worst Case for RML housing and as the proposed Marquis Companies senior housing development, the function, capacity and safety of SW Boones Ferry Road or other transportation facilities in the vicinity are not made worse by the proposal, while the number of AM & PM Peak Hour trips at the nearby intersections are reduced.

Denial of the PMA request will result in the following:

1. The current RL Planning District designation on Tax Lot 500 will remain unchanged.
2. The Applicant needs to revise the proposed development plan to include only uses on Tax Lot 500 and the maximum density as allowed in the RL Planning District and not the desired density or number of senior housing facilities and units.

#### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for City 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 08/09 budget for revenue.

#### **PUBLIC INVOLVEMENT:**

The Applicant conducted a Neighbor/Developer meeting on January 8, 2009, at 7:00 p.m. at the Tualatin/Durham Senior Center, to explain their development and the PMA proposal to neighboring property owners and to receive comments. This meeting was attended by seven (7) members of the public including nearby property owners and one representative of the Tualatin Historical Society.

- 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. Engineering Division Memorandum
  - H. Ordinance



SE 1/4 SE 1/4 SECTION 23 T2S RIW W.M.  
WASHINGTON COUNTY OREGON

CANCELLED	TAX	LOTS
2700, 2001, 1300, 1701, 2101		
1200, 2100, 1800, 1500, 1600		

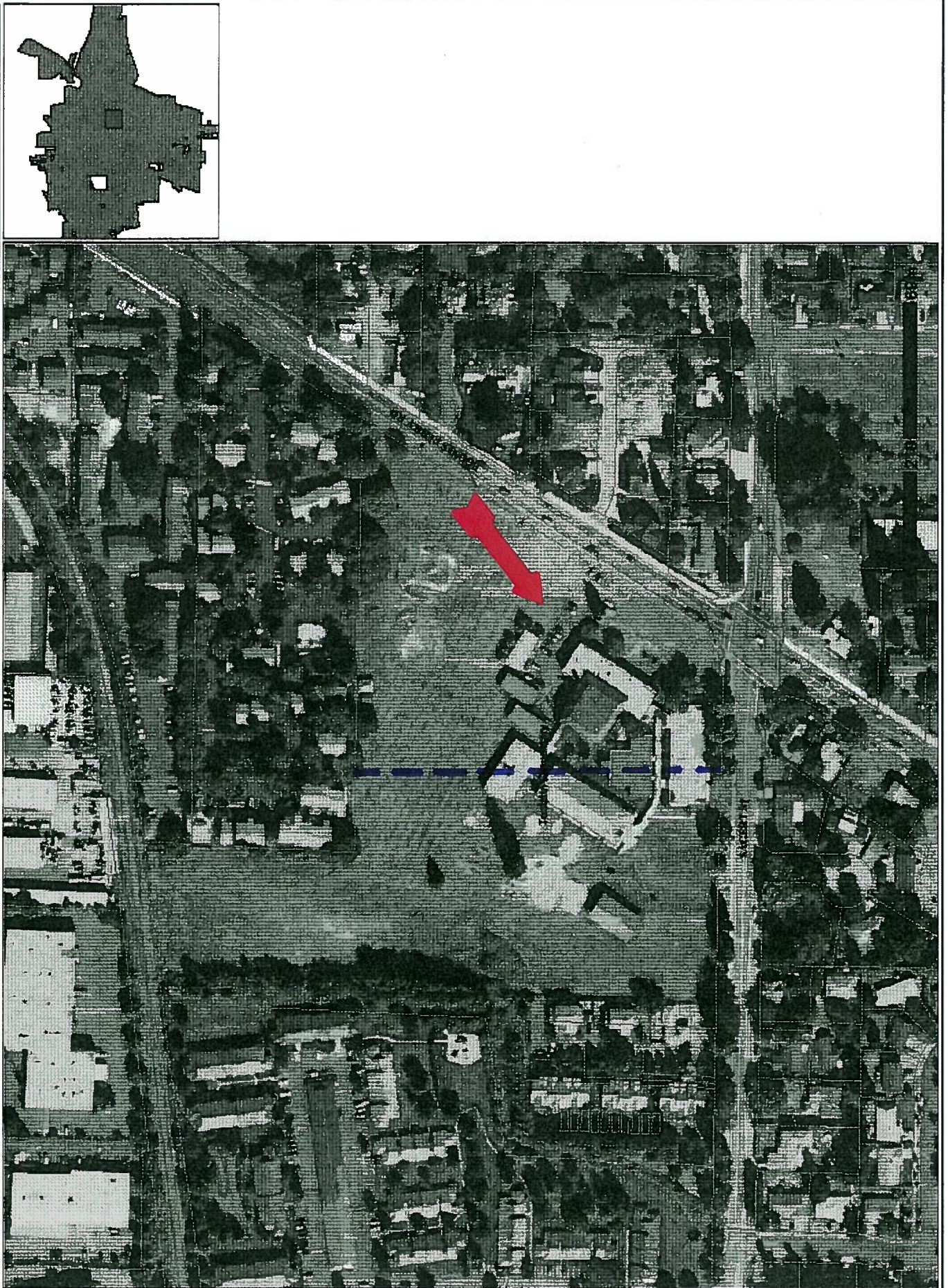


FOR ASSESSMENT  
PURPOSES ONLY  
DO NOT RELY ON  
FOR ANY OTHER USE

TUALATIN  
2S | 23DD



TualMap: PMA-09-01 Site Aerial Photo





# City of Tualatin

## Plan Map Amendment



MARQUIS  
C O M P A N I E S

1<sup>st</sup> Submittal –

Findings in Support of Application  
Neighborhood Meeting Documentation  
Traffic Analysis  
Aerial Photograph  
Topographic Map  
Photographs of Surrounding Properties  
Photographs of Boones Ferry Road and Sager Street

CITY OF TUALATIN  
RECEIVED

MAR 30 2009

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

## I. PROPOSAL SUMMARY

### GENERAL INFORMATION

Property Owner	Tigard Tualatin School District 6960 SW Sandburg St. Tigard, Oregon 97223
Applicant	Marquis Companies, Inc. Scott Miller 4560 SE International Way, Ste. 100 Milwaukie, OR 97222 (T) 971.206.2330
Applicant's Representative	Emerio Design, LLC Kirsten Van Loo 6107 SW Murray Blvd., Ste. 147 Beaverton, OR 97008 (T) 503.956.4180
Traffic Engineer	Dunn Traffic Engineering 7505 SE 32nd Avenue Portland, OR 97202 Ph: 503-774-2669 Fax: 503-774-8000 Cell: 503-260-4114
Site Location	19945 SW Boones Ferry Rd.
Size	5.44 acres
Map and Tax Lot No	TL 5000 - 2S1 23 DD
Comprehensive Plan Designation	City of Tualatin - Residential
Current Zoning	R-5
Pre-Application Meeting Date	August 6, 2008, November 2008
Neighborhood Meeting Date	January 8, 2009

## **I. EXECUTIVE SUMMARY**

The site of the original Tualatin Elementary School has been available for sale to potential developers for several years. The school has not been used for educating elementary students since its closure in the spring of 2004. After considerable evaluation and feasibility study, Marquis Companies, a senior housing provider, has contracted with the School District to begin the development-related land use procedures facilitating eventual completion of a project on a portion of the site. Marquis has developed a project plan and program for 5.4 acres of the school property, Lot 34 of the Tualatin Gardens subdivision.

The existing building(s) on the site served the district well for many years as an elementary school. The original building – the Gerald Avery Building – was designated as a local historic landmark in 1992 by the City of Tualatin Community Development staff. After considerable research Marquis has decided to proceed with demolishing the building while preserving some of the construction materials and incorporating those materials – as feasible – into the new development. The buildings on the entire campus, including Lot 34, will be removed prior to initiation of the project.

The Tualatin City Council recently affirmed the planning staff decision removing the historic designation on the Gerald Avery building and granting permission to demolish the structure together with the other adjacent structures on the school site.

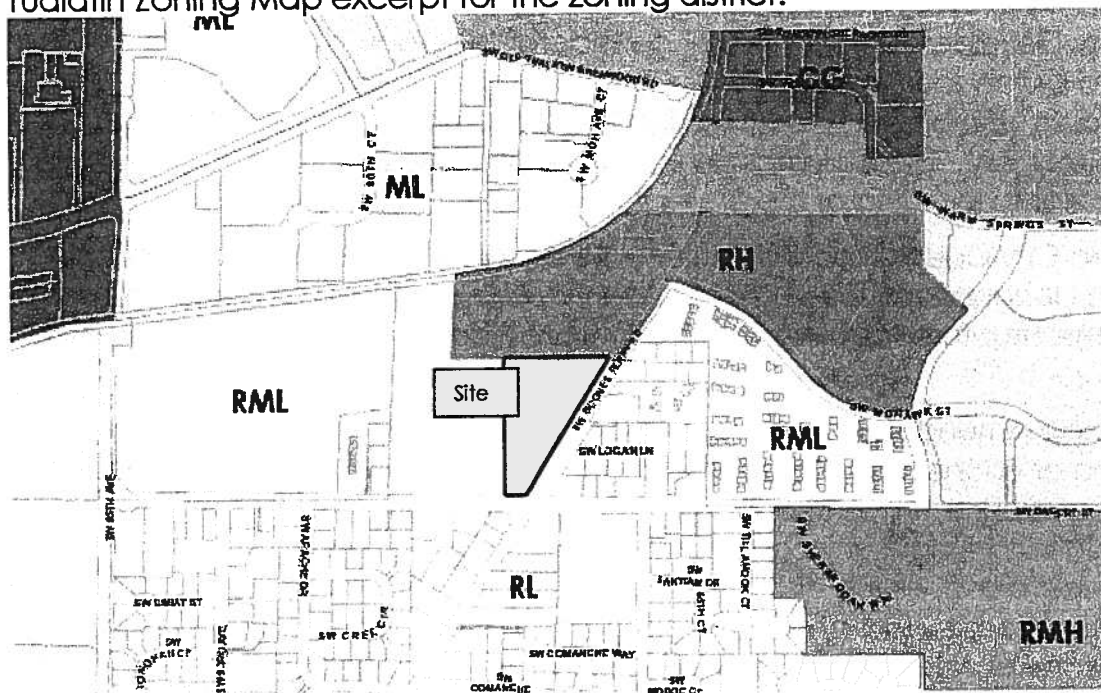
The Plan Map Amendment from RL to RML on 5.4 acres of land at the intersection of Boones Ferry Road and Sagert Street will facilitate redevelopment of a site that is currently abandoned, and is a community detraction. The location of this strategic city corner, two blocks south of Downtown Tualatin, merits an upgraded zoning district to encourage the redevelopment of the site as a gateway to the downtown core. Approval of this application will establish the necessary foundation for a new senior housing campus that can add quality development and vitality to an area that has been vacant for 5 years.

## **II. REQUEST**

This application requests a Plan Map Amendment from RL zoning designation to RML zoning designation to facilitate development of 5.4 acres for all of the uses allowed in that district. Marquis has developed a project plan and program for a portion of the school property, Lot 34 of the Tualatin Gardens subdivision. The intent of the applicant is to develop a multi-faceted senior housing complex. This is the second procedural step towards achieving the goal of creating a vibrant senior housing village complex in Tualatin, with benefits and amenities for the entire community.

### III. SURROUNDING AREA

The area surrounding the site contains a mix of residential uses. The property is on the corner of Boones Ferry Road and Sagert Street. There are single family residences along the south side of Sagert Street. Several detached homes and a small cluster of attached dwellings abut the school district property at the SW corner, on the north side of Sagert. Boones Ferry Road is a major Arterial winding through Multnomah County, Washington County and into Clackamas County. There is a new subdivision across Boones Ferry Road containing a historic house – the Logan House. Single family homes abut Boones Ferry Road, and a condo project is located east of the Logan House Estates project, on the north side of Sagert, east of Boones Ferry Road. Multi-family development abuts both sides of Boones Ferry Road as it travels north towards central Tualatin. Refer to the Tualatin Zoning Map excerpt for the zoning district.





#### IV. EXISTING CONDITIONS AND PUBLIC SERVICES

ON-SITE CONDITIONS: The subject property contains the former Tualatin Elementary School. The campus was closed 5 years ago when a new facility was constructed. This request involves only Lot 3400 of the current school district holding at this location. There are several old trees/shrubs located near the buildings that hold sentimental value for the alumni of the grade school. The site has some slope, as indicated on the topographic map included with the drawing set. The adjacent land uses are indicated on the aerial photograph.

PRIOR LAND USE ACTIONS: Through a recent land use approval, the Tualatin City Council has approved the removal of the Gerald Avery Building from the Tualatin Historic Registry, and facilitated the removal of the existing buildings from the property.

#### PLANNING DISTRICTS AND ADJACENT LAND USES

Adjacent planning districts and land uses are:

North: RH - Apartments

East: RL – single family detached residences

South: RL – single family detached residences

West: RML - Apartments

#### PUBLIC FACILITIES AND SERVICES:

Public water supply is provided by the City of Tualatin – There is a 12 inch line providing water in the ROW of Boones Ferry Road and a 12 inch line in Sagert Street.

Wastewater treatment in this area is provided by CleanWater Services – There is an 8 inch line in Boones Ferry Road and an 8 inch line in Sagert Street.

Emergency services are provided to this area by The City of Tualatin, TVF & R and Washington County

Tri-Met transit service is available on weekdays via line No. 96 and the WES stop is in downtown Tualatin approximately ½ mile from the site. The No. 76 line runs within 3 blocks of the subject site (to the east or north) and provides weekday and weekend service.

## V. COMPLIANCE WITH THE APPROVAL STANDARDS FOR A COMMUNITY PLAN MAP AMENDMENT

Section 1.032 of the Tualatin Development Code establishes seven basic approval criteria for a Community Plan Map amendment. These criteria are:

*(1) Granting the amendment is in the public interest.*

*(2) The public interest is best protected by granting the amendment at this time.*

### **RESPONSE:**

The site of the original Tualatin Elementary School is currently a location of suburban blight. It is difficult to grasp the concept that a community with almost 40 years of consistent development and growth contains a prominent site with shuttered and abandoned buildings. The property is not located in an area of old industrial buildings, and it is not located on the outskirts of town. The site is two blocks south of the center of Tualatin, on a well-traveled arterial road. It is even more difficult to understand that with the strong regional economy and – until recently – a healthy residential development market, this site has remained unattractive to developers. Over the last five years – at the height of the residential building market – the property owner made historic efforts to market the property. They were unsuccessful. The combined impediment of the low allowable density and the historic designation of a portion of the campus squelched all development interest in the property. The Tualatin City Council has recently affirmed a land use decision to facilitate removal of the buildings on the site. That land use action removes the first hurdle formerly discouraging redevelopment of the property.

The site, while only two blocks from the city core, with industrial and higher density residential zoning on two boundaries, is still zoned RL, Low Density Residential. RL zoning allows a maximum of 7.5 dwelling units per acre. The recent collapse of the residential housing market has effectively ended new single family home construction in the region. A continued housing construction slump is predicted for the next few years as inventory of new homes and home resales are absorbed at average or below-average rates. If this site were to remain zoned RL, it would accommodate 30 +/- new single family homes. There is no current demand, by either the residential development community or the Tualatin consumer, for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity.

Granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development. On a city-wide long-range planning basis, when viewed in context with the City's goal to facilitate construction of an additional 1500+ housing units in the next 8-10 years, the

change in the zoning district to RML permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district.

It is in a potential developer's best interest to time product delivery on this site to a future upturn in the market. As the market for housing catches up to and hopefully challenges the existing supply over the next two years, a developer of this site can be gaining land use approvals, building permits and constructing a new project. This timeline is in the best interests of the public because it will put Tualatin in a position of prominence with new residential development.

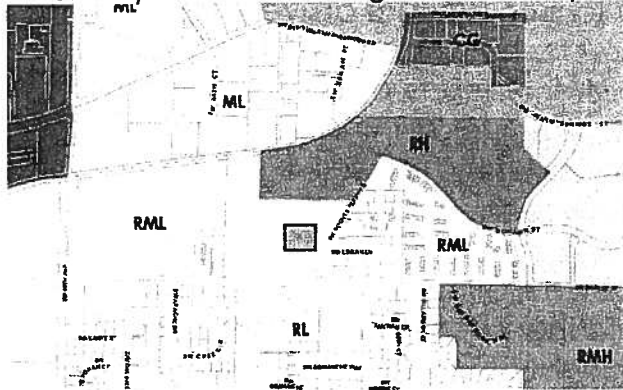
The site can be developed as a great gateway to the downtown core and a remarkable signature corner for the city. To the extent that this site will be developed during a development lag, some of the housing demand that will hopefully build up over the next two years can be met with this site as the economy rebounds. The success of Nyberg Woods and the nearby Bridgeport commercial complex demonstrate that residents of the southwestern Metro Area enjoy living shopping and working in their own community. This is an opportune time to capitalize on the community strength to revitalize a significant locale in Tualatin.

The development of the property with 50 to 80 new dwelling units will increase both Washington County and City of Tualatin tax revenue by a significant percentage over similar development of single family homes allowed in the RL district. Job creation is a by-product of the change in the zoning district since approval of this request will facilitate a specific development. With job losses for 2009 a reality, approval of this request will further the plans for the developer, resulting in development of the site and construction of a project that will provide family wage jobs in construction and property management at a time when the local economy is in sore need of such opportunity.

(3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

A. General Growth Objectives

**Objective:** Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs. (Section 4.050(6), Tualatin Community Plan).



**RESPONSE:**

The proposed Plan Map Amendment to RML is consistent with an incremental density gradient scaling gradually down in density from the center of Tualatin as one travels south on Boones Ferry Road. The property to the north of the site (marked with green square) is zoned RH. To the west is land zoned RML, to the northeast is land zoned RML and to the Northwest is industrial land on the north side of the railroad tracks. Lands to the south, across Sagert Street are predominately RL.

Sagert Street is a good divider between the two zoning districts. By transitioning between the RH on the north boundary, and the RL on the south across Sagert Street, the zoning pattern would "step down" from higher to lower residential zones and development as one travelled south out of the downtown core along Boones Ferry Road. RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping.

**Objective:** Prepare a plan providing a variety of living and working environments. (Section 4.050(9), Tualatin Community Plan).

**RESPONSE:**

The cited objective relates to the community plan as a whole, but can also mandate planning efforts that address a smaller section of the city. With this application the request for RML zoning on a specific site addresses the requirement for a variety of living environments. RML zoning facilitates construction of small cottages, townhouses, garden apartments, condominiums, and/or large apartments. The district also facilitates development of senior

housing facilities. A variety of living options is made available with the requested zoning district.

**Objective:** ) *Adopt measures protecting life and property from natural hazards such as flooding, high groundwater, weak foundation soils and steep slopes. (Section 4.050(12), Tualatin Community Plan).*

**RESPONSE:**

The site of the former Tualatin Elementary School does not contain 100 year flood plain areas, high groundwater, weak foundation soils or steep slopes. This objective is met with the request for RML zoning on the site.

**Objective:** *Encourage energy conservation by arranging land uses in a manner compatible with public transportation objectives. (Section 4.050(16), Tualatin Community Plan).*

**Objective:** *Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing. (Section 5.030(4), Tualatin Community Plan).*

**RESPONSE:**

RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping. The site is adjacent to multi-family development with apartments to the north and to the west of the property.

**B. General Housing Objectives**

**Objective:** *Provide for the housing needs of existing and future residents. (Section 5.030(1), Tualatin Community Plan).*

**Objective:** *Provide housing opportunities for residents with varied income levels and tastes that are aesthetically and functionally compatible with the existing community housing stock. (Section 5.030(2), Tualatin Community Plan).*

**RESPONSE:**

A change in the zoning district to RML on the subject property permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. RML zoning facilitates construction of small cottages, townhouses, garden apartments, condominiums, and/or large apartments. A large variety of housing options is available for development on this site with the requested zoning district. These housing options can address varied income levels and tastes that can be functionally and aesthetically compatible. Staff and Architectural Review Board evaluation of any proposed development will further ensure neighborhood compatibility.

#### C. Planning District Objectives

**Objective:** *Medium-Low Density Residential Planning District (RML). To provide areas of the City suitable for common-wall dwellings such as condominiums, townhouses, duplexes, triplexes, and other multi-family dwellings. Condominiums and small-lot subdivisions may be allowed by conditional use permit. Owner occupancy of dwelling units shall be encouraged. Parks for manufactured dwellings shall be allowed in those portions of the district designated on the Plan Map. Except for retirement housing and nursing and convalescent homes which shall not exceed 15 dwelling units per net acre and manufactured dwelling parks with single- wide manufactured dwellings which shall not exceed 12 dwelling units per net acre, the maximum density of any residential use shall not exceed 10 dwelling units per net acre. The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the District designated on the Plan Map. (Section 5.040(2), Tualatin Community Plan).*

#### **RESPONSE:**

The requested new zoning district objectives are aligned with other residential development in the area. The objectives facilitate a variety of residential options including the potential for senior (retirement) housing.

#### D. Traffic Objectives

#### **RESPONSE:**

Enclosed with the application package is a comprehensive traffic analysis providing data and conclusions for all potential development scenarios under both the existing and proposed zoning districts. The detailed analysis and executive summary provides Traffic objectives conclusions demonstrating that the requested new zoning district will have little impact on regional traffic movement.

(4) *The following factors were consciously considered:*

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

**RESPONSE:**

The site of the former Tualatin Elementary School is in an area that transitions quickly along Boones Ferry Road from the busy commercial center of downtown to multi-family development and then to primarily single family detached housing. The application of the RML district to this site will improve the incremental transition from commercial and high density residential development with a medium density project at this important intersection. Conversely, high quality development of this property can establish the entrance to the heart of Tualatin and act as an entry landmark to the more dense development associated with the Central City.

*B. The suitability of the areas for particular land uses and improvements in the areas.*

**RESPONSE:**

The site is suitable for medium density residential development. All of the necessary infrastructure is available or can be made available to serve the project at the intended maximum density.

*C. Trends in land improvement and development.*

**RESPONSE:**

A continued housing construction slump is predicted for the next few years as inventory of new homes and home resales are absorbed at average or below-average rates. If this site were to remain zoned RL, it would accommodate 30 +/- new single family homes. There is no current demand, by either the residential development community or the Tualatin consumer, for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site.

*D. Property values.*

**RESPONSE:**

The site of the former Tualatin Elementary School is located in an area of both newer homes (Logan House Subdivision) and older homes (on the south side of Sagert Street). Historically home values have risen in Tualatin, peaking in early spring 2008. The median home values have fallen slightly, based on a stagnant economy. More importantly, the number of home sales has fallen dramatically, with the highest number of sales in spring 2005. Regardless of the quantity of sales or the price for individual homes over the past five years, the presence of an abandoned elementary school has not increased the perception of property values in the vicinity. Redevelopment of the site – which can be facilitated with the requested change in the zoning district – will improve the perception of the immediate community and serve to improve the quality of the neighborhood.

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

**RESPONSE:**

Granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development.

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

**RESPONSE:**

New construction on the site will be conditioned to dedicate additional ROW on Boones Ferry Road. Redevelopment of the site – which can be facilitated with the requested change in the zoning district – will facilitate the dedication of that ROW.

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

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

**RESPONSE:**

The site of the former Tualatin Elementary School contains no natural resources identified by any jurisdictional mapping of same. The change in the zoning district has no impact on any mapped Goal 5 resources, as the resources are protected regardless of the change in zoning district.

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

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

**RESPONSE:**

The Plan Map Amendment from RL to RML on 5.4 acres of land at the intersection of Boones Ferry Road and Sagert Street will facilitate redevelopment of a site that is currently abandoned, and a community detraction. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity.

*K. A mistake in the Plan Text or Plan Map for the property under consideration.*

**RESPONSE:**

The site of the former Tualatin Elementary School is composed of 13 acres located within two city blocks of the downtown core. It is adjacent to both high density residential development and industrial land, with RR tracks on the north boundary. The site is bounded on the east by a major regional arterial road. If the school had not been located for many years on this property, it would have been – and should have been – zoned with a high density residential or commercial zoning district. The fact that the school facility was an allowable – albeit conditional use – on low density residential zoned land meant that community planners left the site RL zoning. The belief at the time was that the



school would always own the property and continue to use the site for educational purposes. While this decision was not necessarily a mistake, it did not reflect the best practices for gradient density zoning radiating out from the City Center.

(5) The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are:

$$(TCR - SMR) * CSR = NC$$

$$(NC * CFF) / CSP = MNP$$

$$(MNP \text{ or } MPS) * CSP = AC$$

Where:

TCR=Total number of classrooms.

SMR=Special mandated classrooms.

CSR =Average class size policy for regular rooms.

NC =Normal capacity.

CFF =Core facility factor (kitchen, cafeteria, restrooms, offices, gym, music, mechanical:  
0.12 for K-8 schools and 0.15 for 9-12 schools.

CSP =Average class size policy for portables.

MNP =Maximum number of portables, rounded up to the nearest whole number, or

MPS=Maximum number of portables allowed on site, as determined by existing school capacity, above, or allowed by the City of Tualatin through land use decisions such as, but not limited to, conditional use permits.

AC =Additional capacity.

**RESPONSE:**

This property is the location of the former Tualatin Elementary School. The application is signed by the Superintendent of the School District. The school district is cognizant of this request to increase the potential residential density on the property. At such time as a specific development request is made for land use approval, the school district will evaluate the capacity of the schools serving this site and prepare a report for jurisdiction consideration.

(6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

*Goal 1- Citizen Involvement:*

**RESPONSE:**

The development team has held two neighborhood meetings discussing the potential for development of this property. All of the required steps were followed to ensure opportunity for citizen participation in the land use planning process. The public hearing conducted to discuss this application will provide another opportunity for citizens to become involved in the decision.

*Goal 2- Land Use Planning:*

**RESPONSE:**

The City has an acknowledged Comprehensive Plan and a process for amending the plan map with new or different zoning districts. Notice of this requested plan map amendment will be given to Oregon DLCD and opportunity for comment will be afforded to that agency, as required. Any other agency either state or regional will be given opportunity to comment on the requested plan map amendment.

*Goal 3- Agricultural Land:*

**RESPONSE:**

This site is urban and does not contain any agricultural land, thus the Goal does not apply.

*Goal 4- Forest Land:*

**RESPONSE:**

This site is urban and does not contain any forest land, thus the Goal does not apply.

*Goal 5- Open Spaces, Scenic and Historic Areas and Natural Resources:*

**RESPONSE:**

This site is urban and does not contain any designated open space, scenic, historic or natural resource land, thus the Goal does not apply.

*Goal 6- Air, Water, and Land Resources Quality:*

**RESPONSE:**

The site of the former Tualatin Elementary School currently has RL zoning. The change in the underlying zoning of the property will have no impact on pollution of air, water or land resources. Regardless of the scale or scope of redevelopment of the property there are numerous regulations and policies in place that will protect air, water and land resource quality throughout the eventual construction of any new project. The proposed plan map amendment is not in conflict with this goal.

*Goal 7- Areas Subject to Natural Disasters or Flood:*

**RESPONSE:**

This site is urban and does not contain any flood plain or periodically inundated land, thus the Goal does not apply.

*Goal 8- Recreational Needs:*

**RESPONSE:**

The site of the former Tualatin Elementary School is within one mile of two public elementary schools and Tualatin High School. Five public parks and the Tualatin Country Club are within one mile of the site. The recreation needs of future residents can be met with these existing facilities in close proximity. The site is not needed to meet any identified goals for future recreational sites within the City. The proposed plan map amendment is not in conflict with this goal.

*Goal 9- Economy of the State:*

**RESPONSE:**

Job creation is a by-product of the change in the zoning district since approval of this request will facilitate a specific development. With job losses for 2009 a reality, approval of this request will further the plans for the developer, resulting in development of the site and construction of a project that will provide family wage jobs in construction and property management at a time when the local economy is in sore need of such opportunity.

*Goal 10- Housing:*

**RESPONSE:**

A change in the zoning district to RML on the subject property permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. RML zoning facilitates construction of small cottages, townhouses, garden apartments, condominiums, and/or large apartments. A large variety of housing options is available for development on this site with the requested zoning district. These housing options can address varied income levels and tastes that can be functionally and aesthetically compatible.

*Goal 11- Public Facilities and Services:*

**RESPONSE:**

The site is fully served with critical, essential and desired public services. The requested plan map amendment is supported by all necessary services and complies with this goal.

*Goal 12- Transportation:*

**RESPONSE:**

RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping.

Enclosed with the application package is a comprehensive traffic analysis providing data and conclusions for all potential development scenarios under both the existing and proposed zoning districts. The detailed analysis and executive summary provides conclusions demonstrating that the requested new zoning district will have little impact on regional traffic movement. The request complies with this goal.

*Goal 13- Energy Conservation:*

**RESPONSE:**

The site is located close to the downtown core and within walking distance to local necessary and desired urban services. Individual resident vehicle miles travelled can be reduced by encouraging the development of this site with higher residential densities. The requested plan map amendment supports a goal of energy conservation by city residents.

*Goal 14- Urbanization:*

**RESPONSE:**

The site of the former Tualatin Elementary School is within the Urban Growth Boundary for the City and County. The proposed plan map amendment is supportive of this goal.

*(7) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.*

The Metro Urban Growth Functional Plan was approved November 21, 1996 by the Metro Council, and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. The Functional Plan must be addressed when Community Plan Map Amendments are proposed through the quasi-judicial or legislative processes.

The following responses address compliance of the Plan amendment request with the Metro Functional Plan.

*Title 1- Requirements for Housing and Employment Accommodation: This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and employment which serves as their baseline and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.*

**RESPONSE:**

On a city-wide long-range planning basis, when viewed in context with the City's goal to facilitate construction of an additional 1500+ housing units in the next 8-10 years, the change in the zoning district to RML permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. This is an increase of between 20 and 50 additional dwelling units that can be provided to future residents of Tualatin in a central location with public transit and adequate public infrastructure adjacent to the property.

*Title 2- Regional Parking Policy: The Metro 2040 Growth Concept calls for more compact development to encourage more efficient use of land, promote non-auto trips and protect air quality. In addition, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept fully achieving its transportation objectives. This title establishes region wide parking policies that set the minimum number of parking spaces that can be required by local governments for certain types of new development. It does not affect existing development. Parking maximums are also specified. By not creating an over supply of parking, urban land can be used most efficiently.*

**RESPONSE:**

Development review of the ensuing project will be reviewed to guarantee adequate parking for the residents and staff as necessary.

*Title 3 - Water Quality, Flood Management and Fish and Wildlife Conservation: The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways. ....*

**RESPONSE:**

This site is urban and does not contain any flood plain or periodically inundated land, thus the standard does not apply to this application.

*Title 4- Industrial and Other Employment Areas: Title 4 places restrictions of certain uses in three designations on the 2040 Growth Concept Map.*

*In Regionally Significant Industrial Areas, non-industrial uses are limited to:*

*Retail uses less than 20,000 square feet and amounting to only 5 percent of the contiguous Regionally Significant Industrial Area*

*Commercial office uses that are not accessory to the industrial uses with the exception of large corporate headquarters, and;*

*Uses necessary to serve the needs of businesses and employees of the Regionally Significant Industrial Area.*

*In Industrial Areas, non-industrial uses are limited to less than 20,000 square feet and amount to 10 percent of the Industrial Area. In Employment Areas, retail uses are limited to less than 60,000 square feet. This can be increased if it is demonstrated that transportation facilities are adequate to serve the retail use and to serve other planned uses in the Employment Area.*

**RESPONSE:**

The application is for a change in residential zoning, thus, the standards embodied in Title 4 do not apply to this request.

*Title 5- Neighbor Cities and Rural Reserves: This section of the Functional Plan directs Metro to work with its neighbor cities to protect common locations for green corridors along transportation corridors connecting the Metro region and each neighboring city.....*

**RESPONSE:**

The site is not impacted by the standards in Title 5.

*Title 6 - Central City, Regional Centers, Town Centers and Station Communities: The intention of Title 6 is to enhance the Centers designated on 2040 Growth Concept Map by encouraging development in these Centers. ....*

**RESPONSE:**

The site of the former Tualatin Elementary School is not considered a part of the Tualatin City Center, thus, the standards do not apply to this application.

*Title 7 - Affordable Housing: This section of the functional plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels...*

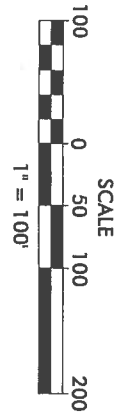
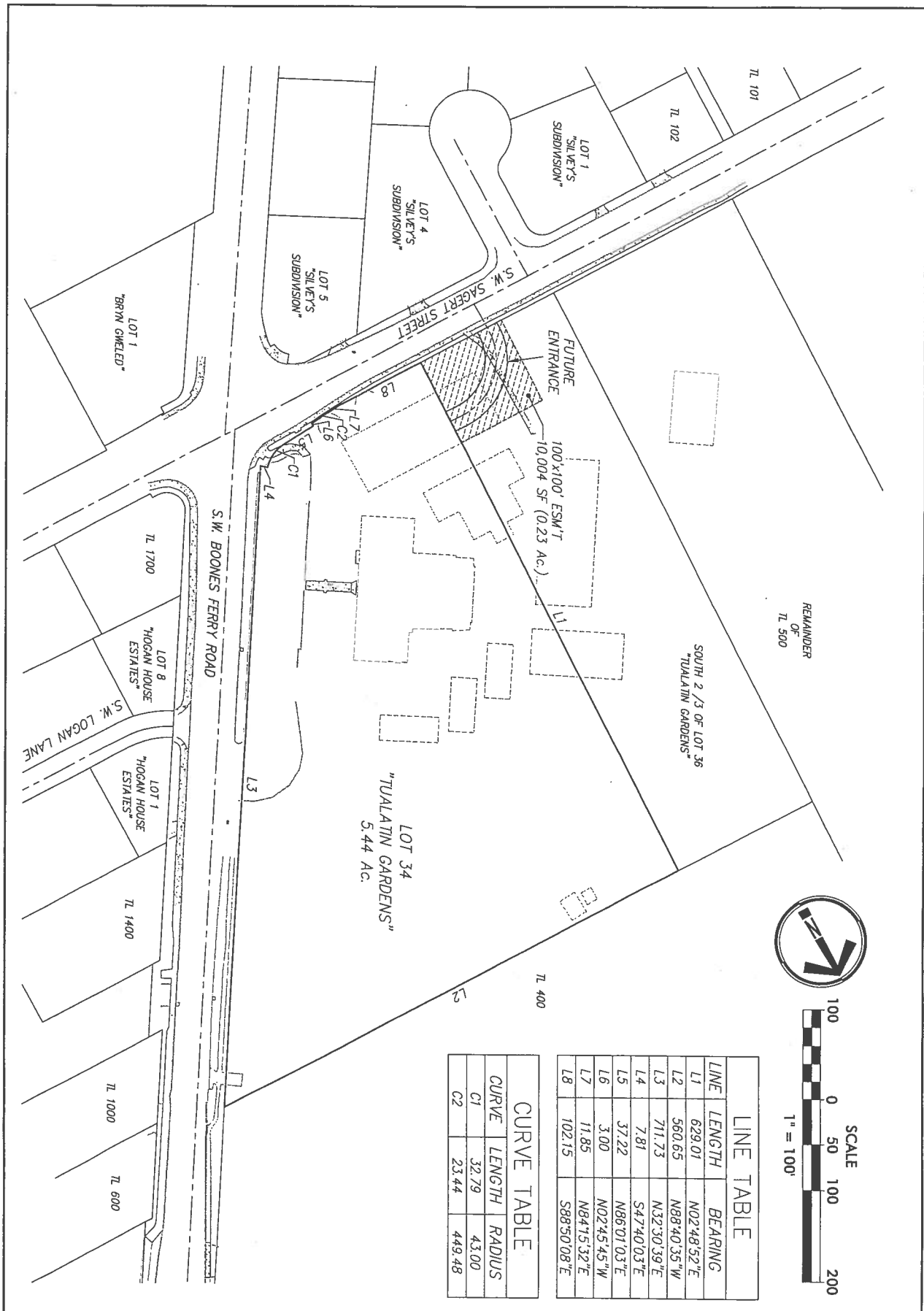
**RESPONSE:**

A change in the zoning district to RML on the subject property permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. RML zoning facilitates construction of small cottages, townhouses, garden apartments, condominiums, and/or large apartments. A large variety of housing options is available for development on this site with the requested zoning district. These housing options can address varied income levels and tastes that can be functionally and aesthetically compatible.

*Title 8, 9, and 10 require compliance, performance measures and definitions for implementation of the Functional Plan, and are not applicable.*

## VI. CONCLUSION

Based on the findings provided supporting all of the applicable goals, policies and objectives of the guiding documents, this request for a plan map amendment can be granted. The accompanying detailed traffic analysis supports the conclusion that the change in the zoning district on the site has a nominal impact on the peak hour traffic flows. Dedication of ROW on Boones Ferry Road and frontage improvements along the Boones Ferry portion of the site at the time of project development will improve traffic flows in that area and provide an enhanced streetscape experience. The change in the zoning from RL to RML is supported by all of the applicable evidence on the record and can be approved by the City of Tualatin.



LINE TABLE

LINE	LENGTH	BEARING
L1	629.01	N02°48'52"E
L2	560.65	N88°40'35"W
L3	711.73	N32°30'39"E
L4	7.81	S47°40'03"E
L5	37.22	N86°01'03"E
L6	3.00	N02°45'45"W
L7	11.85	N84°15'32"E
L8	102.15	S88°50'08"E

CURVE TABLE

CURVE	LENGTH	RADIUS
C1	32.79	43.00
C2	23.44	449.48

TUALATIN MARQUIS

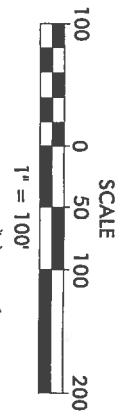
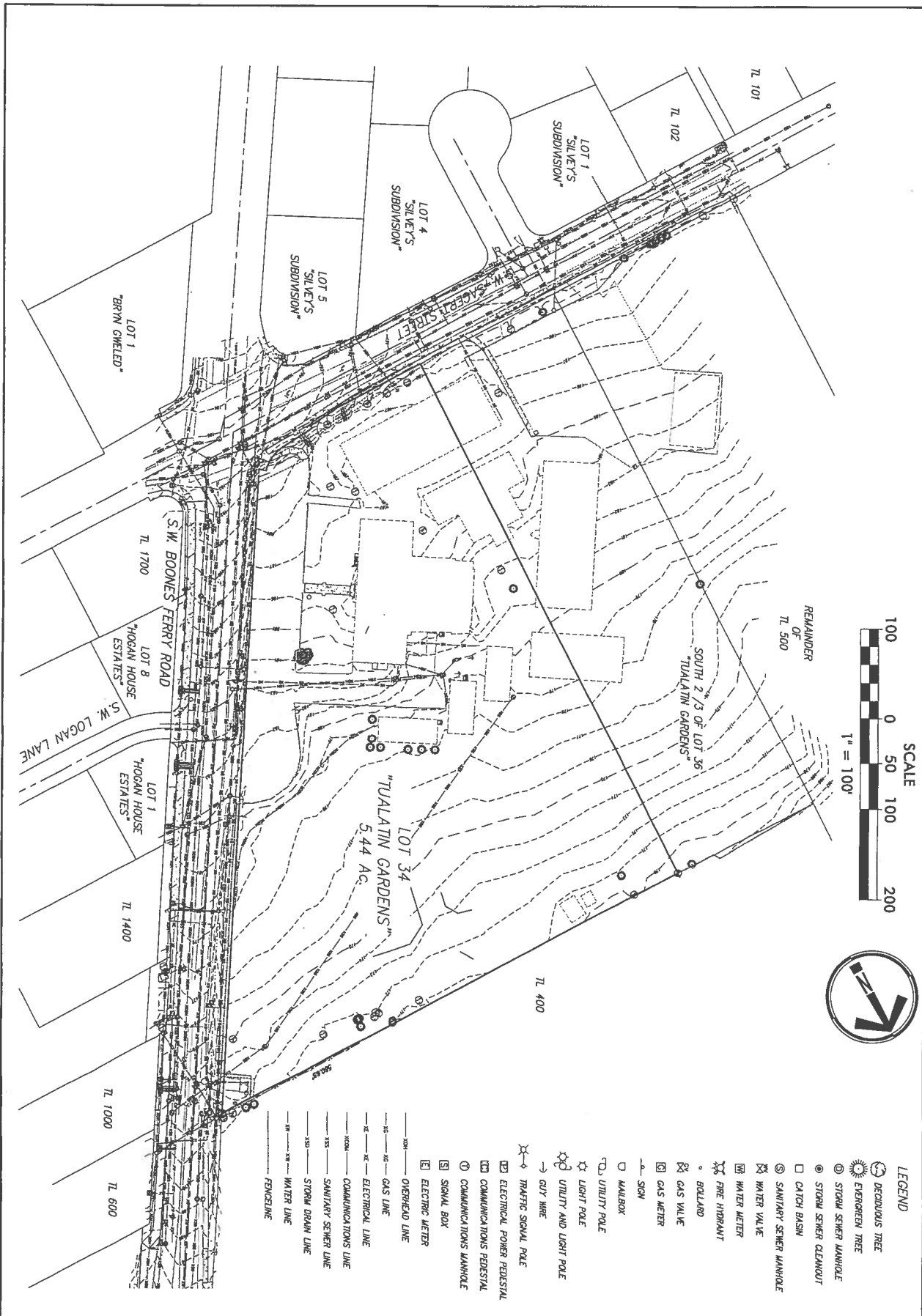
PLAT MAP

**EMERIO**  
*Design*

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FAX: (503) 639-9592

1  
OF  
3  
SHEET





LEGEND

- ⊙ DECIDUOUS TREE
- ⊙ EVERGREEN TREE
- ⊙ STORM SEWER MANHOLE
- ⊙ STORM SEWER CLEANOUT
- ⊙ CATCH BASIN
- ⊙ SANITARY SEWER MANHOLE
- ⊙ WATER VALVE
- ⊙ WATER METER
- ⊙ FIRE HYDRANT
- ⊙ ROLLAND
- ⊙ GAS VALVE
- ⊙ GAS METER
- SIGN
- MAILBOX
- ⊙ UTILITY POLE
- ⊙ LIGHT POLE
- ⊙ UTILITY AND LIGHT POLE
- GUY WIRE
- ⊙ TRAFFIC SIGNAL POLE
- ⊙ ELECTRICAL POWER PEDISTAL
- ⊙ COMMUNICATIONS PEDISTAL
- ⊙ COMMUNICATIONS MANHOLE
- ⊙ SIGNAL BOX
- ⊙ ELECTRIC METER
- OVERHEAD LINE
- GAS LINE
- ELECTRICAL LINE
- COMMUNICATIONS LINE
- SANITARY SEWER LINE
- STORM DRAIN LINE
- WATER LINE
- FENCE LINE

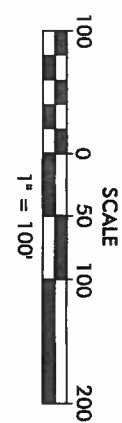
EXT'G CONDITIONS

TUALATIN MARQUIS



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2 OF 3



<p>3 SHEET 3</p>	<p><b>EMERIO</b> <i>Design</i></p> <p>6107 SW MURRAY BLVD. SUITE 147 BEAVERTON, OREGON 97008 PH: (503) 515-5528 FAX: (503) 639-9592</p>	<p><b>AERIAL PHOTO</b></p>	<p><b>TUALATIN MARQUIS</b></p>
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December 26, 2008

A pre-submittal neighborhood meeting is scheduled for a proposed land use application for a:

Community Plan Map Amendment for a portion of  
the Old Tualatin School Property

This is the second neighborhood meeting in a series related to the removal of the school buildings from the property and redevelopment of the site. Your attendance at this meeting is encouraged so you may participate in the project design and land use approval process.

The meeting date is: Thursday January 8, 2009  
The meeting will be held at: Tualatin/Durham Senior Center  
8513 SW Tualatin Road  
Tualatin, Oregon

The meeting will start at: 7:00 PM

The property involved is: a portion of Tax Lot 500 – 2S1 23 DD

The purpose of this meeting is to describe the proposed land use application, and to provide a neighborhood forum for input and comments. Your attendance is encouraged, so you can be informed regarding the project, the process, and your opportunities for participation in the land use approval. No decisions will be made at this meeting, this is an informational gathering as required by City of Tualatin Development Code section 31.063.

Please contact me via e-mail @ [kirsten@emeriodesign.com](mailto:kirsten@emeriodesign.com) if you have comments or questions.

Subsequent to this neighborhood meeting the plans will be finalized and an application for the specific land use action will be submitted to the City of Tualatin for review and eventual approval. The project may be adjusted to meet additional approval criteria, and plans presented at this meeting are conceptual.



Kirsten Van Loo, Planner

PMA NEIGHBORHOOD  
MEETING - 1-8-09

Marissa Haulberg 9789 SW Coquille Ct

WILLIAM (BILL) COHEN 9050 SW SAGERT ST.

Rebecca Lukas 19840 SW Boones Ferry Rd

Yvonne Asington 17000 SW Blackhawk<sup>Rd</sup> Dr 97114  
(Pres-Historical Soc) 8750 SW Suck Drive Seaside Or 97136

SCOTT MELLER, MARQUIS COMPANIES

Quida Packard, 8675 SW Sager St

Shelley Simpson 19836 SW Boones Ferry Rd.

DENNIS OLSON 18820 SW TURATA AVE LAKE OSWEGO, OR 97035

XVL





View west on Sagert from intersection



View east on Sagert from intersection



View north on Boones Ferry from crossroad



View south on Boones Ferry



Logan House Estates on Logan Ln.



View of SE corner of intersection

## **TRANSPORTATION IMPACT ANALYSIS REPORT**

# **MARQUIS COMPANIES PLAN MAP AMENDMENT/ZONE CHANGE**

**TUALATIN, OR**

**CITY OF TUALATIN  
RECEIVED**

**MAR 30 2009**

**COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

Prepared For:  
Marquis Companies  
4560 SE International Way, Suite 100  
Milwaukie, OR 97222

Prepared By:  
Dunn Traffic Engineering, LLC

Project #0093

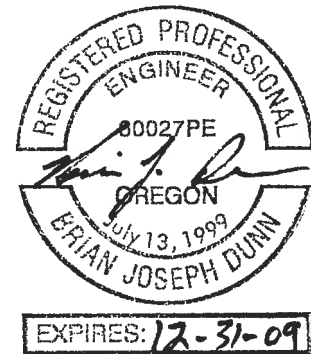
**March 2009**

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## EXECUTIVE SUMMARY

This study addresses the long-range transportation impacts of a proposed plan map amendment by Marquis Companies to rezone a tract of land in the City of Tualatin from Residential Low Density (RL) to Residential Medium-Low Density (RML). The subject site is located on the northwest corner of the SW Boones Ferry Road/SW Sagert Street intersection and is part of the former Tualatin Elementary School site. Although the former school property is located on a single tax lot totaling 13.37 acres in size today, Marquis Companies is proposing to perform a tax line adjustment to split the property into two separate parcels. It will be the easternmost parcel totaling 5.44 acres in size and with frontage primarily along SW Boones Ferry Road that is the subject of the proposed plan map amendment and effort to achieve the new RML zoning. The separate parcel that remains to the west will retain its current RL zoning.

Ultimately, the Marquis Companies intends to develop a senior care facility on the subject site. But before this can happen, the subject site must be rezoned to an appropriate RML designation. Because the proposed land use action will result in an amendment to the City of Tualatin's zoning map, Section 660-012-0060 of the State's Transportation Planning Rule applies. This study was prepared specifically to address the issue of compliance with the policies of the Transportation Planning Rule.

The following sections summarize the scope of this study and the detailed findings of a long-range transportation impact analysis for the proposed plan map amendment, followed by the conclusions and recommendations. As demonstrated by the analyses and findings presented in this study, the proposed land use action is not expected to "significantly affect" any existing or planned transportation facility and is, therefore, expected to be in compliance with the State's Transportation Planning Rule.

### STUDY INTERSECTIONS

The scope of this study was determined through an assessment of the site's anticipated traffic impact area, by a pre-application conference meeting with the City, and through a coordinated scoping arrangement with city staff. Based on this process, city staff has required the operational analysis of current year and future year 2029 impacts at the following five intersections during the critical weekday a.m. and p.m. peak hour analysis periods:

- SW Boones Ferry Road/SW Warm Springs Street;
- SW Boones Ferry Road/SW Sagert Street;
- SW Boones Ferry Road/SW Avery Street;
- SW 95<sup>th</sup> Avenue/SW Sagert Street; and,
- SW Martinazzi Avenue/SW Sagert Street.

### INTERSECTION OPERATING STANDARDS

Per Sections 1.032, 11.610, and 11.620 of the Tualatin Development Code, the City enforces a Level of Service (LOS) "F" policy for the p.m. peak hour and a LOS "E" policy for the one-half hour before and after the p.m. peak hour for intersections located within the Town Center of the city. Outside of this Town Center area, the City enforces a LOS "E" standard for both the weekday p.m. peak hour and the one-half hour periods before and after the peak hour. These LOS "F/E" and LOS "E/E" standards apply to plan map amendments. Based on the Design Type Boundaries identified in Map 9-4 of the City's Development Code, the "LOS F/E" standard applies to the SW Boones Ferry Road/SW Warm Springs Street intersection while the LOS "E/E" standard applies to all remaining study intersections.

## EXISTING TRAFFIC CONDITIONS

All five study intersections currently operate at levels which meet the level-of-service standards enforced by the City of Tualatin during the weekday a.m. and p.m. peak hours. However, the signalized intersection at SW Boones Ferry Road and SW Avery Street is currently operating with a volume-to-capacity (v/c) ratio of 0.97 during the weekday a.m. peak hour, indicating the intersection has almost reached full capacity. Also, the all-way stop-controlled intersection at SW Martinazzi Avenue and SW Sagert Street is currently operating right at a v/c ratio of 1.00 during the weekday p.m. peak hour, indicating the intersection already reached full capacity.

## PLANNED TRANSPORTATION IMPROVEMENTS

Future transportation improvements assumed to be in place by the year 2029 were identified through a review the City's Transportation System Plan, the City's Development Code, and through detailed discussions with city staff on which transportation projects are reasonably likely to occur within the forecast period. This process led to the identification of the following seven transportation projects:

- I-5 to 99W Connector – This transportation improvement project is considered to be a critical step in relieving existing and anticipated future congestion on Tualatin's transportation system. Once completed, this project will result in three new and/or improved east-west arterial routes connecting I-5 in Tualatin with OR 99W to the west in Sherwood, plus the extension/connection of a new north-south arterial route along the SW 124<sup>th</sup> Avenue alignment, connecting OR 99W to the north with each of the three new east-west arterial routes. (Go to <http://www.i5to99w.org> for a full detailed description of the Alternative #7 recommendation)
- Martinazzi Avenue Widening – This project has already been completed and resulted in the addition of a new southbound travel lane from Warm Springs Street to Sagert Street.
- Sagert Street/Martinazzi Avenue Signal - This project will include the construction of a traffic signal.
- Boones Ferry Road Signal Interconnect - This project will establish a signal interconnect between the traffic signals along SW Boones Ferry Road, south of Tualatin-Sherwood Road.
- Sagert Street Connection to 95<sup>th</sup> Avenue - This project has already been completed and resulted in the extension of Sagert Street west to connect with 95<sup>th</sup> Avenue.
- 95<sup>th</sup> Avenue Connection to Avery Street - This project has already been completed and resulted in the extension of 95<sup>th</sup> Avenue down to connect with Avery Street.
- Boones Ferry Road Sidewalk Completion – This project will establish continuous sidewalks along both sides of Boones Ferry Road from Tualatin-Sherwood Road down to Avery Street.

## FUTURE TRAFFIC VOLUME FORECAST

The future traffic forecast prepared for this study was based primarily on traffic data provided by the Washington County DLUT, using a regional travel demand forecast model that was developed specifically for the I-5 to OR 99W Connector project (recommended Alternative #7 solution). The traffic forecast was prepared to reflect future traffic conditions for the year 2029 during the critical weekday a.m. and p.m. peak hours. This forecast also included trips that may be realized by future development activities on the western portion of the former Tualatin Elementary School site that will remain under its current RL zoning.

## SITE TRIP GENERATION

Estimates were prepared of average weekday and weekday a.m. and p.m. peak hour vehicle trip ends for the subject site under two reasonable "worst-case" developments scenarios: one for the current RL zoning and the other for the proposed RML zoning. The following summarizes the results of these estimates:

Current RL Zoning Scenario

- 396 average weekday trips
- 34 weekday a.m. peak hour trips
- 42 weekday p.m. peak hour trips

Proposed RML Zoning Scenario

- 481 average weekday trips
- 31 weekday a.m. peak hour trips
- 48 weekday p.m. peak hour trips

As shown above, trips generated during the weekday a.m. peak hour by development activity under the proposed RML zoning (31 trips) are expected to be lower than if the site were developed under the current RL zoning (34 trips) for a difference of -3 trips. For the weekday p.m. peak hour, however, there is a slightly higher number of trips estimated to occur under the proposed RML zoning scenario (48 trips) versus the current RL zoning scenario (42 trips). But as described later in this report, such a nominal increase (difference of +6 trips) is insignificant, especially when considering how these trips become diluted once they distribute onto the surrounding street network.

Further analysis was conducted to estimate the site trip generation potential for a senior living center complex, which is the land use that is ultimately anticipated by the Marquis Companies. The following summarizes the results of these estimates:

Marquis Companies Senior Living Center

- 590 average weekday trips
- 21 weekday a.m. peak hour trips
- 33 weekday p.m. peak hour trips

As shown above, trips generated during the critical weekday a.m. and p.m. peak hours as a senior living center will be less than what could potentially be generated under either the current RL or proposed RML zoning development scenarios.

**YEAR 2029 INTERSECTION OPERATIONS**

Operational analyses were performed for year 2029 total traffic conditions during the weekday a.m. and p.m. peak hours for two separate development scenarios: one which accounted for development under the current RL zoning and another which accounted for development under the proposed RML zoning. The results of these analyses were identical and indicated that several study intersections will not operate at levels which meet the City's long-term planning operations standards. Nevertheless, what is of critical importance is that the analysis results show no relative difference in the levels-of-service, volume-to-capacity ratios, or the average driver delays for the individual study intersections between the current RL and proposed RML zoning development scenarios. This is because the trip generation differential between the two land use scenarios is very small. This finding is a clear indication that the proposed RML zoning will not "significantly affect" any existing or planned transportation facility. Thus, the proposed land use action is in compliance with the State's Transportation Planning Rule.

**CONCLUSIONS AND RECOMMENDATIONS**

Based on the findings documented in this study, the Applicant's proposal to rezone the 5.44 acre site from Residential Low Density (RL) to Residential Medium-Low Density (RML) will have no "significant effect" upon any existing or planned transportation facilities. Thus, the proposed land use action is in compliance with the State's Transportation Planning Rule and should be approved by the City of Tualatin.

## INTRODUCTION

This study addresses the long-range transportation impacts of a proposed plan map amendment by Marquis Companies (referred to herein as the "Applicant") to rezone a tract of land from Residential Low Density (RL) to Residential Medium-Low Density (RML) in the City of Tualatin. The subject property is located on the northwest corner of the SW Boones Ferry Road/SW Sagert Street intersection and is part of the former site of the Tualatin Elementary School. Although the former school site is located on a single tax lot totaling 13.37 acres in size, the Applicant is proposing to do a tax line adjustment to split the property into two separate parcels. It will be the easternmost parcel totaling 5.44 acres in size and with frontage primarily along SW Boones Ferry Road that is the subject of the proposed plan map amendment and effort to achieve the new RML zoning. The separate parcel that remains to the west will retain its current RL zoning.

A site vicinity map is provided in Figure 1 and for information purposes only a conceptual site-specific development plan map is provided in *Appendix "A"* of this report. As shown in the conceptual plan map provided in the appendix, the Applicant intends to develop an elderly care facility on the subject site. But before this can happen, the subject site must be rezoned to an appropriate RML designation. The focus of this study is, therefore, on analyzing the potential impacts of rezoning the subject site, and to assess compliance with the State's Transportation Planning Rule (TPR).

## TRANSPORTATION PLANNING RULE

Division 12 of the States' Transportation Planning Rule (OAR 660-012) gives the Oregon Department of Land Conservation and Development (DLCD) and the City of Tualatin the power to interpret and implement Statewide Planning Goal 12 (Transportation). Section 660-012-0060 of the TPR provides specific language on how to deal with amendments to adopted plans and land use regulations. This section of the TPR states the following:

*(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);*

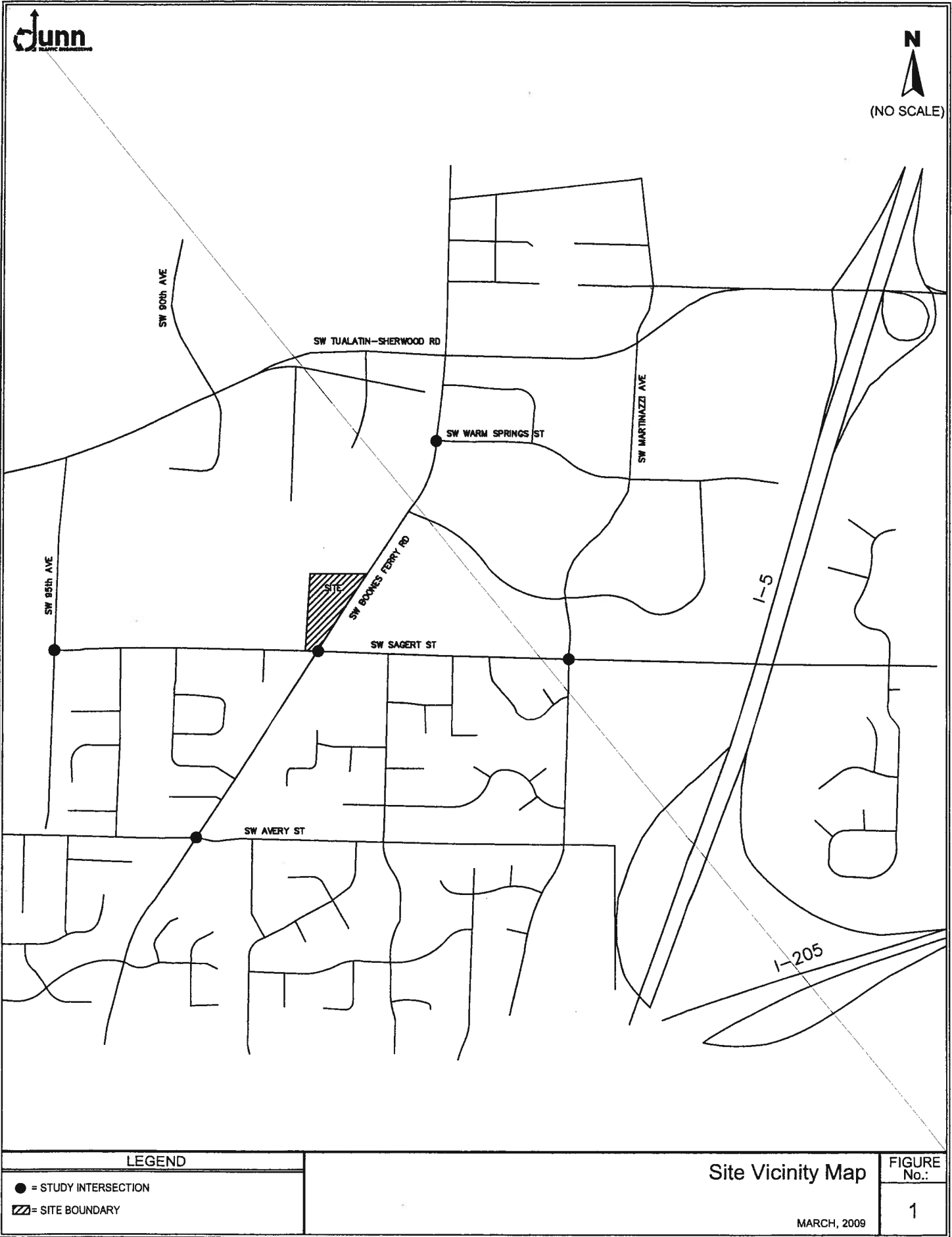
*(b) Change standards implementing a functional classification system; or*

*(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.*



Given that the proposed land use action will result in an amendment to the City's zoning map, it can be construed as an amendment to an acknowledged land use regulation, and therefore, subject to the State's Transportation Planning Rule Section 660-012-0060. This study was prepared to address this section of the OAR. Specifically, this report presents the results of long-range traffic impact analyses comparing reasonable "worst-case" development scenarios for the subject site under the current zoning and under the proposed zoning. As detailed in the following sections of this report, the proposed land use action is not expected to "significantly affect" an existing or planned transportation facility and is, therefore, in compliance with the TPR.

## STUDY SCOPE

The scope of this study was established through an assessment of the site's anticipated traffic impact area, by a pre-application conference meeting with the City, and through a coordinated scoping arrangement with city staff. This study was also prepared in a manner that complies with the transportation policies defined by the City's Development Code.

### Study Content

This study identifies the transportation-related impacts associated with the proposed land use action. Specifically, this report addresses the following transportation issues to test whether or not the proposed land use action complies with the Transportation Planning Rule:

- A review of existing transportation system conditions, including an inventory of transportation facilities and surrounding land uses, and an analysis of weekday a.m. and p.m. peak hour operations at key intersections.
- A review of transportation improvement projects planned for the study area and preparation of a future 20-year traffic forecast for the year 2029.
- An assessment of various trip generation scenarios for the subject site, including the following:
  - Reasonable "worst case" development scenario under the current RL zoning;
  - Reasonable "worst case" development scenario under the proposed RML zoning;
  - Site-specific development scenario that reflects the Applicant's intention to ultimately develop an elderly care facility on the subject site; and,
  - Scenario that reflects the subject site under its former use as an elementary school.
- An assessment of future 20-year operating conditions during the weekday a.m. and p.m. peak hours at key study intersections under the following two separate development scenarios:
  - 1) Reasonable "worst case" development under the current RL zoning, and
  - 2) Reasonable "worst case" development under the proposed RML zoning.
- An assessment of whether or not the proposed plan map amendment and zone change will "significantly affect" an existing or planned transportation facility per OAR 660-012 of the State's Transportation Planning Rule.
- Identification of any off-site transportation system deficiencies and potential mitigation measures that may be necessary to ensure compliance with the operational standards enforced by the City of Tualatin and the policies of the States' Transportation Planning Rule.
- Conclusions and recommendations.

### Determination of Impact Area

Based on discussions with city staff, the limits of this study shall extend to those transportation facilities that are contained within the "impact area" of the project. A suitable resource used in establishing what exactly is the "impact area" for this project was the Washington County Resolution & Order 86-95. This document defines the "impact area" of development site to be those roadway sections and intersections that will experience a ten percent or higher increase in vehicular traffic as a result of traffic generated by the development. Based on this criteria, Tables 1 and 2 were prepared to define the "impact area" of the subject site based on a worst-case estimate of respective weekday a.m. and p.m. peak hour trips that would be generated under a development scenario that reflects the proposed RML zone.

**TABLE 1**  
**Determination Of Impact Area Roadways**  
**(Weekday AM Peak Hour Period)**

Roadway	Street Segment Location	Existing Two-Way Traffic <sup>1</sup>	Site-Added Traffic <sup>2</sup>	Percent Impact	Impact Area Road?
SW 95 <sup>th</sup> Avenue	North of SW Sagert Street	309	3	1.0%	No
SW Boones Ferry Road	North of SW Warm Springs Street	1082	13	1.2%	No
	SW Warm Springs Street to SW Sagert Street	1102	13	1.2%	No
	SW Sagert Street to SW Avery Street	1281	11	0.9%	No
	South of SW Avery Street	1361	4	0.3%	No
SW Martinazzi Avenue	North of SW Sagert Street	1017	4	0.4%	No
SW Sagert Street	SW 95 <sup>th</sup> Avenue to SW Boones Ferry Road	363	3	0.8%	No
	SW Boones Ferry Road to SW Martinazzi Avenue	684	7	1.0%	No
	East of SW Martinazzi Avenue	713	3	0.4%	No
SW Avery Street	West of SW Boones Ferry Road	865	7	0.8%	No

1. Based on current intersection turn movement counts collected for this study..

2. Based on a worst-case trip generation and traffic assignment estimate for development under the proposed RML zone.

**TABLE 2**  
**Determination Of Impact Area Roadways**  
**(Weekday PM Peak Hour Period)**

Roadway	Section Location	Existing Traffic	Site-Added Traffic <sup>2</sup>	Percent Impact	Impact Area Road?
SW 95 <sup>th</sup> Avenue	North of SW Sagert Street	268	3	1.1%	No
SW Boones Ferry Road	North of SW Warm Springs Street	1380	16	1.2%	No
	SW Warm Springs Street to SW Sagert Street	1292	16	1.2%	No
	SW Sagert Street to SW Avery Street	1377	13	0.9%	No
	South of SW Avery Street	1491	5	0.3%	No
SW Martinazzi Avenue	North of SW Sagert Street	1208	5	0.4%	No
SW Sagert Street	SW 95 <sup>th</sup> Avenue to SW Boones Ferry Road	237	3	1.3%	No
	SW Boones Ferry Road to SW Martinazzi Avenue	654	10	1.5%	No
	East of SW Martinazzi Avenue	861	5	0.6%	No
SW Avery Street	West of SW Boones Ferry Road	1013	8	0.8%	No

1. Based on current intersection turn movement counts collected for this study..

2. Based on a worst-case trip generation and traffic assignment estimate for development under the proposed RML zone.

#### Identified Study Intersections

As shown in Tables 1 and 2 above, no roadway segments or intersections are anticipated to experience a ten percent or more increase in traffic as a result of new traffic that may be generated by the proposed plan map amendment/zone change. Nevertheless, city staff has required that the operational impacts at the following five intersections be analyzed during the specified weekday a.m. and p.m. peak hour analysis periods:

- SW Boones Ferry Road/SW Warm Springs Street;
- SW Boones Ferry Road/SW Sagert Street;
- SW Boones Ferry Road/SW Avery Street;
- SW 95<sup>th</sup> Avenue/SW Sagert Street; and,
- SW Martinazzi Avenue/SW Sagert Street.

## EXISTING TRANSPORTATION CONDITIONS

The existing conditions analysis identifies conditions of the subject site and surrounding land uses, provides an inventory of the geometric characteristics of roadways in the study area, and summarizes existing traffic operations at the identified study intersections. The purpose of this discussion is to provide a basis for comparison to future long-range conditions analyses.

### SUBJECT SITE CONDITIONS

The subject property is part of the former Tualatin Elementary School site which include a series of school buildings, a parking lot on the east side of the school fronting SW Boones Ferry Road, a parking lot on the southwest side of the school fronting SW Sagert Street, a playground on the west side of the school and open recreational fields to the north.

As mentioned previously, the former school site is located on a single tax lot totaling 13.37 acres in size. However, the Applicant is proposing to do a tax line adjustment to split the property into two separate parcels. It will be the easternmost parcel totaling 5.44 acres in size and with frontage primarily along SW Boones Ferry Road that is the subject of the proposed plan map amendment and effort to achieve the new RML zoning. The separate parcel that remains to the west will retain its current RL zoning.

The Applicant intends to have the old Tualatin Elementary School building demolished before constructing an elderly care facility.

### SURROUNDING LAND USES

The land uses surrounding the subject site are urban in nature and well established with little to no developable property remaining. Proceeding north, there is an established apartment complex located on land zoned for Residential High Density (RH) uses. Further to the north and across the P&W Railroad there are established industrial businesses located in an area zoned for Light Manufacturing (ML). Immediately west of the site is another apartment complex located on property zoned for RML uses. To the south and east of the subject property lie established single family residential neighborhoods, all of which are located in the current RL zoning district. The only exception to this is a church located kitty-corner to the subject site on the southeast corner of the SW Boones Ferry Road/SW Sagert Street intersection.

### ROADWAY FACILITIES

An inventory was performed in November 2008 of all roadway facilities within the site's study area. These facilities are described in Table 1 and the following sections. Figure 2 identifies the location of all study intersections and their respective lane configurations and traffic control devices. It should be emphasized here that all identified study intersections are under the jurisdiction of the City of Tualatin.

#### SW 95<sup>th</sup> Avenue

SW 95<sup>th</sup> Avenue is a *Minor Collector* street that proceeds in a north-south direction from Tualatin-SW Sherwood Road down to SW Avery Street. This roadway provides access to adjacent industrial businesses, residential neighborhoods, and a church. At its intersection with SW Sagert Street, stop-control is established in the west approach of SW Sagert Street and the east approach of a private driveway, with free-flowing conditions on the north-south approaches.

#### SW Boones Ferry Road

SW Boones Ferry Road is a *Major Arterial* roadway that proceeds in a northeast-southwest direction serving as a regional connector between Lake Grove and the town center of Tualatin to the north and the



City of Wilsonville to the south. The roadway also serves and connects with established residential neighborhoods, churches, and schools in the site vicinity.

Traffic signal installations are present at each of the three study intersections that intersect SW Boones Ferry Road. The traffic signal at SW Warm Springs Street has permitted left-turn signal phasing on the east-west approaches of SW Warm Springs Street/Private Commercial Driveway and protected/permissive left-turn signal phasing on SW Boones Ferry Road. At the traffic signals with SW Sagert Street and SW Avery Street, all left-turn movements operate under protected left-turn signal phasing.

**TABLE 3**  
**Roadway Facility Inventory**

Roadway	Classification	Cross-Section	Speed Limit (mph)	Sidewalks?	Bicycle Lanes?	On-Street Parking?
SW 95 <sup>th</sup> Avenue (North of SW Sagert Street)	Minor Collector (Cb&p)	3 lanes	35	Yes	No	No
SW 95 <sup>th</sup> Avenue (South of SW Sagert Street)	Minor Collector (Cb&p)	2 lanes	20	Yes	Yes-East	Yes-West
SW Boones Ferry Road (SW Warm Springs Street to SW Avery Street)	Major Arterial (Eb&t)	2-4 lanes	30/35	Yes*	Yes**	No
SW Martinazzi Avenue (North of SW Sagert Street)	Major Arterial (Eb&t)	5 lanes	35	Yes	Yes	No
SW Martinazzi Avenue (South of SW Sagert Street)	Minor Collector (Cb)	2 lanes	35	Yes	Yes	No
SW Warm Springs Street (East of SW Boones Ferry Road)	Minor Collector (Cb)	3 lanes	Not Posted	Yes	No	No
SW Sagert Street (SW 95 <sup>th</sup> Avenue to SW Boones Ferry Road)	Minor Collector (Cb&p)	2 lanes	25	Yes-North Partial-South	Yes	Partial-South
SW Sagert Street (SW Boones Ferry Road to SW Martinazzi Avenue)	Major Arterial (Eb&t)	2 lanes	30	Yes	Yes	No
SW Avery Street (West of SW Boones Ferry Road)	Minor Collector (Cb&t)	2 lanes	25	Yes	Yes	No
SW Avery Street (East of SW Boones Ferry Road)	Residential Collector (Cr)	2 lanes	25	Yes	No	Yes

\*- Sidewalk lacking along west side of Boones Ferry Road from along the site frontage and extending south to SW Avery Street.

\*\*- Bicycle lanes are lacking on the east side from south of SW Warm Springs Street to SW Tualatin-Sherwood Road.

### SW Martinazzi Avenue

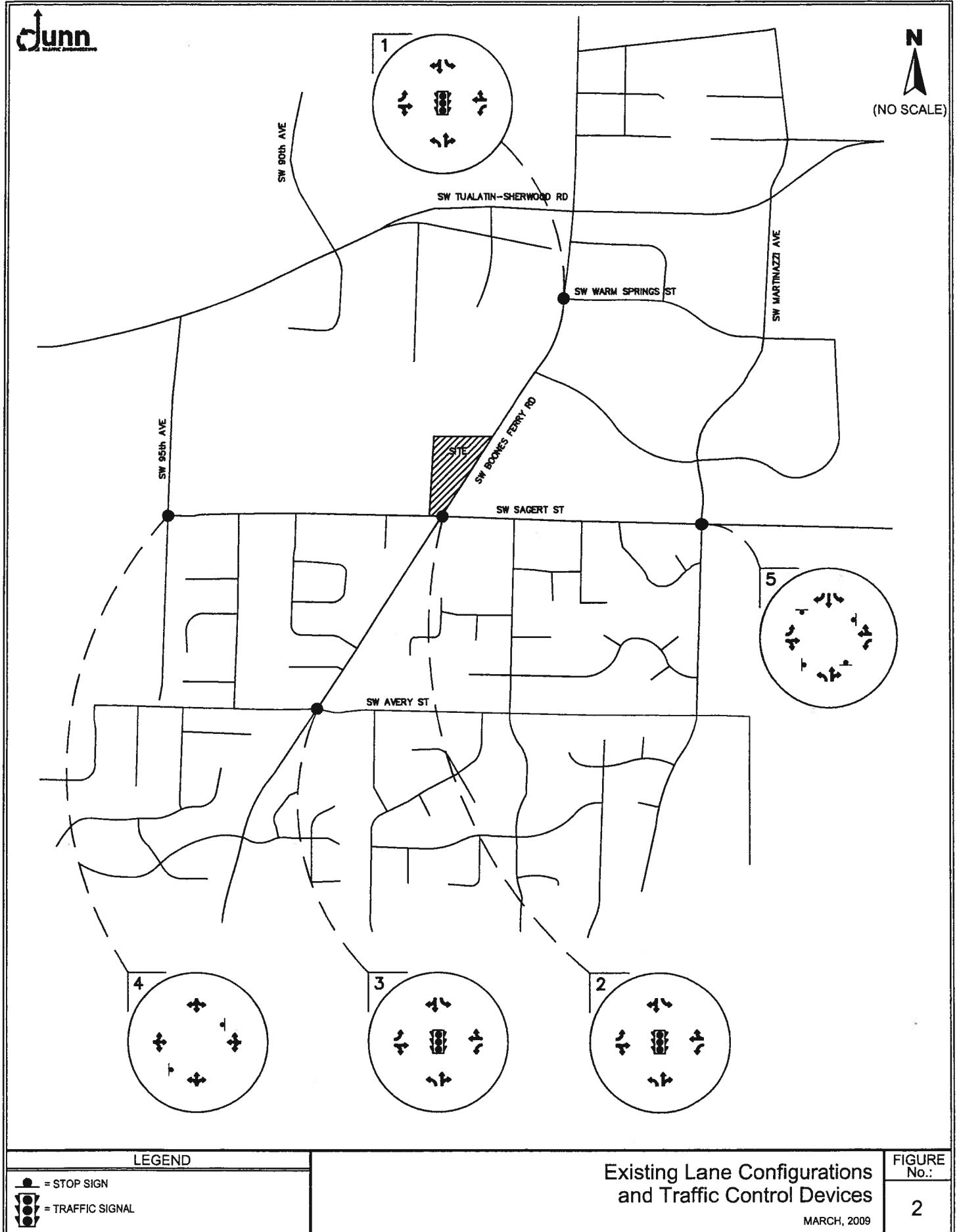
SW Martinazzi Avenue is a *Major Arterial* roadway between SW Tualatin-Sherwood Road and SW Sagert Street, and becomes a *Minor Collector* street south of SW Sagert Street. This north-south roadway provides access between SW Tualatin-Sherwood Road and a major commercial shopping center (Fred Meyer) to the north and residential neighborhoods to the south. The intersection between SW Sagert Road and SW Martinazzi Avenue operates under all-way stop control.

### SW Warm Springs Street

SW Warm Springs Street is a *Minor Collector* roadway that extends east off of SW Boones Ferry Road. This roadway primarily serves local area offices and commercial and retail businesses

### SW Sagert Street

SW Sagert Street is a *Minor Collector* roadway from SW 95<sup>th</sup> Avenue to SW Boones Ferry Road and a *Major Arterial* roadway between SW Boones Ferry Road and SW Martinazzi Avenue. This east-west roadway distributes local area traffic from the higher-functioning north-south arterial roadways to local residential neighborhood streets.



### SW Avery Street

SW Sagert Street is a *Minor Collector* roadway west of SW Boones Ferry Road and a *Residential Collector* street east of SW Boones Ferry Road. This east-west roadway distributes local area traffic from SW Tualatin-Sherwood Road to the west with local residential neighborhoods to the east.

## **PEDESTRIAN AND BICYCLE FACILITIES**

For the most part there are adequate and continuous bicycle lane facilities present along most of the study area roadways including SW Boones Ferry Road, SW Martinazzi Avenue, SW Sagert Road, and along SW Avery Street west of SW Boones Ferry Road. There are, however several locations where bicycle lanes are lacking. One location is along the east side of SW Boones Ferry Road from south of SW Warm Springs Street up to SW Tualatin-Sherwood Road. A second location is along the west side of SW 95<sup>th</sup> Avenue from SW Sagert Street up to SW Tualatin-Sherwood Road and along both sides of SW 95<sup>th</sup> Avenue down to SW Avery Street. A third location is along SW Warm Springs Street, as it proceeds east of SW Boones Ferry Road.

Continuous sidewalk facilities are common along the study area roadways. There are, however, a few locations where adequate sidewalk facilities do not exist. One location is along the site frontage of the west side of SW Boones Ferry Road. Sidewalks are also lacking along the west side of SW Boones Ferry Road from SW Sagert Street down to SW Avery Street. There are also discontinuous, or intermittent sidewalks present along the south side of SW Sagert Street from SW 95<sup>th</sup> Avenue to SW Boones Ferry Road.

## **EXISTING TRAFFIC VOLUMES**

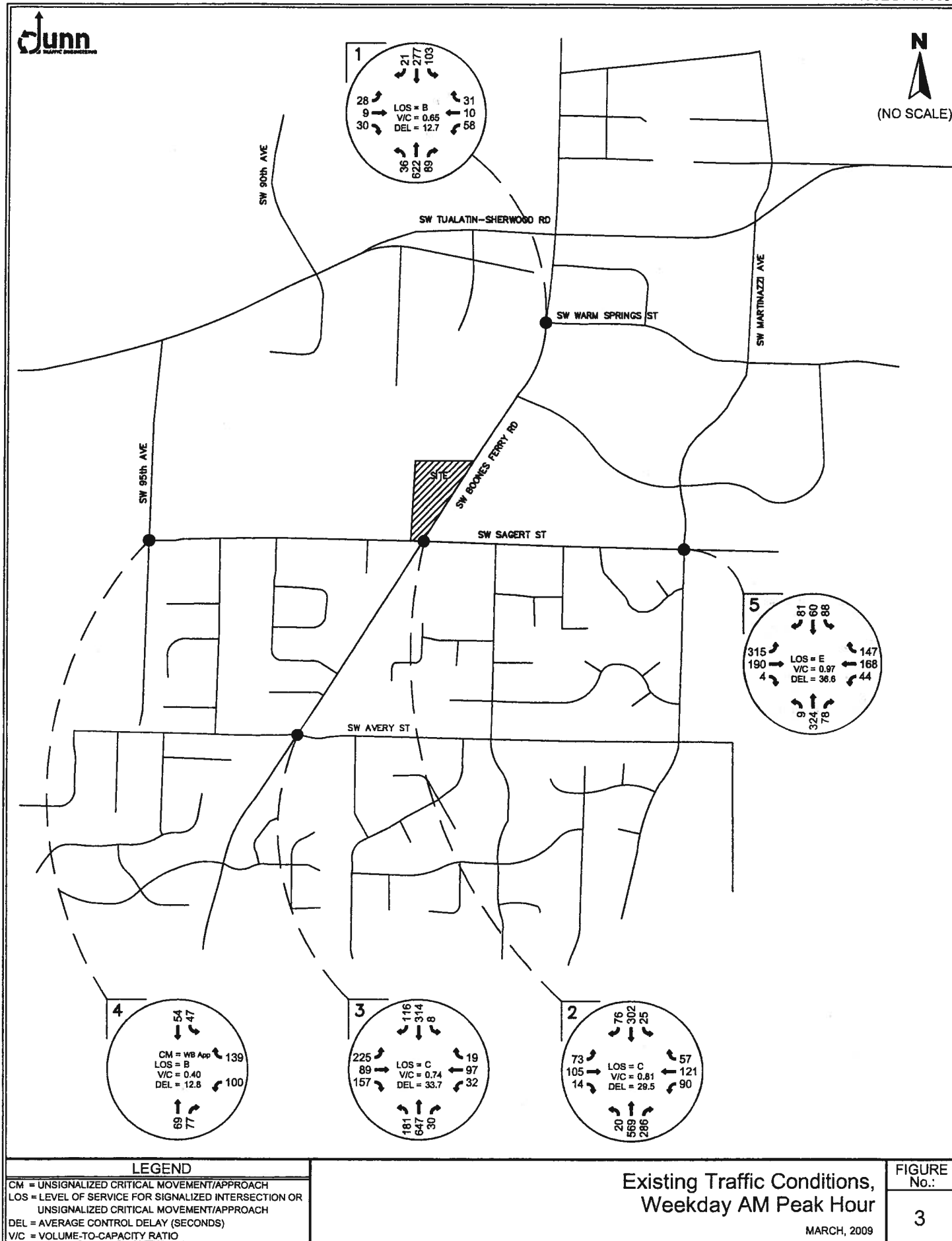
Based on discussions with city staff and an understanding of general traffic conditions along the study area roadways, it was determined that the weekday a.m. and p.m. peak hour periods represents the most critical time periods for evaluating traffic conditions at the identified study intersections. Therefore, turn movement traffic counts were collected at each of the five study intersections on a mid-week day in November 2008 during the morning (7-9 a.m.) and the afternoon (4-6 p.m.) commute periods. Based on the results of the traffic count data, the weekday a.m. peak hour was found to occur between 7:25 a.m. and 8:25 a.m. while the weekday p.m. peak hour was found to occur between 4:40 p.m. and 5:40 p.m. *All traffic count data sheets collected for this study are provided in Appendix "B".*

Figures 3 and 4 illustrate the existing year turn movement traffic volumes at all study intersections during the weekday a.m. and p.m. peak hours, respectively.

## **INTERSECTION OPERATING STANDARDS**

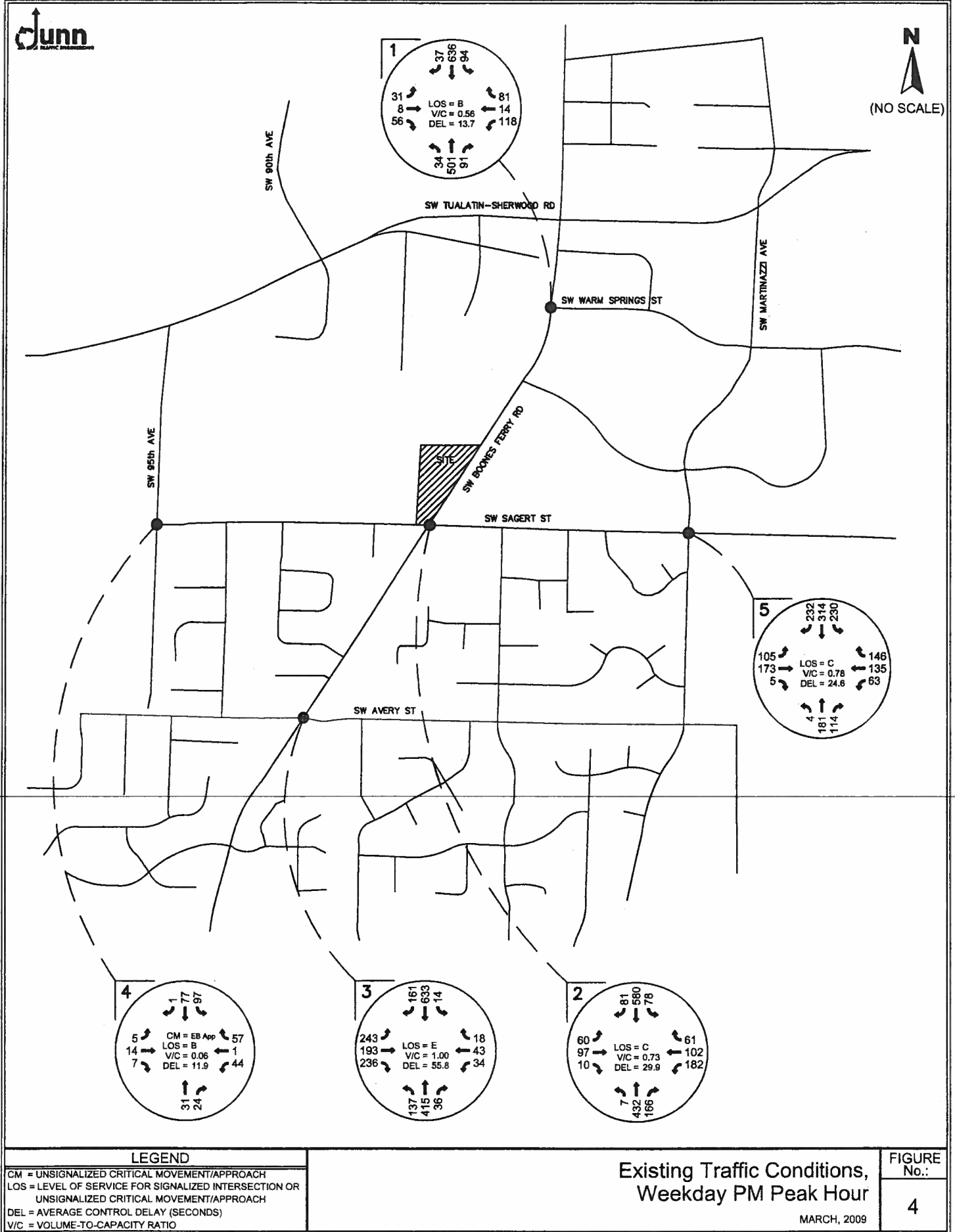
All intersection operations analyses described in this report for signalized and unsignalized stop-controlled intersections were performed using the *Traffix* program in accordance with the procedures stated in the *2000 Highway Capacity Manual* (Reference 1). *A description of level of service and the criteria by which they are determined is presented in Appendix "C."* This appendix indicates how level of service is measured and what is generally considered the acceptable range of level of service.

Intersection operational performance is generally measured by two variables: Level of Service (LOS) and the volume-to-capacity (v/c) ratio. Level-of-service ranges from LOS "A", which indicates good operating conditions, to LOS "F" which indicates a high level of congestion and delay. The v/c ratio is a description of an intersection's capacity to handle demand. At signalized intersections, level of service is based on the average control delay per vehicle for the entire intersection, while the v/c ratio is a measurement of intersection's capacity to accommodate only the critical movements. For unsignalized intersections, operational performance is also measured by level of service and the volume-to-capacity ratio. However, the LOS and v/c ratio are based on the average control delay per vehicle for the critical movement (typically the left-turn or entire approach of the intersecting minor street).

Existing Traffic Conditions,  
Weekday AM Peak HourFIGURE  
No.:

3

MARCH, 2009



Existing Traffic Conditions,  
Weekday PM Peak Hour

Per Section 1.032 (Amendments- Burden of Proof), Section 11.610 (Transportation Goals and Objectives), and Section 11.620 (Street System Plan) of the Tualatin Development Code, the City enforces a Level of Service "F" policy for the p.m. peak hour and LOS "E" policy for the one-half hour before and after the p.m. peak hour in the Town Center of the city. Outside of this Town Center area, the City enforces a LOS "E" standard for both the weekday p.m. peak hour and the one-half hour periods before and after the peak hour. These LOS F/E and LOS E/E standards apply only for transportation system planning and plan text and plan map amendments, but not for development applications.

Based on the City operating standards and the Design Type Boundaries identified in Map 9-4 of the City's Development Code, the LOS F/E standard applies to the SW Boones Ferry Road/SW Warm Springs Street intersection while the LOS E/E standard applies to all remaining study intersections which lie outside the Town Center area.

## PEAK HOUR OPERATIONS

Figures 3 and 4 also summarize the existing operations analysis results for all study intersections during the weekday a.m. and p.m. peak hours. *Appendix "D" includes the existing level of service worksheets.*

As the results in the figures show, all five study intersections are currently operating at levels which meet the level-of-service standards enforced by the City of Tualatin during the weekday a.m. and p.m. peak hours. However, it should be emphasized that the signalized intersection at SW Boones Ferry Road and SW Avery Street is shown to be operating with a v/c ratio of 0.97 during the weekday a.m. peak hour, indicating the intersection has almost reached full capacity. Also, the all-way stop-controlled intersection at SW Martinazzi Avenue and SW Sagert Street is shown to be operating right at a v/c ratio of 1.00 during the weekday p.m. peak hour, indicating the intersection already reached full capacity.

## FUTURE YEAR 2029 TRAFFIC CONDITIONS

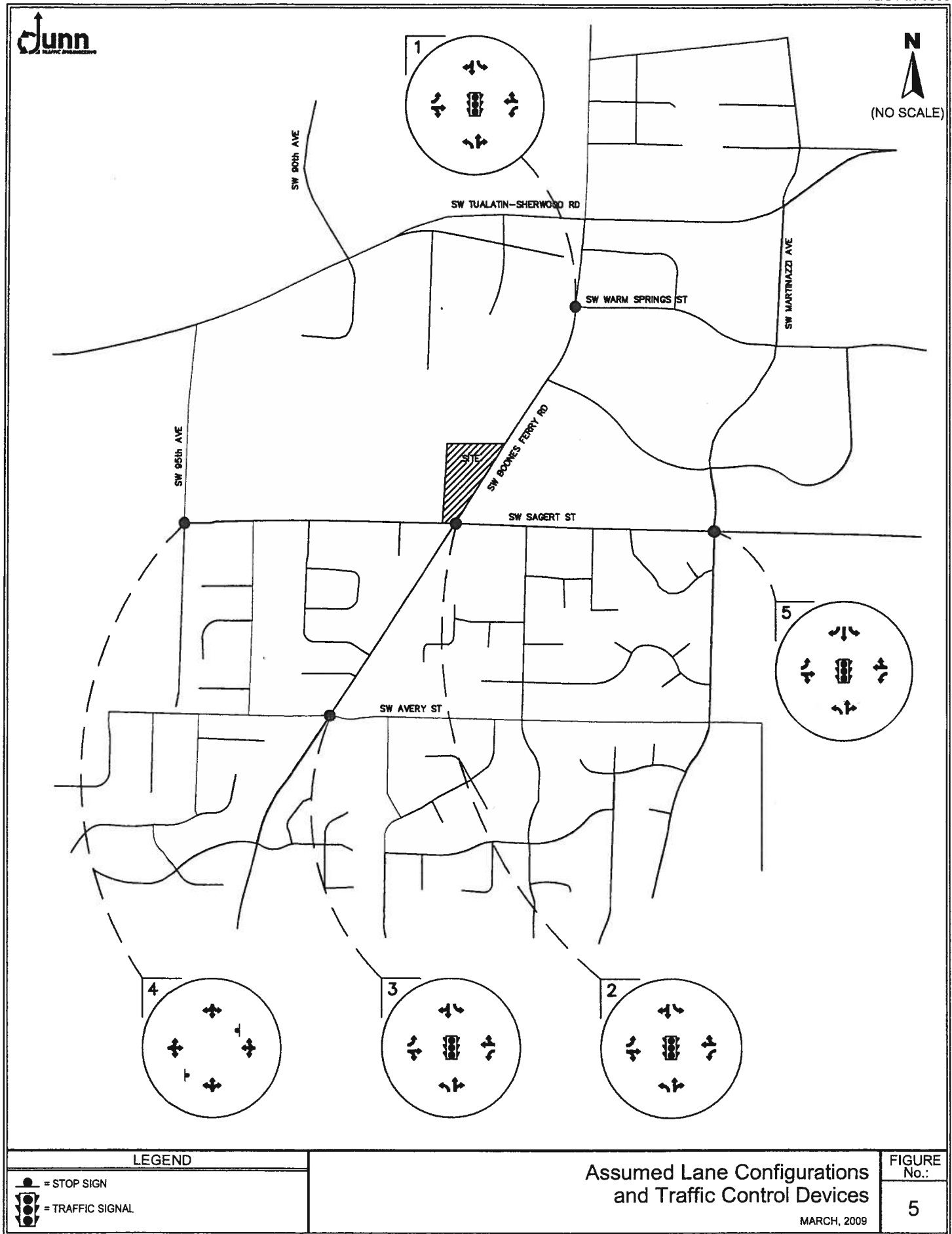
The future traffic conditions analysis examines how the study area's transportation system will operate in the year 2029 under two separate reasonable "worst case" development scenarios. The first scenario assumes development will occur on the subject site in accordance with its current RL zoning, while the second scenario assumes the subject site will be developed under the proposed RML zoning. Both long-range analyses take into consideration traffic growth projections and planned transportation system improvements expected to occur in the area over the next 20 years, as envisioned by the City's Transportation System Plan and the City's Development Code.

### PLANNED TRANSPORTATION IMPROVEMENTS

Future transportation improvements assumed to be in place by the year 2029 were identified through a review the City's Transportation System Plan, the City's Development Code (Chapter 11 -Transportation), and through detailed discussions with city staff on which transportation projects are reasonably likely to occur within the forecast period. This process led to the identification of seven transportation projects. They are identified and described below in Table 4 along with a description of each project's possible impact on the study area intersections. Based on these planned improvements, Figure 5 illustrates the resulting lane configurations and traffic control devices assumed to be in place by 2029. It should be emphasized here that the only changes relative to existing traffic control conditions are a new traffic signal installation at the SW Martinazzi Avenue/SW Sagert Road intersection and enhanced vehicle progression along SW Boones Ferry Road from the signal interconnect.

**TABLE 4**  
**Planned Transportation Improvement Projects**

Project	Description	Impact on Study Area Intersections
I-5 to 99W Connector Project	This major transportation improvement project will consist primarily of three new and/or improved east-west arterial routes connecting I-5 in Tualatin with OR 99W in Sherwood, plus the extension/connection of a new north-south arterial route along the SW 124 <sup>th</sup> Avenue alignment connecting OR 99W to the north with each of the three new east-west arterial routes. (Go to <a href="http://www.i5to99w.org">http://www.i5to99w.org</a> for a full detailed description of Alternative #7 recommendation)	It is likely this project will draw future traffic demand away from the northern sections of SW Boones Ferry Road and SW Martinazzi Avenue in the study area as it will provide residents in the southern portions of the City with enhanced arterial and interstate freeway access to the south towards Wilsonville.
Martinazzi Avenue Widening	Add a new southbound travel lane from Warm Springs Street to Sagert Street.	No impact. (This TSP project has already been completed.)
Sagert Street/Martinazzi Avenue Signal	Construction of a traffic signal	This project will increase intersection capacity.
Boones Ferry Road Signal Interconnect	Establish a signal interconnect between the traffic signals along SW Boones Ferry Road, south of Tualatin-Sherwood Road.	This project will help reduce vehicle delays in the corridor by progressing traffic more efficiently via vehicle platooning.
Sagert Street Connection to 95 <sup>th</sup> Avenue	Extend and connect Sagert Street west to 95 <sup>th</sup> Avenue.	No Impact (This TSP project has already been completed.)
95 <sup>th</sup> Avenue Connection to Avery Street	Extend and connect 95 <sup>th</sup> Avenue down to Avery Street.	No Impact (This TSP project has already been completed.)
Boones Ferry Road Sidewalk Completion	Establish continuous sidewalks on both sides of Boones Ferry Road from Tualatin-Sherwood Road down to Avery Street.	No impact on vehicle-carrying capacity of Boones Ferry Road.





## FUTURE TRAFFIC FORECAST METHODOLOGY

The future traffic forecast prepared for this study was based primarily on traffic data provided by the Washington County DLUT, using a regional travel demand forecast model that was developed specifically for the I-5 to OR 99W Connector project. The traffic model data provided by the Washington County DLUT reflects conditions for the weekday p.m. peak hour and covers a base year 2005 and a planning horizon year of 2030, which also reflects the improvements planned for the I-5 to OR 99W Connector project (recommended Alternative #7 solution). This information was used to calculate the traffic volume growth trends at each of the study area intersections over the next 20 years. The calculated increases in intersection traffic volumes over this forecast period were then added to the base year weekday p.m. peak hour traffic volumes that were observed from the traffic counts taken last November in 2008.

Once the future traffic forecast volumes were estimated at the five study intersections for the weekday p.m. peak hour, a future traffic forecast was then prepared to reflect conditions for the weekday a.m. peak hour. Since there is no traffic model data available for this morning period, the growth patterns determined from the weekday p.m. peak hour model output were utilized. This was done by calculating the average intersection growth rates between the base year 2005 model data and the future year 2030 model data for the weekday p.m. peak hour and applying these growth rates to the base year weekday a.m. peak hour traffic volumes observed from the November 2008 traffic counts.

One of the last steps taken to prepare the future traffic forecast for this study was to account for traffic that may be generated by future development activities on the western portion of the former Tualatin Elementary School site. Once the subject site is partitioned by the Applicant as described in this report, there will be approximately 7.93 acres of unused, or vacant property immediately to the west. For the purpose of preparing a conservative, or worst-case traffic forecast scenario for this study, it was assumed that this adjacent parcel of 7.93 acres would fully develop under the current RL zoning at the maximum density of 6.4 units per acre. This resulted in an estimate of 51 new single family detached homes. The estimated trips associated with this type of activity were then assigned to the surrounding street system as part of the future traffic forecast.

*Detailed worksheets documenting the methodologies used to determine the separate weekday a.m. and p.m. peak hour traffic forecasts for this study are provided in Appendix "E" of this report. It should be emphasized here that the future traffic volume estimates at this stage of the traffic forecast still do not reflect vehicle trips associated with development on the subject site. They only account for background traffic growth. The next section of this report describes various potential trip generation scenarios that may be possible for the subject site.*

## SITE TRIP GENERATION POTENTIAL

To understand the maximum trip-generating potential of the subject site, two reasonable "worst-case" development scenarios were analyzed: one representing development under the current RL zoning and another for the proposed RML zoning. The trip generation estimates for these two scenarios were prepared for the average weekday and for the weekday a.m. and p.m. peak hour periods using the standard reference *ITE Trip Generation Manual, 7<sup>th</sup> Edition* (Reference 2). The results are shown in Table 5 along with their comparative differences.

**TABLE 5**  
**Potential Site Trip Generation Scenarios**  
**(Current VS. Proposed Zoning)**

Zoning/Land Use	ITE Code	Size	Weekday Trips	Weekday AM Peak Hour Trips			Weekday PM Peak Hour Trips		
				Total	In	Out	Total	In	Out
Current Zoning -RL (Single Family Home)	210	35 units	396	34	9	25	42	26	16
Proposed Zoning -RML (Apartments)	220	55 units	481	31	6	25	48	31	17
<b>Difference</b>			<b>+85</b>	<b>-3</b>	<b>-3</b>	<b>0</b>	<b>+6</b>	<b>+5</b>	<b>+1</b>

As shown in the previous table, there are very small differences in the trip generation potential of the two development scenarios during weekday a.m. and p.m. peak hours. In fact, during the weekday a.m. peak hour, trips generated by development activity under the proposed RML zoning are expected to be fewer than if the site were developed under the current RL zoning (difference of -3 trips). For the weekday p.m. peak hour, however, there is a slightly higher number of trips estimated to occur under the proposed RML zoning scenario. But such an increase (difference of +6 trips) is insignificant, especially when considering how these trips are diluted once they distribute onto the surrounding street network. As described later in the *Year 2029 Intersection Operations* section of this report, such a small increase in weekday p.m. peak hour trips will have a negligible effect on the operating conditions of the study area intersections.

#### Supplemental Analysis of Site Trip Generation

Although the focus of this study is on the transportation impacts associated with the proposed plan map amendment and zone change, it is important re-emphasize again that the Applicant's end goal is to construct a senior living center on the subject site. The importance of noting this end-goal is because the trip generation potential for a senior living center complex is low, as evidenced by the information presented below in Table 6.

**TABLE 6**  
**Estimated Site Trip Generation**  
**(Senior Living Center)**

Land Use	ITE Code	Size	Weekday Trips	Weekday AM Peak Hour Trips			Weekday PM Peak Hour Trips		
				Total	In	Out	Total	In	Out
Independent Living*	252	80 beds**	297	6	3	3	9	5	4
Assisted Living/ Skilled Nursing	254	110 beds***	293	15	10	5	24	11	13
<b>Total</b>			<b>590</b>	<b>21</b>	<b>13</b>	<b>8</b>	<b>33</b>	<b>16</b>	<b>17</b>

\*- Sufficient data is not available for weekday trip rate for ITE #252 (Senior Adult Housing- Attached). Therefore, the weekday trip rate for ITE #251 (Senior Adult Housing- Detached) was used.

\*\* - Size shown is for occupied beds.

\*\*\* - Size shown is for total number of beds. A total of 50 beds were assumed for skilled nursing care, with a total of 40 assisted living units that contain an even 50/50 split of one- and two-bedroom units (60 total beds).

Comparing the results shown in Table 6 above with the results shown in Table 5, it becomes clear that a senior living center would generate less traffic during the critical weekday a.m. and p.m. peak hours than if the site were developed to its maximum potential under either the current RL or proposed RML zoning.

For additional comparison, further analysis was done to estimate the trips that were previously generated by the subject site when it operated as an elementary school. When the school closed down roughly five years ago, there were 458 students in attendance at the school. Because the subject site comprises only 5.44 acres out of the total 13.37 acres of school property, this student figure was pro-rated and adjusted down to 186 students in order to estimate the school-related trips associated with this portion of property. Using this figure, Table 7 was prepared to summarize the average weekday and weekday a.m. and p.m. peak hour traffic volume estimates for the school when it was operational.

**TABLE 7**  
**Estimated Site Trip Generation**  
**(Former Elementary School)**

Land Use	ITE Code	Size	Weekday Trips	Weekday AM Peak Hour Trips			Weekday PM Peak Hour Trips		
				Total	In	Out	Total	In	Out
Elementary School*	520	186 students**	240	59	32	27	42	19	23

\* - Results shown reflect a pro-rata share of total school site property (5.44 acres out of 13.37 acres in total size).

\*\* - Size shown represents school occupancy figure of 458 students recorded back in October 2003, pro-rated or adjusted downwards to reflect the size of the subject site.

As demonstrated by the previous table and comparing the results to Table 6, the elementary school was likely generating more traffic during the critical weekday a.m. and p.m. peak hours than what will eventually occur on the subject site with a senior living center built on it.

### **SITE TRIP DISTRIBUTION AND ASSIGNMENT**

Figure 6 illustrates the estimated site trip distribution patterns applicable to both zoning development scenarios. The assignment patterns were based on observations of travel patterns made in the field, the turn movement patterns observed from actual traffic counts, and professional judgment. It should also be mentioned here that even though plan map amendments are not site-specific or access-specific, it was assumed for this study that all site traffic would access the street system via SW Boones Ferry Road. This is consistent with the access conditions that currently exist today.

Based on the trip distribution patterns selected for this study, Figures 7 through 10 illustrate the resulting site traffic assignments for the two zoning development scenarios during the weekday a.m. and p.m. peak hours.

### **YEAR 2029 INTERSECTION OPERATIONS**

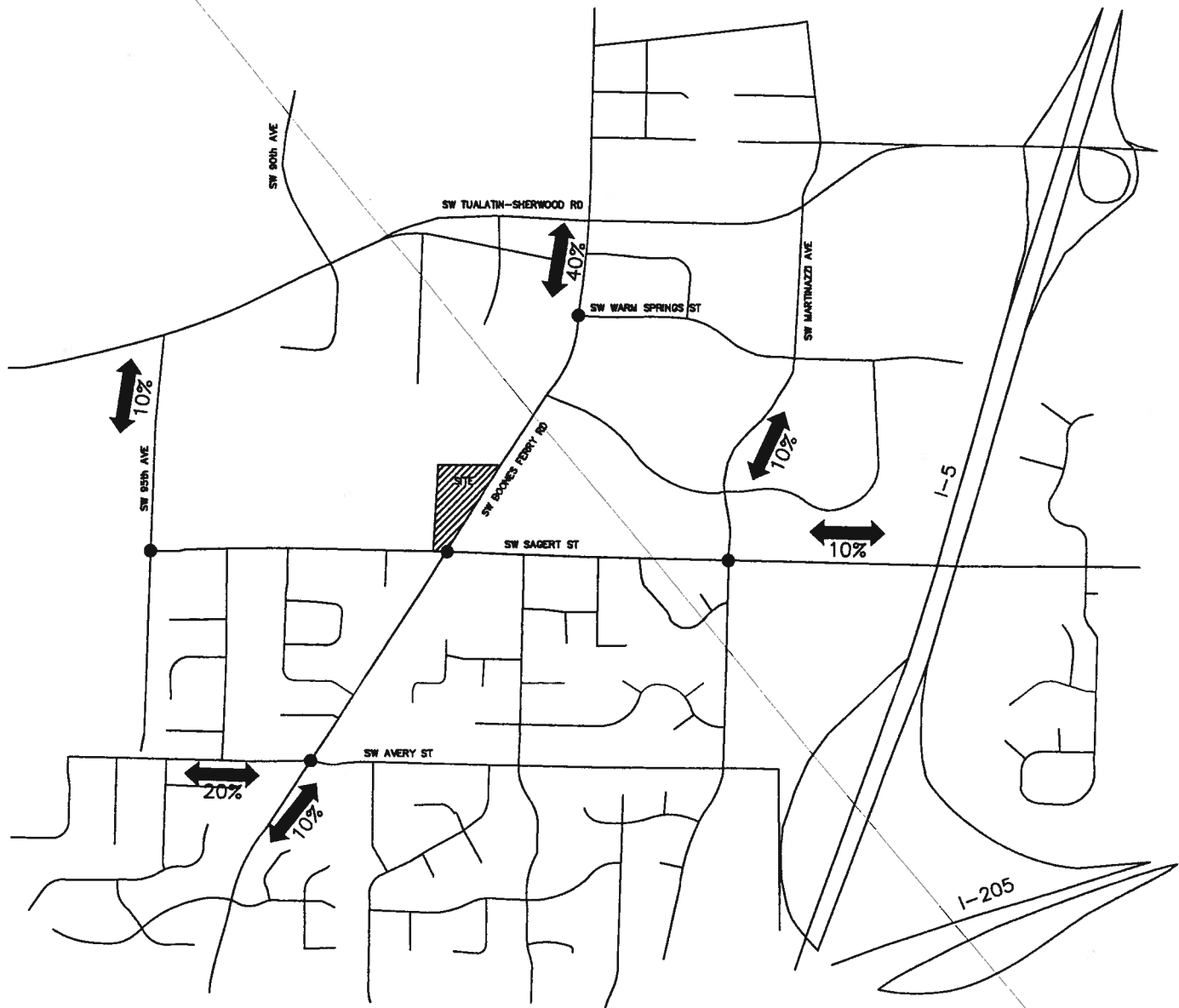
Once the site traffic assignments were determined for their respective land development scenarios and analysis periods, the resulting volumes were added to the year 2029 background traffic forecast volumes that are summarized for each study intersection in *Appendix "E"*.

Figures 11 through 14 illustrate the resulting year 2029 total traffic volumes and operating conditions at all study intersections during the weekday a.m. and p.m. peak hours, under the current and proposed zoning development scenarios, respectively. *Appendices "F" and "G" contain all the traffic conditions level of service worksheets for these two development scenarios, respectively.*

As the results in both figures show, several study intersections are shown to operate at levels which do not meet the City's long-term planning operations standards. Nevertheless, what is critical is that there is no relative difference in the levels-of-service, the volume-to-capacity ratios, or the average driver delays shown for the study intersections when comparing the current RL and proposed RML zoning development scenario results. This is because the trip generation differential between the two land use scenarios is small. This is a clear indication that the proposed RML zoning will not "significantly affect" any existing or planned transportation facility. Thus, the proposed land use action is in compliance with the State's Transportation Planning Rule.

#### **Potential Mitigation Measures**

For future planning purposes, it is worthwhile to identify possible mitigation measures for those study intersections that are expected to operate at a sub-standard level in the year 2029, based on the City's long-range level-of-service policy (LOS F/E for the Town Center Area and LOS E/E for areas outside). Applying the City's planning-level LOS policy along with the assumption that any intersection operating with a v/c ratio greater than 1.0 is sub-standard, a total of three out of the five study intersections have been identified as operating at a sub-standard level in the year 2029. These intersections, and their sub-standard operating conditions are summarized in Table 8 along with a summary of potential mitigation measures that will bring these intersections back into compliance with City operating standards and allow them to function adequately. Again, this effort is not being undertaken to identify possible mitigation measures that can be conditioned upon the Applicant for the proposed zone change, but to relay possible solutions to City planning staff so that they can be better prepared to address the long-term travel demand needs of drivers in the study area. *Appendix "H" contains the level of service analysis worksheets for the identified mitigation measures.*



## LEGEND

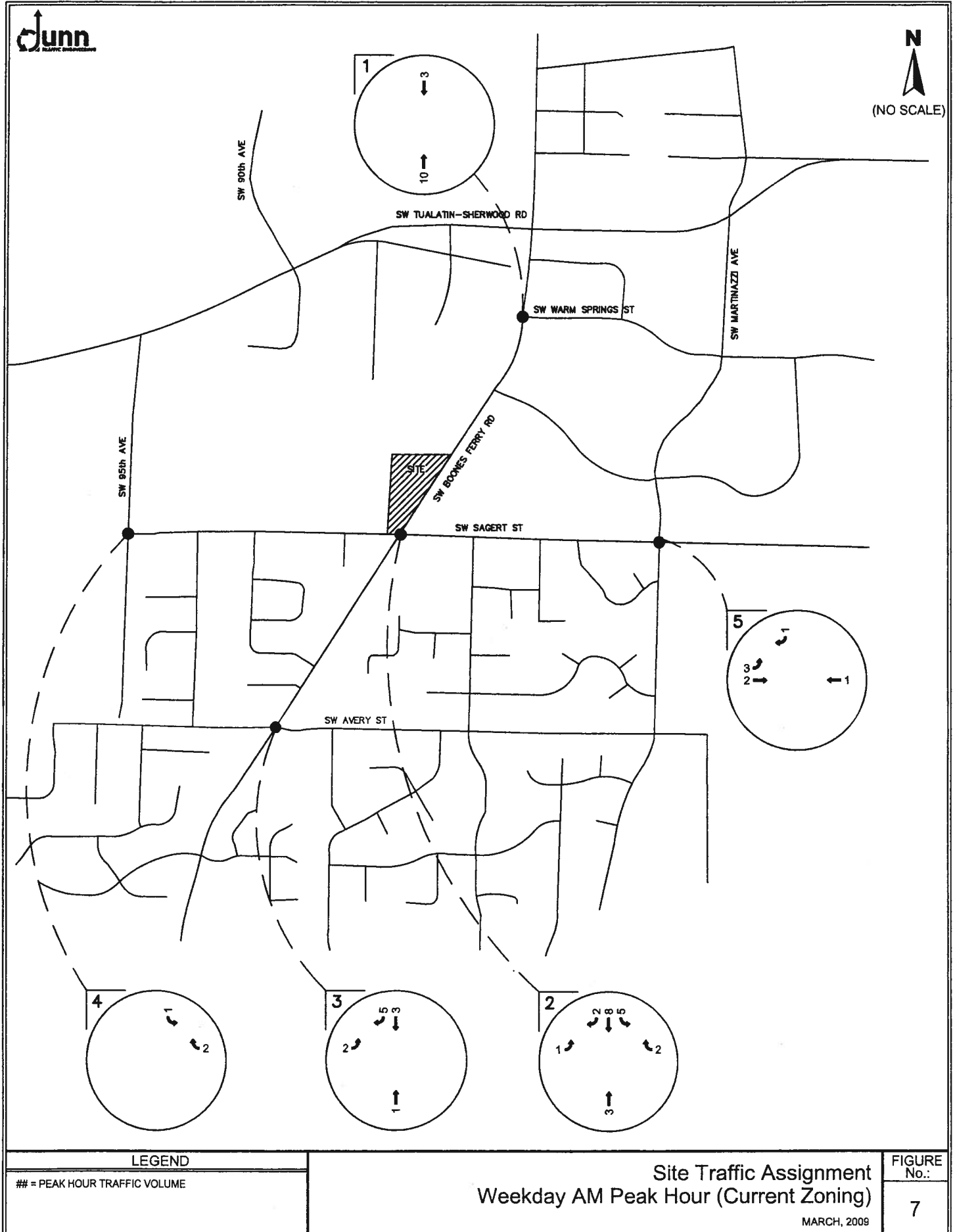
= PERCENT SITE TRIP DISTRIBUTION

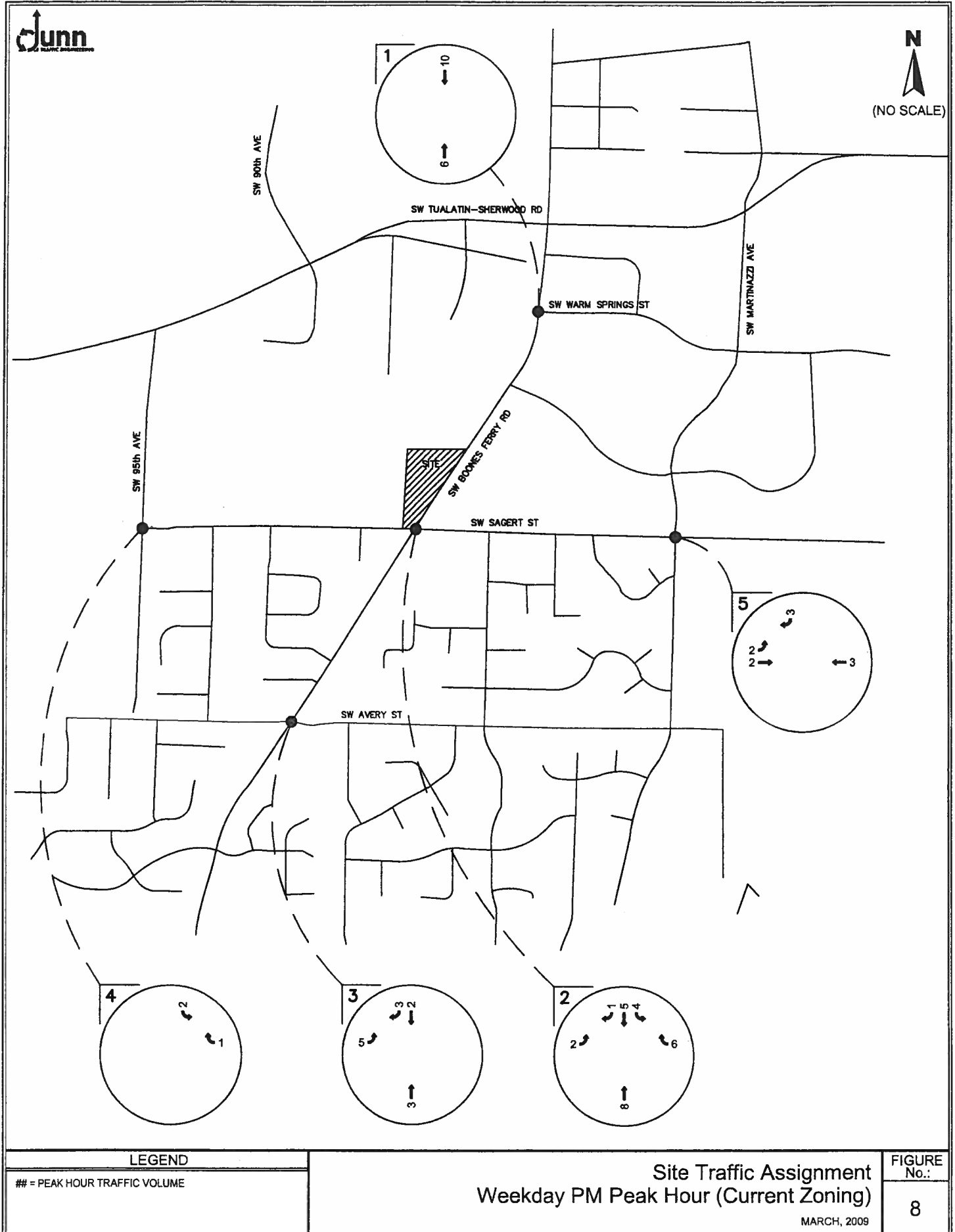
Estimated Site Trip Distribution Patterns  
Weekday AM and PM Peak Hours

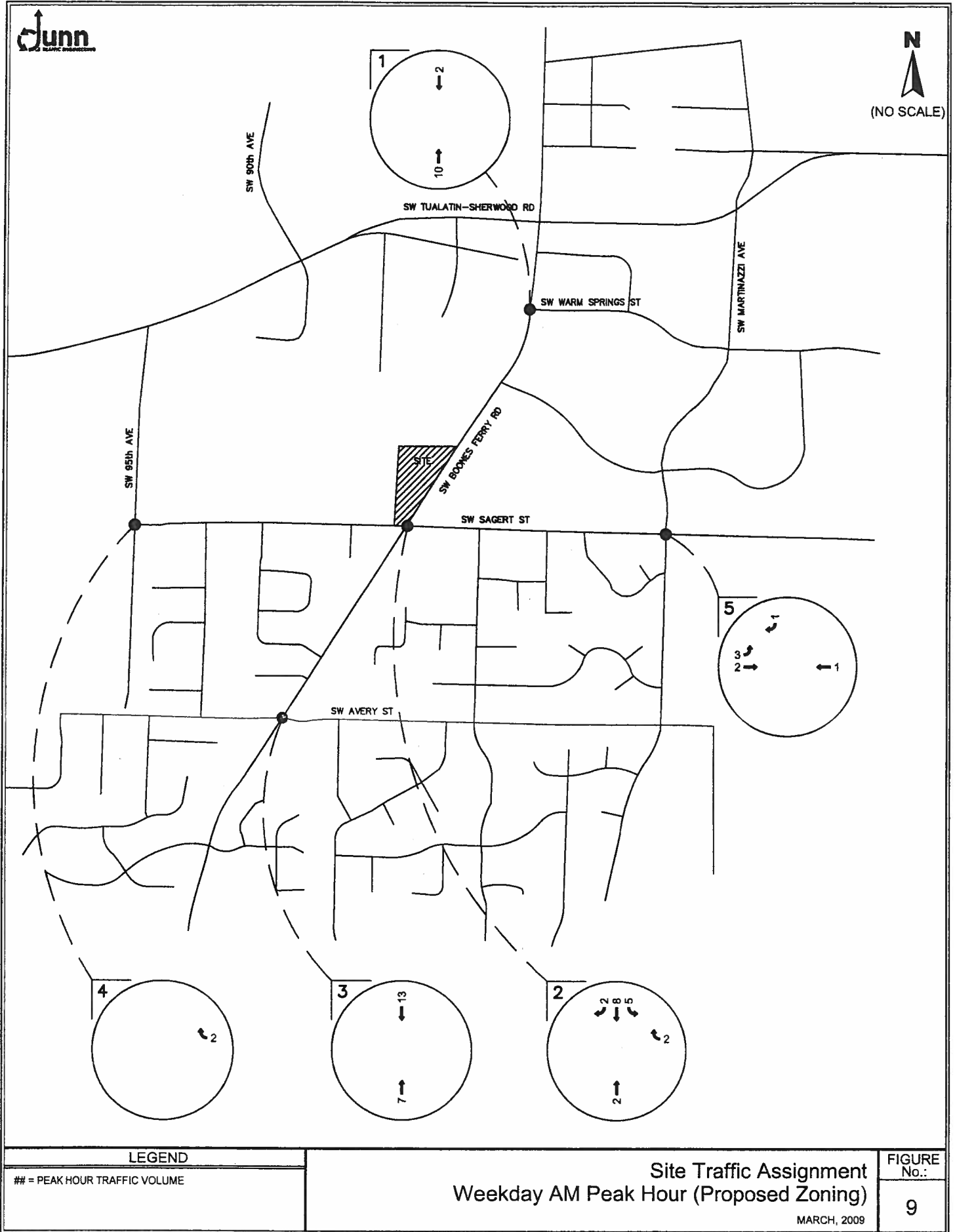
FIGURE  
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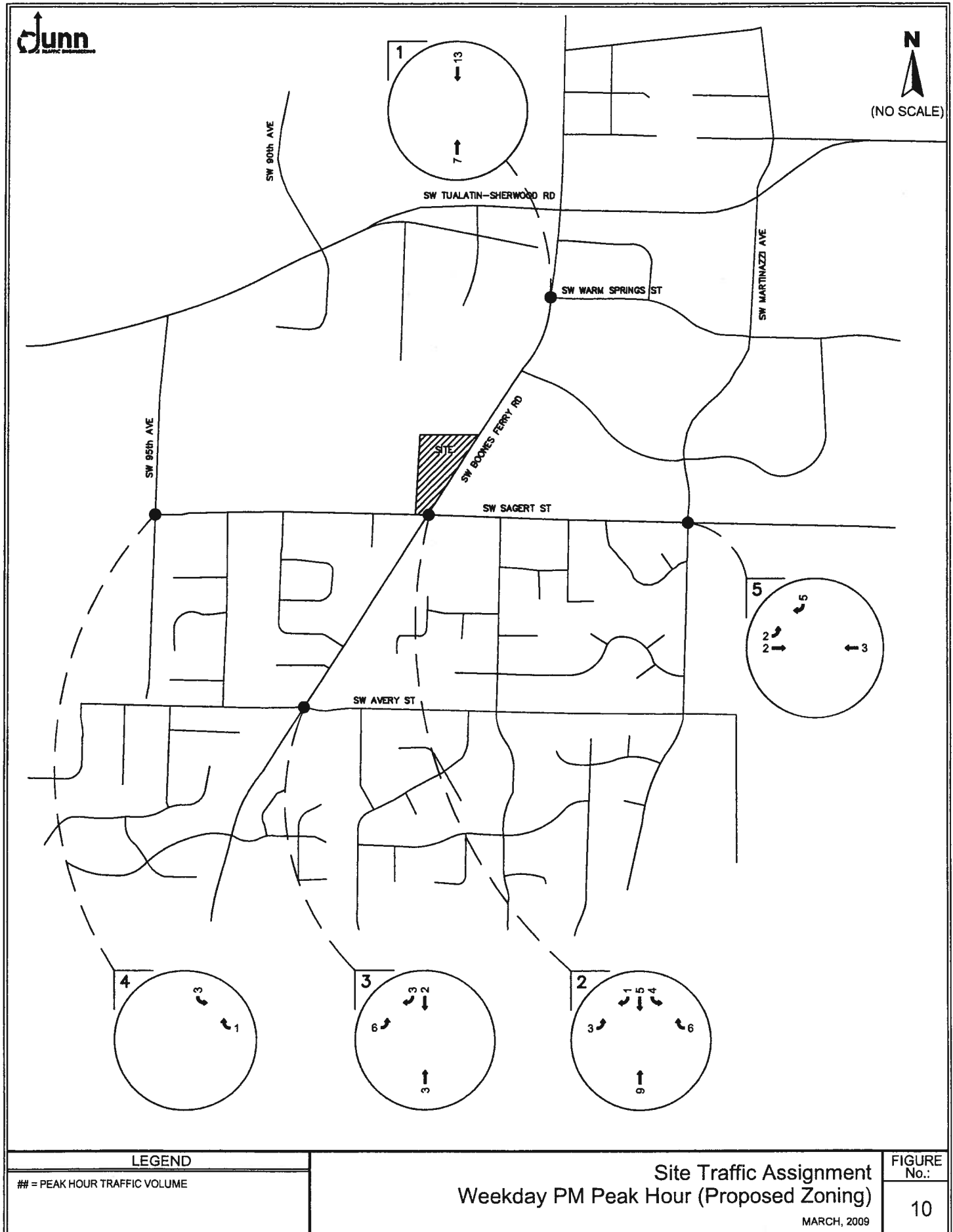
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MARCH, 2009

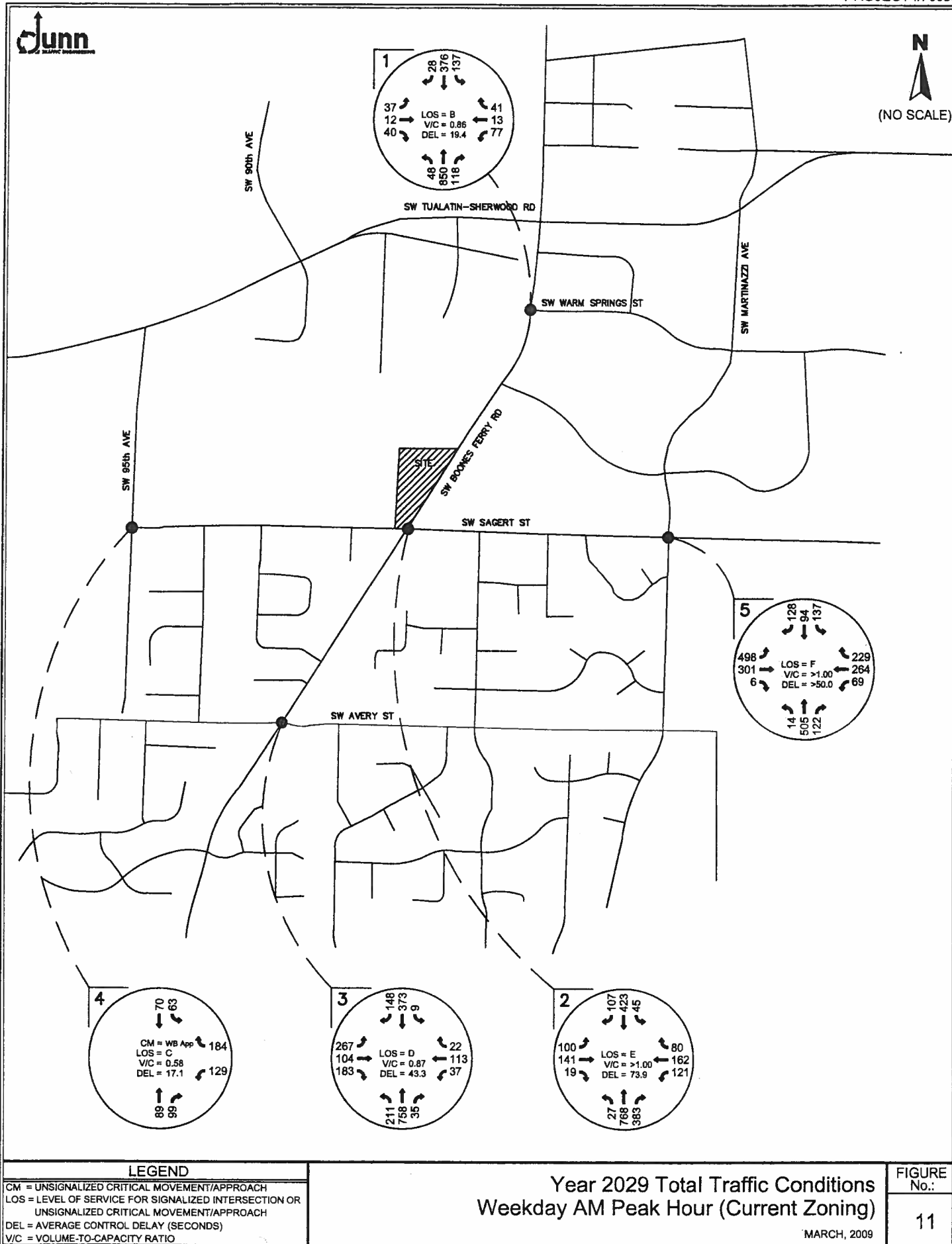


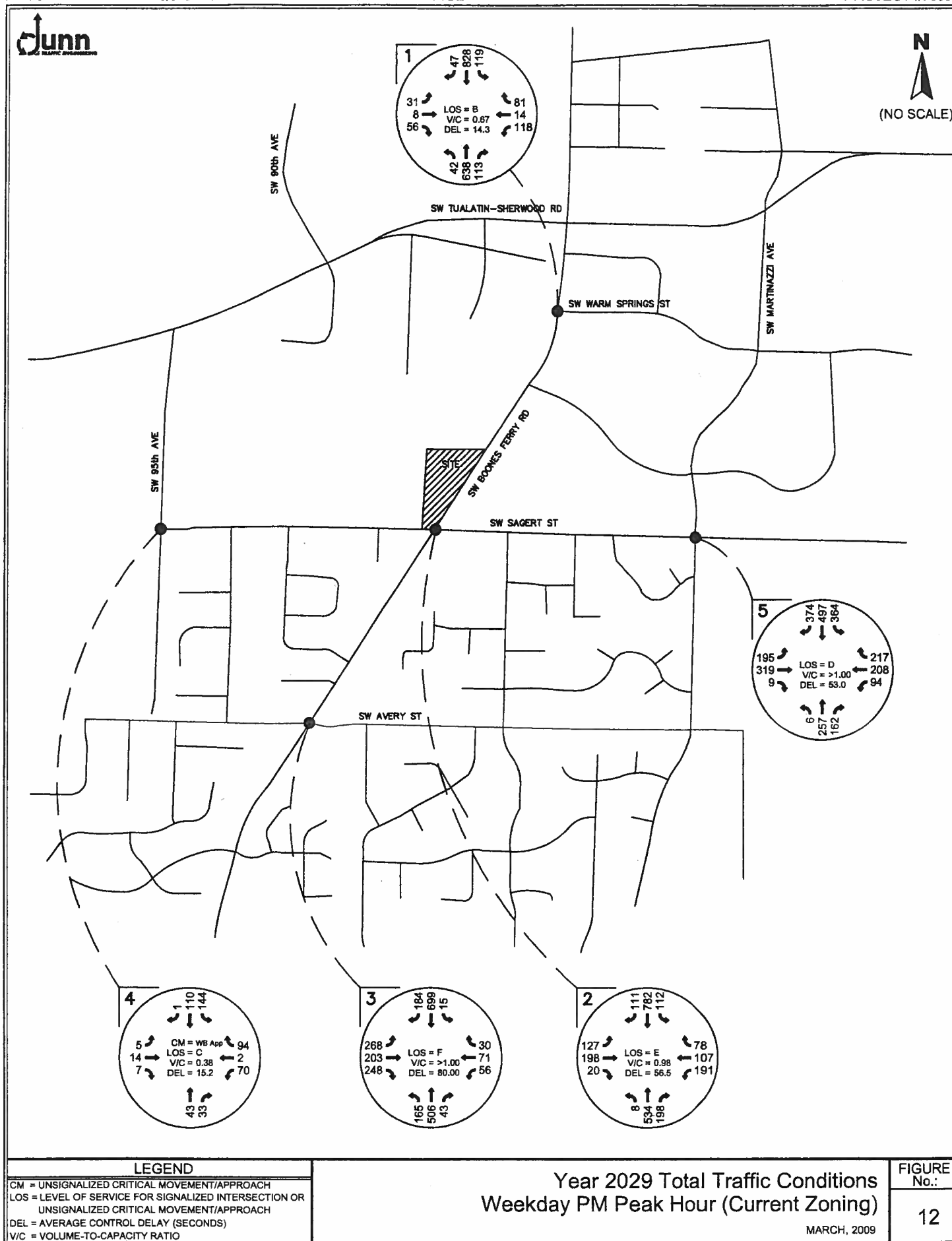




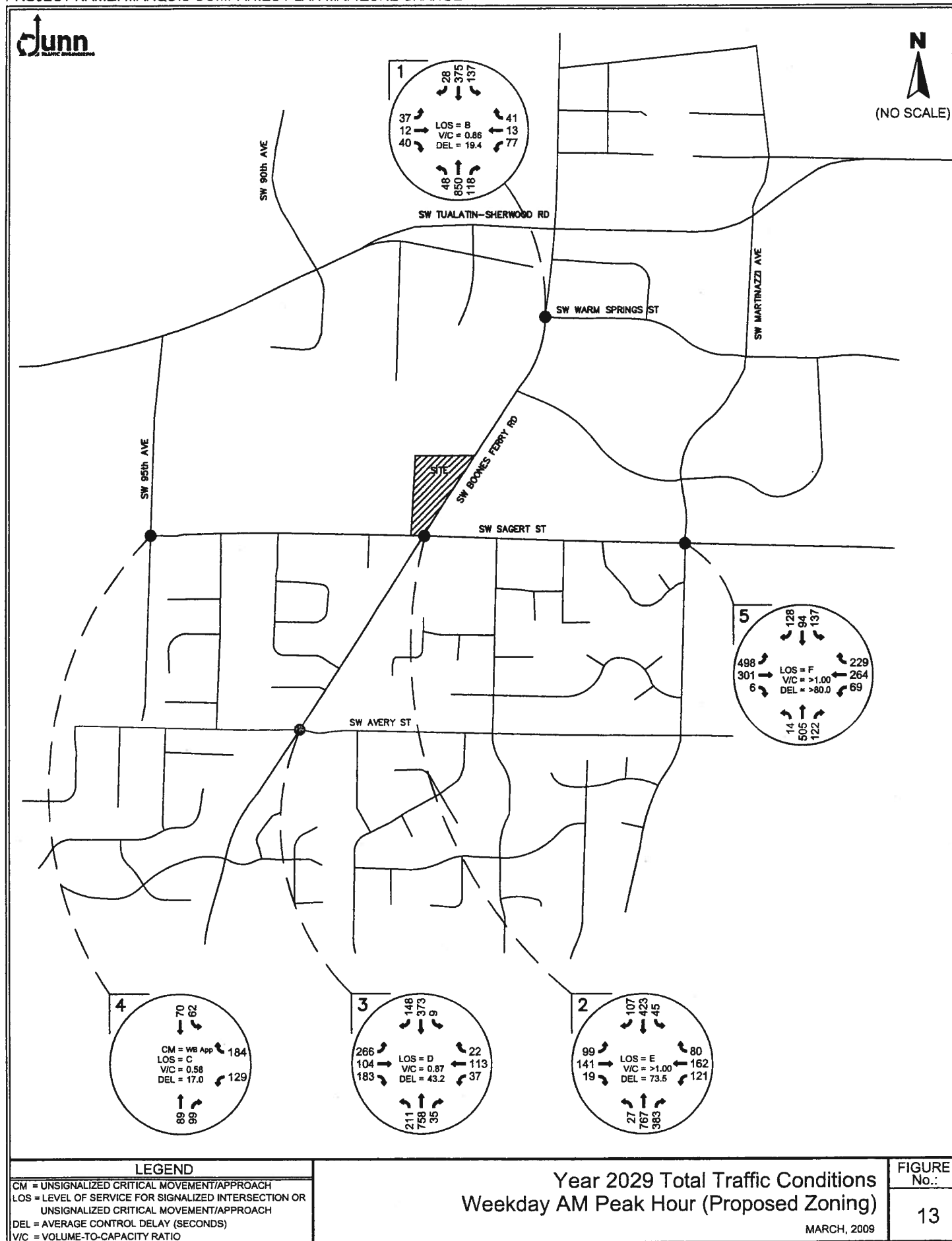


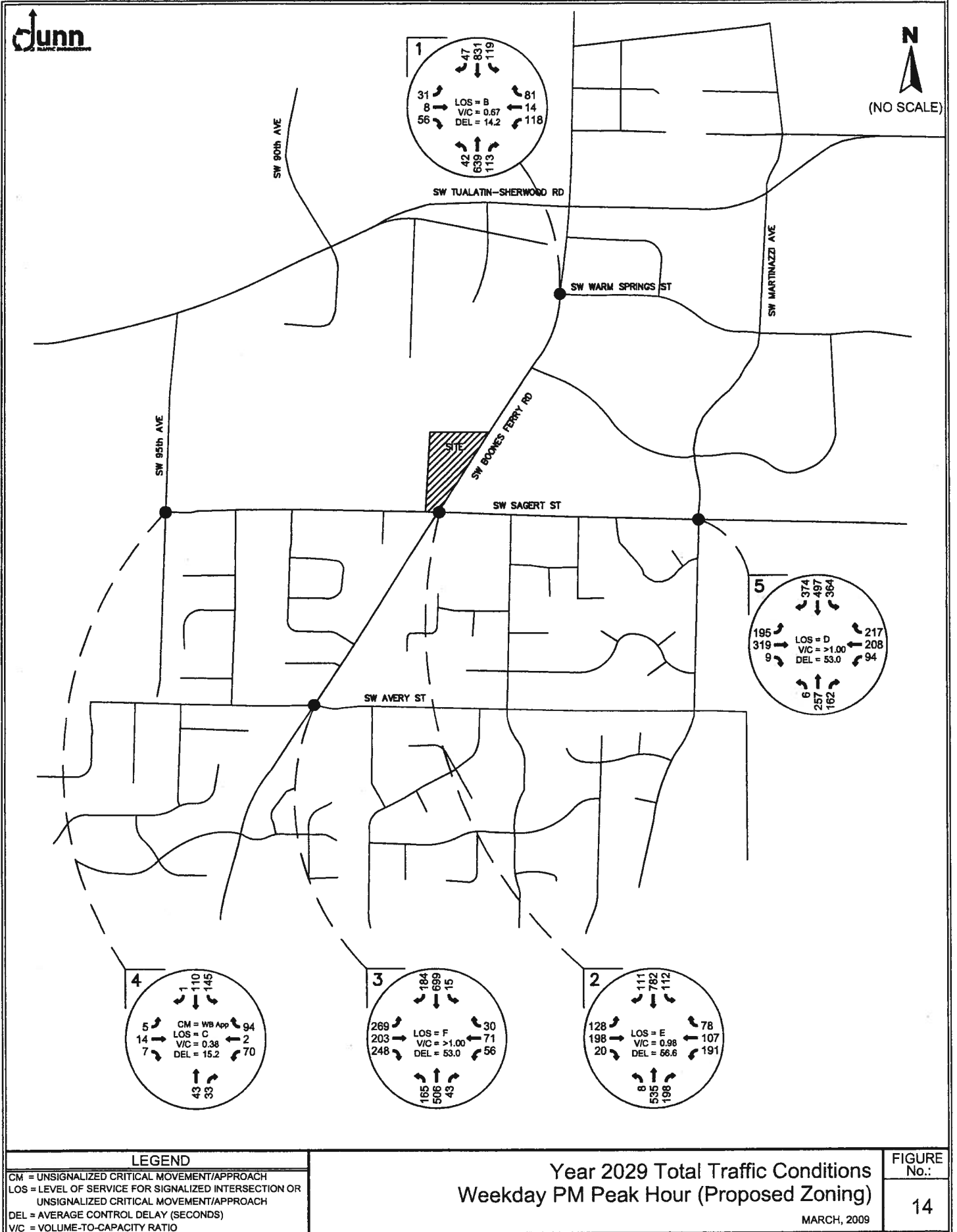




FIGURE  
No.:

12





**TABLE 8  
SUMMARY OF SUB-STANDARD YEAR 2029 INTERSECTION OPERATIONS  
AND IDENTIFICATION OF POTENTIAL MITIGATION MEASURES**

Intersection	Critical Peak Hour Period	Unmitigated Level-of-Service	Potential Mitigation Measure	Mitigated Level-of-Service
SW Boones Ferry Rd./SW Sagert St.	AM	LOS E (v/c 1.09)	Add northbound right-turn lane.	LOS C (v/c 0.79)
SW Boones Ferry Rd./SW Avery St.	PM	LOS F (v/c 1.11)	Add eastbound right-turn lane and southbound right-turn lane.	LOS D (v/c 0.86)
SW Martinazzi Ave./SW Sagert St.	AM PM	LOS F (v/c 1.27) LOS D (v/c 1.01)	Add second northbound through lane and second eastbound left-turn lane.	LOS D (v/c 0.90) LOS C (v/c 0.81)

Note: The results shown in this table reflect conditions under the proposed RML zoning development scenario.

As shown in the above table, certain turn lane treatments can be added to ensure that the three study intersections operate adequately over the next 20 years. At the SW Boones Ferry Road/SW Sagert Street intersection, the addition of a northbound right-turn lane will improve year 2029 weekday a.m. peak hour traffic operations from LOS E to LOS C, as well as a reduction in the intersection v/c ratio to below 1.0. At the SW Boones Ferry Road/SW Avery Street intersection, the addition of an eastbound right-turn lane and southbound right-turn lane will improve year 2029 weekday p.m. peak hour operations from LOS F to LOS D, again with a lowering of the v/c ratio to below 1.0. And finally, at the SW Martinazzi Avenue/SW Sagert Street intersection, the addition of a second eastbound left-turn lane and a second northbound through lane will improve year 2029 weekday a.m. and p.m. peak hour operations from LOS F and LOS D, respectively, to LOS D and LOS C, respectively. Again, under both analysis periods the v/c ratio can be reduced to a value below 1.0

## CONCLUSIONS AND RECOMMENDATIONS

Based on the findings documented in this study, the Applicant's proposal to rezone the 5.44 acre site from Residential Low Density (RL) to Residential Medium-Low Density (RML) will have no "significant effect" upon any existing or planned transportation facilities. Thus, the proposed land use action is in compliance with the State's Transportation Planning Rule and should be approved by the City of Tualatin.

## REFERENCES

1. Transportation Research Board. *Highway Capacity Manual*. 2000.
2. Institute of Transportation Engineers (ITE). *Trip Generation, Seventh Edition*. 2003.

Appendices A-G of the  
Transportation Impact Analysis  
Report are not included in  
Attachment D to help save paper.



## **ATTACHMENT E**

### **PMA-09-01: BACKGROUND INFORMATION**

Pertinent background information obtained from the proposed PMA-09-01 and other supporting documents is summarized in this section.

The applicant is Scott Miller of Marquis Companies and the property owner is the Tigard-Tualatin School District (TTSD). Marquis Companies is represented by Kirsten Van Loo of Emerio Design. Marquis Companies proposes to purchase and redevelop the 5.44 acre eastern portion of the Old Tualatin Elementary school property as a senior housing facility. The property is in the Low-Density Residential (RL) Planning District. The development proposed by the applicant is to "...create a vibrant senior housing village complex in Tualatin, with benefits and amenities for the entire community." The proposed development would include ("80+" as stated in application)(projected as 82) dwelling units including:

- approximately 80 "independent living" senior residential units;
- an assisted living facility with 40 or more beds;
- skilled nursing facility with approximately 50 beds; and;
- supporting living, dining, health and community facilities for the residents.

The RL Planning District limits the maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) to 10 dwelling units per net acre. The proposed Marquis senior housing/assisted living/skilled nursing facility will have more than 80 dwelling units, which will exceed the 54 units allowed as a conditional use under the current RL designation.

Changing the designation on the 5.44 acre Marquis Companies parcel to RML would allow various forms of attached housing and residential facilities up to 10 dwelling units per acre (54 dwelling units) as a permitted use and with a conditional use permit for retirement housing, would allow Nursing or Convalescent Home and Retirement Housing with up to 15 dwelling units per acre (82 dwelling units) [TDC 41.015(3)]. Marquis Companies seeks the Plan Map Amendment to change the designation to RML and will seek a conditional use permit for retirement housing to allow development of the proposed senior housing on the site.

## **ATTACHMENT F**

### **PMA-09-01: 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 a 5.44 acre portion of Tax Lot 500 on Map 2S123DD from Low-Density Residential (RL) to Medium Low-Density Residential (RML) on land located at 19945 SW Boones Ferry 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. Granting the amendment is in the public interest.**

The Applicant states: "If this site were to remain zoned RL, it would accommodate 30+/- new single family homes. There is no current demand, by either the residential development community or the Tualatin consumer, for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity." (Attachment D, pg. 6) The Applicant further states "...granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development." "...the change in the zoning district to RML permits construction of 50+ dwellings. 80+ dwellings can be facilitated through the conditional use provisions of the requested zoning district (RML)."

As identified by staff, the public interest is to:

- 1) To respond to a proposal for new development and redevelopment of the TTSD/Old Tualatin Elementary School (TES) property with planning actions such as the proposed PMA;
- 2) Designate residential land that is suitable for senior housing facility development in a location that will be compatible with nearby residential development, be near communities services and amenities such as stores, parks and libraries, have access to the health care facilities in the Tualatin area, and be served by adequate transportation facilities;
- 3) To ensure an adequate supply of residential land is available for various housing types including independent and assisted living facilities suitable for an aging population.
- 4) To consider relevant Tualatin Tomorrow Community Vision and Action Plan objectives such as for housing and services.

The applicant's public interest statements and the first (1) public interest listed in this analysis are associated with the ownership, sale and development of the Old TES property. The 12+ acre site is centrally located in Tualatin and borders SW Boones Ferry Road, a major arterial street connecting the residential areas in the south part of Tualatin with the City's downtown area. The former school buildings on the site have

proven too expensive for reuse and rehabilitation due to structural problems and the presence of hazardous material. The buildings are slated for demolition by TTSD & Marquis Companies (HIST-08-01 approved the demolition of the Gerald Avery Building and Gymnasium).

Since closing the school in 2004 and declaring it surplus property, the TTSD solicited private and public groups to purchase and redevelop the property. The TTSD seeks to obtain reasonable economic value from the property while respecting the community value associated with a former public school site and the residential area that it is in. Given the costs of purchase and development and the markets for residential and institutional uses during the period since 2004, the responding private developers all proposed a form of development that required a change in the Planning District designation from the existing RL to a Planning District that would allow higher density and different housing types. Marquis Companies, with its plans to purchase and redevelop the eastern 5.44 acres of the Old TES property for senior housing is the only developer to come to terms with TTSD at this time. There are no prospective purchasers and developers of the remaining 7+ acres of the property. The proposed RML designation will allow the independent living, assisted living and skilled nursing senior housing project with 80+ dwelling units proposed by Marquis Companies to be a viable development on the property. This satisfies the public interest in supporting viable and appropriate redevelopment of the Old TES property.

The proposed RML Planning District designation will allow the applicant to develop a senior housing facility that mixes independent living units in a multi-story building that are an attached, apartment-style housing with assisted living and skilled nursing residential care housing and support facilities. With a conditional use permit for retirement housing, the RML designation will allow the 15 dwelling units per acre density that the applicant needs to invest in constructing and operating a senior housing and care facility on the site. The Old TES site is located in a residential area with a mix of single-family and multi-family housing development. The site is near to the commercial and civic areas of downtown Tualatin, is on a public transit line, and with good access to medical facilities such as the Kaiser Clinic at the west end of the Town Center and Legacy Meridian Park Hospital further east via SW Sagert Street. The subject property location is suitable for a senior housing and care facility and will meet the public interest listed in 2) above.

The Old TES property is currently in the RL Planning District that is primarily for single-family detached residential housing (up to 30 single family homes on the 5.44 acre subject property net 20% for required public streets and water quality facilities) as well as limited-size residential facilities. The RML Planning District allows as permitted uses various housing types including single and multi-story attached dwelling units such as duplex/triplexes, apartments, condominiums, townhouses as well as residential facilities such as assisted living and congregate care (TDC 41.020). With the RML designation and a conditional use permit for a retirement facility, the 5.44 acres subject property will accommodate 80 individual independent living dwelling units and the proposed assisted living and skilled nursing residences for 130-170 residents. The proposed RML designation will provide opportunity for more housing types and numbers of dwelling

units that are suitable for senior independent living and care/assisted living, and will meet the public interest listed in 3) above.

The public interests listed in the Tualatin Tomorrow Action Plan calling for a mix of higher-density and affordable housing in the City are discussed in the section under Criterion C of this attachment.

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

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

The Applicant states: "It is a potential developer's best interest to time product delivery on this site to a future upturn in the market. As the market for housing catches up to and hopefully challenges the existing supply over the next two years, a developer of this site can be gaining land use approvals, building permits and constructing a new project. This timeline is in the best interests of the public because it will put Tualatin in a position of prominence with new residential development." (Attachment D, pp. 6-7)

In addition, the amendment is appropriate at this time because prospective residential and senior housing developers require a planning district designation that enables a greater range of housing types and allows senior housing and shared care facilities at a number of units and resident spaces greater than the current standards allow. The property will be more suitable for redevelopment and for the only committed purchaser of the old TES site if the designation is changed to RML. It is in the public interest to change the Planning District designation to RML, thus encouraging redevelopment of the site as a senior housing project.

The City has prepared a development agreement with the applicant (Marquis Companies) and TTSD that will ensure that if the RML Planning District designation is approved in PMA-09-01, the implementing Ordinance will have an effective date tied to Marquis Companies obtaining conditional use and AR approval within 18 months. Construction of the proposed senior housing development then must commence within 12 months or the property will return to the RL Planning District designation. Marquis Companies and TTSD have both signed the agreement, known as the "Non-Statutory Development Agreement". The agreement will be presented to the City Council for approval and authorization at the June 8, 2009 meeting.

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

Criterion "B" is met.

**C. 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.**

Staff agrees with the applicant (Attachment D, pg. 8) the objective of TDC 4.050(6) is met because the RML designation will be a transition between the RL Planning Districts on the south and east of the site with the RML and RH (High Density Residential) Planning Districts on the west and north. These areas are primarily residential except for the church use at the southeast corner of SW Sagert Street and SW Boones Ferry Road. The residential uses allowed in the proposed RML Planning District designation are compatible with residential development in this part of Tualatin. The RML Planning District designation allows a higher number of residential dwelling units and a larger scale residential facility that 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 applicant states, "With this application the request for RML zoning on a specific site addresses the requirement for a variety of living environments. The district also facilitates development of senior housing facilities." (Attachment D, pp 8-9)

Staff agrees the objective of TDC 4.050(9) is met because adding RML land to the SW Boones Ferry Road area would add variety by increasing the amount of land available for medium-low density residential uses by 5.44 acres. The proposed RML designation will complement the RL, RML and RH developments in this area of Tualatin and add to the variety of living environments available. This objective is met.

## **Residential Planning District Objectives:**

### **TDC 5.030 Objectives (4) Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing and provide residential opportunities in selected commercial areas through the Mixed Use Commercial Overlay District.**

The applicant states "RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping. The site is adjacent to multi-family development with apartments to the north and west of the property." (Attachment D, pg. 9)

The proposed map amendment to designate the 5.44 acre property as RML is an appropriate planning response to the need to redevelop the former TES site in this area of Tualatin. Staff agrees that the RML designation is in an area with existing multi-family housing and with the applicant's reasons, meets the objective.

**TDC 5.030(1) Provide for the housing needs of existing and future City residents. (2) Provide housing opportunities for residents with varied income levels and tastes that are aesthetically and functionally compatible with the existing community housing stock.**

The applicant states “A change in the zoning district to RML on the subject property permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. A large variety of housing options are available for development on this site with the requested zoning district. These housing options can address varied income levels and tastes that can be functionally and aesthetically compatible.” (Attachment D, pg. 9)

The Tualatin Tomorrow Community Vision and Strategic Action Plan, June 2007, lists under the Diverse Housing Strategy for Housing Choices & Types/Action Item “Town Center Housing Types” action to “Consider a housing element for the Town Center Plan, including guidelines and tools to promote development of a mix of higher–density and affordable housing.” (Action GHT11.1) The TTSD property is within the area considered for the Town Center Plan. As discussed previously, the RML Planning District allows a greater range of housing types and an increase in housing opportunities in respect to resident’s income and needs. These objectives are met.

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

Criterion "C" is met.

**D. 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 includes the areas on both sides of SW Boones Ferry Road and SW Sagert Street, including the existing Old TES campus site (subject site), the residential apartments to the north and duplexes to the east, and the primarily single family residential areas to the south and east. The subject property/Old TES site is close to the Tualatin downtown retail and commercial areas to the north and east. The Applicant states “The application of the RML district to this site will improve the incremental transition from commercial and high-density residential development with a medium density project at this important intersection.”

The proposed amendment is appropriate in relation to the characteristics of the SW Boones Ferry Road/SW Sagert Street residential area.

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

The Applicant states: “The site is suitable for medium density residential development. All of the necessary infrastructure is available or can be made available to serve the project at the intended maximum density.” (Attachment D, pg. 11) The residential and semi-institutional (schools, churches & senior care facilities) land uses allowed in the RML Planning District are consistent with the surrounding land uses in the SW Boones

Ferry Road/SW Sagert Street vicinity. The area is suitable for RML Planning District uses and the proposed senior housing and care facility.

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

The Applicant states: "The continued housing construction slump is predicted for the next few years as inventory of new homes and home resales are absorbed at average or below average rates. If this site were to remain zoned RL, it would accommodate 30+/- new single-family homes. There is no current demand, by either the residential development community or the Tualatin consumer for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site." (Attachment D, pg. 11)

As described in the public interest section, the trends associated with a severe downturn in local and regional housing markets has resulted in no investor interest in redeveloping the Old TES property as RL housing. There is interest by the Marquis Companies to develop a senior housing project on a 5.44 acres portion of the site. Marquis has noted the trends for integrating senior independent living units with assisted living and care facilities in an attractive and service oriented "community" or "village" atmosphere. Marquis proposes to develop this kind of facility on the Old TES site and seeks to change the Planning District designation to RML and request a conditional use permit to allow additional senior housing units.

### **Property values.**

The Applicant states: "The site of the former TES is located in an area of both newer homes (Logan House Subdivision) and older homes (on the south side of Sagert Street)." "Regardless of the quantity of sales or the price of individual homes over the past five years, the presence of an abandoned elementary school has not increased the perception of property values in the vicinity. Redevelopment of the site - which can be facilitated with the requested change in the zoning district - will improve the perception of the immediate community and serve to improve the quality of the neighborhood." (Attachment D, pg. 11)

While there is no evidence that the current vacant use and condition of the Old TES buildings 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: "Granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development." (Attachment D, pg. 12)

The property owner, TTSD, finds it important to sell the Old TES property and obtain a financial return. As discussed in previous sections, sale of the property is dependent on the financial aspects of redevelopment on the site. The proposed Marquis Companies senior housing project needs a change in the Planning District designation to RML to be

viable and meet the needs of the TTSD while allowing for future development in the area.

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

The Applicant states: "New construction on the site will be conditioned to dedicate additional ROW on Boones Ferry Road. Redevelopment of the site - which can be facilitated with the requested change in the zoning district - will facilitate the dedication of that ROW." (Attachment D, pg. 12) The Engineering Division Memorandum identifies a need for additional ROW on both the SW Boones Ferry Road and SW Sagert Street frontages and discusses the issues of access to SW Boones Ferry Road. 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 Old TES site. The Old TES site includes six Tualatin Heritage Trees (a Douglas Fir, an English Chestnut & four Catalpa) that the owner and developer are aware of and have expressed interest in preserving if possible.

**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: "The Plan Map Amendment from RL to RML on 5.4 acres of land at the intersection of Boones Ferry Road and Sagert Street will facilitate redevelopment of a site that is currently abandoned, and a community detraction. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity." (Attachment D, pg. 12)

Staff agrees with the Applicant that the proposed amendment creates an opportunity for redevelopment of the no longer needed Old TES site with its vacant condition. 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.**

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 Boones Ferry Road and SW Sagert Street. TDC Map 9-2 Neighborhood Planning



Areas identifies the area in the vicinity of the Old TES as Area 2, characterized by the mix of commercial and industrial service uses, higher density multi-family residential and the school site close to the city's central districts (TDC 9.032). The proposed change to RML conforms to the Area 2 mix of uses. The decision by the TTSD to sell the 12 acre Old TES property for redevelopment represents a significant change in this area that will likely result in more residential development on a site that was largely open playground.

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

The Applicant states: "If the school had not been located for many years on this property, it would have been – and should have been – zoned with a high-density residential or commercial zoning district. The fact that the school facility was an allowable – albeit conditional use - on low density residential zoned land meant that community planners left the site RL zoning. The belief at the time was the school would always own the property and continue to use the site for educational purposes. While this decision is not necessarily a mistake, it did not reflect the best practices for gradient density zoning radiating out from the City Center."

Staff disagrees with the Applicant's statement suggesting that the existing RL designation (established as a residential zone in the 1960's and designated in 1979 as RL) may be a mistake in the plan map. The development of the City of Tualatin Plan and zoning code in the 1960's and succeeding adoption of the Tualatin Community Plan and Development Code in 1979 both represented the thoughtful efforts of the City's leaders at the particular time the low-density residential designations were enacted. It also reflected the reasonable intentions of the school property owners and neighboring residents at the time. In the context of today's conditions, with the school no longer in operation on the site, there may be a change in how the property's use and development intensity may be viewed by owners, developers and neighbors. It represents a change in housing markets, changes to school facility siting and development by the TTSD and the arrangement of various land uses in the City, not a mistake in the plan map.

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

Criterion "D" is met.

#### **E. The criteria in the Tigard-Tualatin School District Facility Plan were considered.**

The Applicant states: "The property is the location of the former Tualatin Elementary School. The application is signed by the Superintendent of the School District. The School District is cognizant of this request to increase the potential residential density on the property. At such time as a specific development request is made for land use approval, the school district will evaluate the capacity of the schools serving this site and prepare a report for jurisdiction consideration."

The TTSD has not commented on the effect of increasing the allowed residential density on the 5.44 acres property from RL (maximum 6.4 du/acre) to RML (7-10 du/acre) 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. An increase in residential density is something to be evaluated by the TTSD.

Staff agrees with the Applicant that the TTSD has authorized this proposed map amendment and can choose to consider the TTSD Facility Plan at this time or when development actions occur in the future. Criterion E was adequately considered.

## **F. 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: "The development team has held two neighborhood meetings discussing the potential for development on the property. All of the required steps were followed to ensure opportunity for citizen participation in the land use planning process. The public hearing conducted to discuss this application will provide another opportunity for citizens to become involved in the decision." "The City has an acknowledged Comprehensive Plan and a process for amending the plan map with new or different zoning districts."

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. 15) and describes 50+ - 80+ housing units that can result with the proposed RML designation of the 5.44 acre subject property and discusses the increase in housing forms and types allowed in the RML District over the existing RL Planning District designation.

Staff has prepared information on the effect of changing the designation of the property and the adjacent public ROW from the residential RL to RML on meeting the Metropolitan Housing Rule with updated analysis of planned housing density and

PMA-09-01: Attachment F—Analysis and Findings

June 8, 2009

Page 10

**Table 2A**

CITY OF TUALATIN-- METRO  
HOUSING RULE COMPLIANCE, PMA-  
09-01--WITH PROPOSED REDUCTION  
OF 5.4 ACRES (+ 0.69 Acres ROW)  
FROM RL and ADDING TO RML  
DISTRICT \*

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,217.2	258.9	188.2	166.0	18.2	2,848.5 Acres
Acres proposed for removal from or added to residential district	-6.1	6.1				0.0
Total acres of ROW in each residential district (+/- 0.69 acres ROW)	-442.7	-59.2	-32.4	-23.6	-3.4	-561.2
Total Gross Buildable Acres	1,768.5	205.8	155.8	142.4	14.8	2,287.3 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%)	-293.5	-44.4	-54.8	-76.4	-12.6	-481.7
Total Acres Minus Environmental Restrictions	1,475.0	161.4	101.0	66.0	2.2	1,805.6 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	1,177.9	149.6	94.7	65.8	2.2	1,490.2 Acres
Residential District (dwelling units per acre)	6.4	10.0	15.0	25.0	30.0	86.4
Total Dwelling Units Allowed	7,538.4	1,495.8	1,421.0	1,646.0	64.8	12,166.1 Dwelling Units
	Dwelling units per acre					8.16

**Table 2B**

PMA-09-01 Metro Housing Rule New  
Construction Mix

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,217.2	258.9	188.2	166.0	18.2	2,848.5 Acres
Acres proposed for removal from or added to residential district	-6.1	6.1				0.0
Total acres of ROW in each residential district (+/- 0.69 acres ROW)	-442.7	-59.2	-32.4	-23.6	-3.4	-561.2
Total Gross Buildable Acres	1,768.5	205.8	155.8	142.4	14.8	2,287.3 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%)(RL only, no shift in density as allowed in RML-RH/HR)	-293.5	0.0	0.0	0.0	0.0	-293.5
Total Acres Minus Environmental Restrictions	1,475.0	205.8	155.8	142.4	14.8	1,993.8 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	1,177.9	194.0	149.5	142.2	14.7	1,678.3 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	7,538.4	1,939.9	2,242.6	3,556.0	441.9	15,719 Dwelling Units
Total Single Family Detached Units Allowed (RL)	7538.4					7538.4 48.0% of Dwelling Units Allowed
Total Attached/Multi-Family Units Allowed (RML, RRMH, RH, RH/HR)						8180.4 52.0% of Dwelling Units Allowed

5/22/2009

\* Removes 5.4 + 0.69 acres from RL Gross; Removes 5.4 acres from RL Non-buildable & 0.69 acres from RL ROW / Adds 5.4 + 0.69 acres to RML Gross; Adds 0.69 acres to RML ROW.

housing mix to reflect the size of the RML properties as shown on Tables 2A & 2B. Staff determined that changing the 5.4 acres of land and .69 acres of public street ROW from RL to RML 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 5.44 acres of RL residential land in the City's supply to RML (with maximum 10 du/acre) will increase the attached/multi-family housing share from 51.9 percent to 52.04 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.

**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: "RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping. The detailed (traffic) analysis and executive summary provides conclusions demonstrating that the requested new zoning district will have little impact on regional traffic movement." (Attachment D, pp. 15-16)

The submitted traffic analysis provides extensive analysis of nearby street facilities to the Year 2029 horizon and concludes that "...the proposed land use is not expected to 'significantly affect' an existing or planned transportation facility and is therefore in compliance with the Transportation Planning Rule." (Attachment D, TIA Dunn Traffic Engineering LLC, pp. 5-6)

The Engineering Division provides information concerning the TPR analysis in the narrative and the Reasonable Worst Case Scenarios, Trip Differentials & Impact of Reasonable Worst-Case RML Zone Added to Existing Traffic tables in Attachment G.

Staff agrees with the Applicant that the proposed amendment is consistent with Statewide Planning Goal 12.

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

Staff has reviewed the applicant's material and agrees the PMA is consistent with 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 Boones Ferry Road north of SW Sagert Street as "IN Inner Neighborhood". The proposed amendment revising the Planning District from RL to RML retains the residential use classification with a increased range of housing types and density. This is consistent with the "IN" classification.

Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The PMA proposes to change the low density residential (RL) planning district which supports 1-6.4 dwelling units per acre to low-medium density residential (RML) which supports 7-10 dwelling units per acre. The proposed increase in density allows a greater number of dwelling units to be built on this parcel and therefore increases the City's ability to attain the housing capacity target number set by Metro. For this reason, the proposed PMA could assist the City in compiling with dwelling capacity identified in Table 1 of Title in the UGMFP.

The applicant's responses to the Functional Plan are presented in the application narrative (Attachment D, pp. 17-18). Staff notes that Title 1 (Housing and Employment Accommodation) and Title 7 (Affordable Housing) of the UGMFP (Chapter 3.07) are applicable to the proposed PMA and agrees Titles 1 & 7 are satisfied.

**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 analysis (Attachment D, TIA Report- Dunn Traffic Engineering LLC) analyzes Reasonable Worst Case scenarios for existing RL and changing the Planning District designation of the subject parcel from RL to RML for four scenarios: the old elementary school; RL single family homes; RML apartments; and the Marquis Companies development. The TIA assumes two SW Boones Ferry Road accesses for the Marquis Companies development (see discussion in Attachment G, pg. 2). The 2029 analysis included the benefits of all intersection & street improvements listed in TDC Chapter 11. Under the worst case scenarios for the current RL zone and proposed RML zone in the 2029 analysis, the study intersections of Boones Ferry Road & Avery Street and Martinazzi Avenue & Sagert Street are forecasted to have a LOS less than prescribed in

the TDC during the weekday p.m. peak hour & a.m. peak hour respectively. Both the existing RL and the proposed RML worst case scenarios will result in the LOS forecasted by the TIA. (Attachment G, pp. 3-4)

See Attachment G, a memorandum from Tony Doran, EIT, regarding compliance with Criterion 8.

# **MEMORANDUM**

DATE: April 7, 2009

TO: Will Harper, AICP  
Associate Planner

FROM: Tony Doran, EIT  
Engineering Associate

SUBJECT: PMA 09-01—Marquis - To change the planning district designation of 5.44 acres property from RL (Low-Density Residential) to RML (Medium-Low Density Residential) 19945 SW Boones Ferry Road Tax Lot: 2S123DD00500

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## **TDC 1.032 Burden of Proof (6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.**

Because the proposed land use action will result in an amendment to the City of Tualatin's zoning map, Section 660-012-0060 of the State's Transportation Planning Rule applies. Division 12 of the State's Transportation Planning Rule (OAR 660-012) gives the Oregon Department of Land Conservation and Development (DLCD) and the City of Tualatin the power to interpret and implement Statewide Planning Goal 12 (Transportation). Section 660-012-0060 of the TPR provides specific language on how to deal with amendments to adopted plans and land use regulation.

### **OAR 660-012-0060 Plan and Land Use Regulation Amendments**

**(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.**

As demonstrated by the analyses and findings presented in the study, the proposed land use action is not expected to “significantly affect” any existing or planned transportation facility and is, therefore, expected to be in compliance with the State’s Transportation Planning Rule.

**TDC 1.032 Burden of Proof (8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City’s planning area.**

### **Transportation**

The site is adjacent to and development will have access to SW Sagert Street. The submitted traffic study assumes all site traffic would access the street system via SW Boones Ferry Road. While adjacent to SW Boones Ferry Road, TDC Chapter 75 access management doesn’t allow for direct access from this lot when the use changes as proposed in this PMA application and the associated senior housing project. If access for the proposed Marquis Companies development is from SW Sagert Street (rather than SW Boones Ferry as shown), the impact of traffic from an RML development on the intersection of SW Sagert Street & SW Boones Ferry Road as well as SW 95<sup>th</sup> Avenue & SW Sagert Street is likely greater than shown in the submittal information.

#### **SW Sagert Street**

SW Sagert Street is a City of Tualatin facility and designated as a Minor Collector (Cb&p), which has a right-of-way width of 68 to 72 feet that includes two 12-foot travel lanes, one 8-foot parking lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks. Currently there is 60 feet of right-of-way, with 30 feet from centerline on the north side. Future dedication of right-of-way with the future Architectural Review is expected to be an additional 4 feet (to total 34 feet from centerline) along with construction of improvements for any mitigation required due to traffic.

SW Sagert Street will be the direct access for all development associated with the tax lot to the north of which this development is planned to use 5.44 acres. The proposed development associated with Plan Map Amendment 09-01, Marquis, shows one future access to the west side of the development area to SW Sagert Street, but indicates that this is not the primary access. Under current code and evaluation, this access would be the primary access.

#### **SW Boones Ferry Road**

SW Boones Ferry Road is designated by the City of Tualatin as a Major Arterial (Eb&t), which would ultimately have a right-of-way width of 98 to 102 feet that includes four 12-foot travel lanes, one center turn lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks. The



current width of SW Boones Ferry Road right-of-way along the property frontage is 30 feet west of centerline. Future dedication of right-of-way with the future Architectural Review is expected to be an additional 19 feet (to total 49 feet from centerline) along with constructing associated improvements for a complete cross-section and any mitigation required due to traffic.

The City Engineer generally agrees with the submitted Transportation Impact Analysis Report with the exception of assumed access to SW Boones Ferry Road. The submitted traffic study assumes site traffic would access the street system via SW Boones Ferry Road. While adjacent to SW Boones Ferry Road, TDC Chapter 75 access management doesn't allow for direct access from this lot when the use changes, as proposed in the application for a PMA and the associated Marquis Companies project.

The applicant, Marquis Companies, has been made aware of the access restriction to SW Boones Ferry Road as stated in TDC Chapter 75 at the many meetings concerning development proposals on this site over the past few years. This assumption could affect the subsequent evaluation and conclusions to an unknown degree. The applicant has several options in regard to access: 1. Design a development with SW Sagert Street access and no direct access to SW Boones Ferry Road; 2. Apply for a Plan Text Amendment to request a modification allowing accesses to SW Boones Ferry Road from this site. It is unknown at this time if the City would support such a modification without appropriate submittals and evaluation.

The Plan Map Amendment as reviewed consists of 5.44 acres of Residential Low Density (RL) changed to Residential Medium-Low Density (RML.)

ODOT and Washington County have not submitted responses.

Reasonable Worst Case Site Trip Generation:

#### **Trip Generation**

<u>Scenario</u>	<u>ITE</u>	<u>Units</u>	<u>ADT</u>	<u>AM Peak</u>			<u>PM Peak</u>		
				<u>In</u>	<u>Out</u>	<u>Total</u>	<u>In</u>	<u>Out</u>	<u>Total</u>
Elementary School	520	186 Students	<b>240</b>	32	27	<b>59</b>	19	23	<b>42</b>
RL Single Family Home	210	35 Units	<b>396</b>	9	25	<b>34</b>	26	16	<b>42</b>
RML Apartments	220	55 Units	<b>481</b>	6	25	<b>31</b>	31	17	<b>48</b>
Marquis Development	252 & 254	*	<b>590</b>	13	8	<b>21</b>	16	17	<b>33</b>

\* See Attachment D-Table 6 of Dunn TIA for 80 unit Independent Living/110 bed Assisted Living & Skilled Nursing Traffic Analysis

<u>Trip Differentials Between Scenarios</u>	<u>-</u> <u>ADT</u>	<u>AM Peak</u>			<u>PM Peak</u>		
		<u>In</u>	<u>Out</u>	<u>Total</u>	<u>In</u>	<u>Out</u>	<u>Total</u>
RL vs. Elementary School	+156	-23	-2	-25	+7	-7	+0
RML vs. Elementary School	+241	-26	-2	-28	+12	-6	+6
RML vs. RL	+85	-3	+0	-3	+5	+1	+6
Marquis vs. Elementary School	+350	-19	-19	-38	-3	-6	-9
Marquis vs. RL	+194	+4	-17	-13	-10	+1	-9
Marquis vs. RML	+109	+7	-17	-10	-15	+0	-15

**Impact of Reasonable Worst-Case RML Zone Added to Existing Traffic**

**AM Peak**

<b>Street</b>	<b>Segment</b>	<b>Existing Traffic</b>	<b>Added Trips</b>	<b>Percent Impact</b>
SW 95th Avenue	North of SW Sagert Street	309	3	1.0%
SW Boones Ferry Road	North of SW Warm Springs Street	1,082	13	1.2%
	SW Warm Springs Street to SW Sagert Street	1,102	13	1.2%
	SW Sagert Street to SW Avery Street	1,281	11	0.9%
	South of SW Avery Street	1,361	4	0.3%
SW Martinazzi Avenue	North of SW Sagert Street	1,017	4	0.4%
SW Sagert Street	SW 95th Avenue to SW Boones Ferry Road	363	3	0.8%
	SW Boones Ferry Road to SW Martinazzi Avenue	684	7	1.0%
	East of SW Martinazzi Avenue	713	3	0.4%
SW Avery Street	West of SW Boones Ferry Road	865	7	0.8%

**Impact of Reasonable Worst-Case RML Zone Added to Existing Traffic**

**PM Peak**

<b>Street</b>	<b>Segment</b>	<b>Existing Traffic</b>	<b>Added Trips</b>	<b>Percent Impact</b>
SW 95th Avenue	North of SW Sagert Street	268	3	1.1%
SW Boones Ferry Road	North of SW Warm Springs Street	1,380	16	1.2%
	SW Warm Springs Street to SW Sagert Street	1,292	16	1.2%
	SW Sagert Street to SW Avery Street	1,377	13	0.9%
	South of SW Avery Street	1,491	5	0.3%
SW Martinazzi Avenue	North of SW Sagert Street	1,208	5	0.4%
SW Sagert Street	SW 95th Avenue to SW Boones Ferry Road	237	3	1.3%
	SW Boones Ferry Road to SW Martinazzi Avenue	654	10	1.5%
	East of SW Martinazzi Avenue	861	5	0.6%
SW Avery Street	West of SW Boones Ferry Road	1,013	8	0.8%

Peak Level Of Service\*:

Level of Service	Volume-To-Capacity Ratio					
	2009		2029**			
	Existing		RL		RML	
Intersection	AM	PM	AM	PM	AM	PM
Boones Ferry Road & Warm Springs Street	B	B	B	B	B	B
Boones Ferry Road & Sagert Street	C	C	E <sup>1.1</sup>	E	E <sup>1.09</sup>	E
Boones Ferry Road & Avery Street	C	E <sup>1.00</sup>	D	F <sup>1.11</sup>	D	F <sup>1.11</sup>
95th Avenue & Sagert Street	B	B	C	C	C	C
Martinazzi Avenue & Sagert Street	E <sup>0.97</sup>	C	F <sup>1.27</sup>	D <sup>1.01</sup>	F <sup>1.27</sup>	D <sup>1.01</sup>

\*TDC 11.610 Transportation Goals and Objectives (2) (e) For Plan Map and Text Amendments adopt a Level of Service standard 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. For development applications, including, but not limited to subdivisions and architectural reviews, a LOS of at least D and E are encouraged for signalized and unsignalized intersections, respectively.

\*\*Year 2029 assumes all future developments outlined in TDC Chapter 11 are constructed.

The submitted traffic study showed that during AM and PM Peaks:

- Adequate capacity and level-of-service for all evaluated intersections with existing conditions.
- **Inadequate capacity** at the intersections of SW Sagert Street & SW Boones Ferry Road and SW Sagert Street & SW Martinazzi Avenue as well as **inadequate level-of-service** at the intersection SW Sagert Street & SW Martinazzi Avenue with year 2029 traffic conditions with **current** zoning.\*\*\*
- **Inadequate capacity** at the intersections of SW Sagert Street & SW Boones Ferry Road and SW Avery Street & SW Boones Ferry Road as well as **inadequate level-of-service** at the intersection SW Avery Street & SW Boones Ferry Road with year 2029 traffic conditions with **proposed** zoning.\*\*\*

\*\*\*The Level of Service at the intersections of SW Sagert Street & SW Boones Ferry Road and SW Avery Street & SW Boones Ferry Road exist in 2029 regardless of development.

### **Sanitary Sewer, Stormwater, & Water**

For the future Architectural Review, downstream sizing for all public utilities will need to be evaluated by the developer for the change from residential to the proposed development. Any upsizing will be a requirement in the Architectural Review decision.

Public sanitary sewer, stormwater, and water lines exist in the SW Boones Ferry Road adjacent to the development. The applicant will need to determine the location of water treatment and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.

Please let me know if you have questions, ext 3035.

ORDINANCE NO. 1284-09

AN ORDINANCE RELATING TO CHANGING THE PLANNING DISTRICT FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD; AND AMENDING COMMUNITY PLAN MAP 9-1 (PMA-09-01)

WHEREAS upon the application of the Community Development Department, a public hearing was held before the City Council of the City of Tualatin on June 8, 2009, related to changing the planning district from Low-Density Residential (RL) to Medium Low-Density (RML) at 19445 SW Boones Ferry Road and amending Community Plan Map 9-1 (PMA-09-01); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on May 21, 2009, in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication 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 on May 15<sup>th</sup>, 2009, which is evidenced by the Affidavit of Posting marked "Exhibit B"; and by mailing a copy of this notice as required under the Tualatin Community Plan, which is evidenced by the Affidavit of Mailing marked "Exhibit C," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on June 8<sup>th</sup>, 2009, and heard and considered the testimony and evidence presented by 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 by a vote of [5-1] with Councilor Harris, Councilor Beikman, Councilor Truax, Councilor Barhyte, and Councilor Davis voting for approval; Mayor Ogden in opposition; and Councilor Maddux absent.

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated June 8, 2009, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit D," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City 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. Therefore,

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

Section 1. TDC Map 9-1 is amended by changing the planning district from Low-Density Residential (RL) to Medium Low-Density Residential (RML) at 19945 SW BOONES FERRY ROAD.

INTRODUCED AND ADOPTED this 8th day of June, 2009

CITY OF TUALATIN, Oregon

BY

  
\_\_\_\_\_  
Mayor

ATTEST:

BY

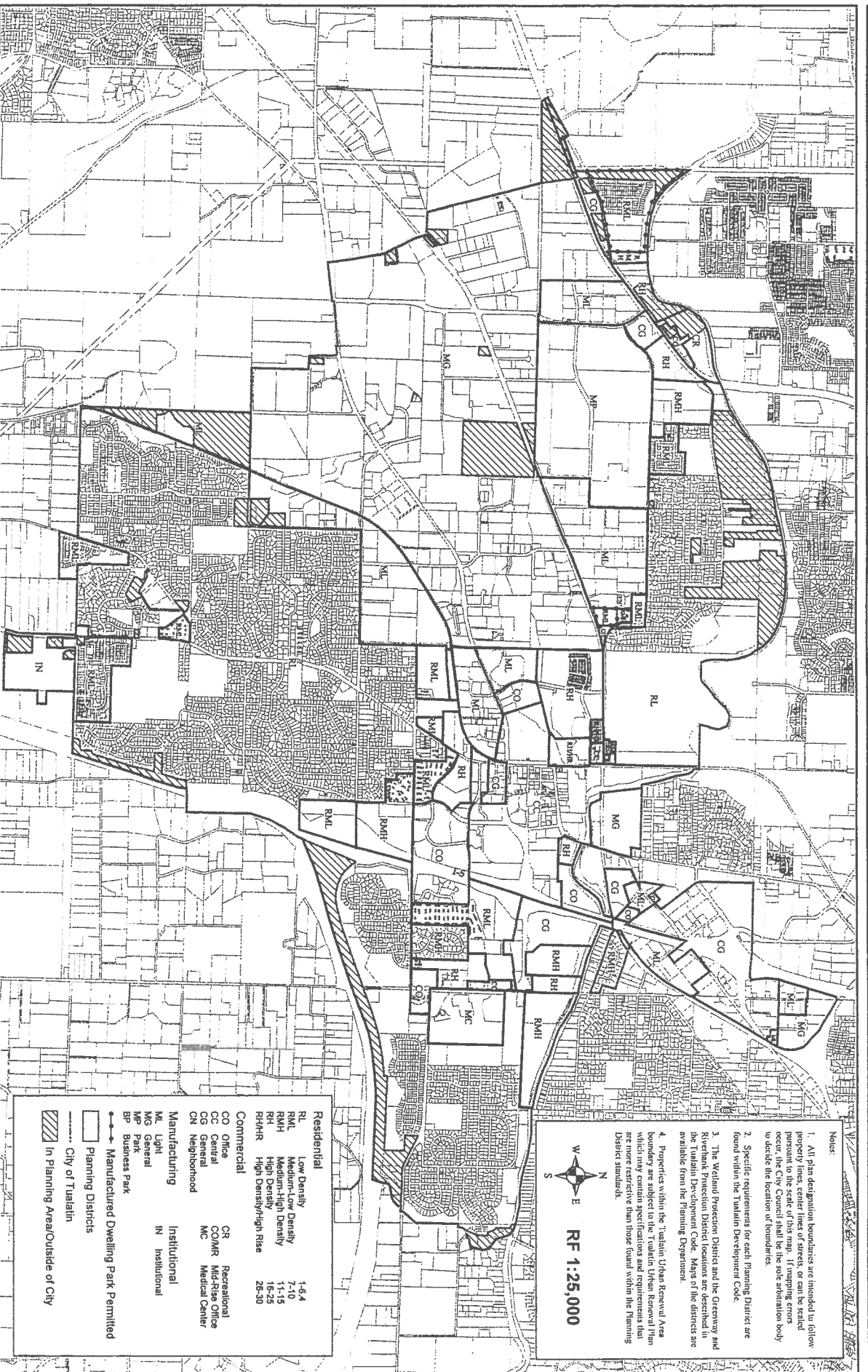
  
\_\_\_\_\_  
City Recorder

  
\_\_\_\_\_  
City Attorney

**Legal Description of Property**  
**Subject to Measure 37 Waiver of Rights and Remedies**

Real property in the County of Washington, State of Oregon, described as follows:  
Lot 34 of TUALATIN GARDENS, in the County of Washington and State of Oregon.

# PMA 09-01 - Proposed Map 9-1 Community Plan Map



# AFFIDAVIT OF POSTING

STATE OF OREGON                     )  
  ) SS  
COUNTY OF WASHINGTON         )

I, Stacy Crawford, being first duly sworn, depose and say:

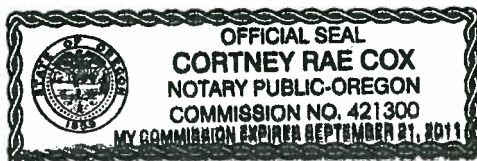
That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted two copies of the Notice of Hearing on the 15<sup>th</sup> day of May, 2009, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:

1. U.S. Post Office - Tualatin Branch
2. City of Tualatin City Center Building

Dated this 15<sup>th</sup> day of May, 2009.

  
Stacy Crawford

Subscribed and sworn to before me this 15<sup>th</sup> day of May, 2009.



  
Notary Public for Oregon  
My Commission expires: 9-21-2011

RE: PLAN TEXT AMENDMENT (PTA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD, AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-01 )

EXHIBIT B





# City of Tualatin

[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, June 8, 2009, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN MAP AMENDMENT (PMA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD, AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-01)

Before granting the proposed Quasi-judicial amendments, the City Council must find that:

(1) Granting the amendment is in the public interest; (2) The public interest is best protected by granting the amendment at this time; (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan is considered; (6) The amendment is consistent with Statewide Planning Goals; (7) The amendment is consistent with Metro's Urban Growth Management Functional Plan; and (8) granting the amendment is consistent with Level of Service E/E for the 2040 Design Type EA.

Individuals wishing to comment may do so in writing to the Community Development Department prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity for the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the applications, all documents and evidence relied upon by the applicant (the City of Tualatin) and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff reports will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper at 503-691-3027 or [wharper@ci.tualatin.or.us](mailto:wharper@ci.tualatin.or.us).** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on  
(May 21, 2009)

Mailed: 5/15/2009

## AFFIDAVIT OF MAILING

STATE OF OREGON                     )  
  ) SS  
COUNTY OF WASHINGTON         )

I, Stacy Crawford, being first duly sworn, depose and say:

That on the 15<sup>th</sup> day of May, 2009, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of a Notice of Hearing marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail at Tualatin, Oregon, with postage fully prepared thereon.

Stacy Crawford  
Stacy Crawford

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of May, 2009.



Cortney Rae Cox  
Notary Public for Oregon  
My commission expires: 9-21-2011

RE: PLAN TEXT AMENDMENT (PTA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD, AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-01)

EXHIBIT C

## Exhibit "A"

1S135CB00800  
OREGON STATE OF  
DEPT OF TRANSPORTATION  
RIGHT OF WAY SECTION  
355 CAPITOL ST NE, RM 420  
SALEM, OR 97301

2S123DC00600  
AMERICAN APARTMENT COMMUNITIES I  
BY UNITED DOMINION REALTY TRUST  
C/O EPROPERTY TAX  
PO BOX 4900  
SCOTTSDALE, AZ 85261

2S123DC01100  
SCHWARZ LIVING TRUST  
BY G ROBERT/LORETTA J SCHWARZ TRS  
1395 SKYE PARKWAY  
WEST LINN, OR 97068

2S123DC90001  
LINKER MARY E  
9061 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90004  
CAIN HELEN  
5680 SW MERIDIAN WAY  
TUALATIN, OR 97062

2S123DC90007  
NETTER RON &  
DAY-NETTER ROSEMARY  
9083 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90010  
BREHM ROBERT P & JANET B  
9089 SW SAGERT ST  
TUALATIN, OR 97062

2S123DD00500  
TIGARD-TUALATIN SCHOOL  
DISTRICT #23J  
6960 SW SANDBURG ST  
TIGARD, OR 97223

2S123DD00800  
LARSEN MARIO K &  
LARSEN REBECCA L  
19738 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD01400  
LUKAS ASHLEY B & REBECCA J  
19840 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DC00100  
GIUSTINA SYLVIA B REVOC TRUST  
PO BOX 989  
EUGENE, OR 97401

2S123DC00900  
EMKAY DEVELOPMENT CO INC  
ONE MORRISON-KNUDSEN PLAZA  
BOISE, ID 83729

2S123DC01200  
HOSLER THOMAS M  
19148 SW CHESAPEAKE DR  
TUALATIN, OR 97062

2S123DC90002  
HENRY KENNETH S  
9063 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90005  
SLOAN CATHLENE  
9075 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90008  
STREGER JENNIFER & STEVEN  
9085 SW SAGERT ST #8  
TUALATIN, OR 97062

2S123DD00300  
ZELL JANET & ALAN TRUST &  
ZELL MARTIN/BEVERLY FAM TRUST &  
LEITGEB IRWIN ET AL  
1440 SW TAYLOR ST  
PORTLAND, OR 97205

2S123DD00600  
FABRYCKI HAL  
16543 S HARDING RD  
OREGON CITY, OR 97045

2S123DD01000  
BRAZIL COLLEEN M  
19790 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD01700  
PINTOS ROBERTO B  
8735 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC00200  
JSPD LLC  
19570 SW 90TH CT  
TUALATIN, OR 97062

2S123DC01000  
MOYER HAROLD & SHANNON  
9055 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90003  
HAYES LISA L  
9067 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90006  
WOLFF LAWRENCE J & DIANA C  
9077 SW SAGERT ST  
TUALATIN, OR 97062

2S123DC90009  
SANDO ROSE M  
9087 SW SAGERT ST  
TUALATIN, OR 97062

2S123DD00400  
ENVOY CHELAN LLC &  
REALVEST CHELAN LLC  
1111 MAIN ST #700  
VANCOUVER, WA 98660

2S123DD00700  
SIMPSON SHELLEY  
PO BOX 824  
TUALATIN, OR 97062

2S123DD01100  
LARSEN DAWYNE &  
LARSEN KAREN G ESTATE OF  
19770 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD01900  
RICE DENNIS B SR  
8635 SW SAGERT ST  
TUALATIN, OR 97062

## Exhibit "A"

2S123DD02000  
MCDONALD MARY A REVOC LIVING TR  
8585 SW SAGERT ST  
TUALATIN, OR 97062

2S123DD02200  
S N H CORPORATION  
ATTN PUMILITE  
PO BOX 5348  
SALEM, OR 97304

2S123DD02300  
S N H CORPORATION  
ATTN TUALATIN INC  
P O BOX 5348  
SALEM, OR 97304

2S123DD02400  
89TH STREET LLC  
PO BOX 5348  
SALEM, OR 97304

2S123DD02800  
SOLTERO FRANCISCO S  
19760 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD03400  
CAFFALL CURT G & LESLIE  
8685 SW SAGERT ST  
TUALATIN, OR 97062

2S123DD03500  
PACKARD LIVING TRUST  
BY GEORGE D & OUIDA M PACKARD TRS  
8675 SW SAGERT ST  
TUALATIN, OR 97062

2S123DD03600  
KIMMER WILLIAM D &  
KIMMER PATSY A  
10344 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD03700  
WILLIAM DEAN INC  
13044 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD03800  
STANSFIELD SEAN K & AMBER R  
8631 SW LOGAN LN  
TUALATIN, OR 97062

2S123DD03900  
KIMMER WILLIAM D &  
KIMMER PATSY A  
10344 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD04000  
WILLIAM DEAN INC  
13044 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD04100  
WILLIAM DEAN INC  
13044 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD04200  
KIMMER WILLIAM D & PATSY A  
4660 NE BELKNAP CT STE #119  
HILLSBORO, OR 97124

2S123DD04300  
KIMMER WILLIAM D &  
KIMMER PATSY A  
10344 SW BROADMOOR PL  
TIGARD, OR 97223

2S123DD04500  
TUALATIN CITY OF  
18880 SW MARTINAZZI AVE  
TUALATIN, OR 97062

2S123DD90001  
PETERSON KELLY A  
19800 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD90002  
BOURBONNAIS TERRY J  
19804 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD90003  
AMIEL JACQUELINE  
19810 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S123DD90004  
GRANT HEIDI LEE  
19816 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S126AA00100  
LIVING SAVIOR LUTHERAN CHURCH  
8740 SW SAGERT ST  
TUALATIN, OR 97062

2S126AA01500  
HUTCHENS WILBUR F  
VERA L  
4830 SW DAWN ST  
LAKE OSWEGO, OR 97035

2S126AA01600  
LIVING SAVIOR LUTHERAN CHURCH  
8740 SW SAGERT ST  
TUALATIN, OR 97062

2S126AA01700  
MUNOZ ZAIDA & CLAUDIA  
20085 SW BOONES FERRY RD  
TUALATIN, OR 97062

2S126AA01701  
CHERNOBERSKY NAUM & DEENA  
6530 SW 89TH PL  
TIGARD, OR 97223

2S126AA01703  
EDWARDS DONALD J & MARTHA K  
8850 SW SAGERT ST  
TUALATIN, OR 97062

2S126AA01800  
EDWARDS RACHEL SUZANNE AND  
GARY RAYMOND  
8900 SW SAGERT  
TUALATIN, OR 97062

## Exhibit "A"

2S126AA01801  
EATON TYLER &  
EATON KATHRYN  
8910 SW SAGERT ST  
TUALATIN, OR 97062

2S126AA01900  
BROWN ELIZABETH J & ROBERT G  
PO BOX 1338  
TUALATIN, OR 97062

2S126AA01901  
GRAHAM ALBERTA  
8920 SW SAGERT ST  
TUALATIN, OR 97062

2S126AA01902  
STOLZE STEVEN L  
PO BOX 1093  
TUALATIN, OR 97062

2S126AB00100  
COHEN WILLIAM S & LORELEI L  
9050 SW SAGERT ST  
TUALATIN, OR 97062

2S126AB00101  
STEPHENS FRED S/LISA DIANE  
9060 SW SAGERT ST  
TUALATIN, OR 97062

2S126AB00102  
YATES DANNIELLE  
PO BOX 3307  
TUALATIN, OR 97062

2S126AB00103  
DOUVILLE THOMAS A  
9040 SW SAGERT ST  
TUALATIN, OR 97062

2S126AB00200  
CARROLL JILL STRADER  
9070 SW SAGERT  
TUALATIN, OR 97062

2S126AB00300  
GREEAR CHAD M  
9100 SAGERT  
TUALATIN, OR 97062

2S126AB04600  
CUNNINGTON J MATTHEW & KATHLEEN  
9285 SW APACHE DR  
TUALATIN, OR 97062

2S126AB04700  
GLENN DIANE H  
9275 SW APACHE DR  
TUALATIN, OR 97062

2S126AB05000  
BROWN LORETTA KAY  
9248 SW CREE CIR  
TUALATIN, OR 97062

2S126AB05100  
O'RILEY KEVIN & WENDY  
9244 SW CREE CIRCLE  
TUALATIN, OR 97062

2S126AB05200  
TEUTSCH HOLLY BIELITZ  
9242 SW CREE CIRCLE  
TUALATIN, OR 97062

2S126AB05300  
FISHER MATTHEW M  
9240 SW CREE CIR  
TUALATIN, OR 97062



# City of Tualatin

[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, June 8, 2009, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN MAP AMENDMENT (PMA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDIUM LOW-DENSITY RESIDENTIAL (RML) AT 19945 SW BOONES FERRY ROAD, AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-01)

Before granting the proposed Quasi-judicial amendments, the City Council must find that:

(1) Granting the amendment is in the public interest; (2) The public interest is best protected by granting the amendment at this time; (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan is considered; (6) The amendment is consistent with Statewide Planning Goals; (7) The amendment is consistent with Metro's Urban Growth Management Functional Plan; and (8) granting the amendment is consistent with Level of Service E/E for the 2040 Design Type EA.

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CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on  
(May 21, 2009)

Mailed: 5/15/2009

## ATTACHMENT ~~F~~ **D**

### PMA-09-01: 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 a 5.44 acre portion of Tax Lot 500 on Map 2S123DD from Low-Density Residential (RL) to Medium Low-Density Residential (RML) on land located at 19945 SW Boones Ferry 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. Granting the amendment is in the public interest.**

The Applicant states: "If this site were to remain zoned RL, it would accommodate 30+/- new single family homes. There is no current demand, by either the residential development community or the Tualatin consumer, for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity." (Attachment D, pg. 6) The Applicant further states "...granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development." "...the change in the zoning district to RML permits construction of 50+ dwellings. 80+ dwellings can be facilitated through the conditional use provisions of the requested zoning district (RML)."

As identified by staff, the public interest is to:

- 1) To respond to a proposal for new development and redevelopment of the TTSD/Old Tualatin Elementary School (TES) property with planning actions such as the proposed PMA;
- 2) Designate residential land that is suitable for senior housing facility development in a location that will be compatible with nearby residential development, be near communities services and amenities such as stores, parks and libraries, have access to the health care facilities in the Tualatin area, and be served by adequate transportation facilities;
- 3) To ensure an adequate supply of residential land is available for various housing types including independent and assisted living facilities suitable for an aging population.
- 4) To consider relevant Tualatin Tomorrow Community Vision and Action Plan objectives such as for housing and services.

The applicant's public interest statements and the first (1) public interest listed in this analysis are associated with the ownership, sale and development of the Old TES property. The 12+ acre site is centrally located in Tualatin and borders SW Boones Ferry Road, a major arterial street connecting the residential areas in the south part of Tualatin with the City's downtown area. The former school buildings on the site have

proven too expensive for reuse and rehabilitation due to structural problems and the presence of hazardous material. The buildings are slated for demolition by TTSD & Marquis Companies (HIST-08-01 approved the demolition of the Gerald Avery Building and Gymnasium).

Since closing the school in 2004 and declaring it surplus property, the TTSD solicited private and public groups to purchase and redevelop the property. The TTSD seeks to obtain reasonable economic value from the property while respecting the community value associated with a former public school site and the residential area that it is in. Given the costs of purchase and development and the markets for residential and institutional uses during the period since 2004, the responding private developers all proposed a form of development that required a change in the Planning District designation from the existing RL to a Planning District that would allow higher density and different housing types. Marquis Companies, with its plans to purchase and redevelop the eastern 5.44 acres of the Old TES property for senior housing is the only developer to come to terms with TTSD at this time. There are no prospective purchasers and developers of the remaining 7+ acres of the property. The proposed RML designation will allow the independent living, assisted living and skilled nursing senior housing project with 80+ dwelling units proposed by Marquis Companies to be a viable development on the property. This satisfies the public interest in supporting viable and appropriate redevelopment of the Old TES property.

The proposed RML Planning District designation will allow the applicant to develop a senior housing facility that mixes independent living units in a multi-story building that are an attached, apartment-style housing with assisted living and skilled nursing residential care housing and support facilities. With a conditional use permit for retirement housing, the RML designation will allow the 15 dwelling units per acre density that the applicant needs to invest in constructing and operating a senior housing and care facility on the site. The Old TES site is located in a residential area with a mix of single-family and multi-family housing development. The site is near to the commercial and civic areas of downtown Tualatin, is on a public transit line, and with good access to medical facilities such as the Kaiser Clinic at the west end of the Town Center and Legacy Meridian Park Hospital further east via SW Sagert Street. The subject property location is suitable for a senior housing and care facility and will meet the public interest listed in 2) above.

The Old TES property is currently in the RL Planning District that is primarily for single-family detached residential housing (up to 30 single family homes on the 5.44 acre subject property net 20% for required public streets and water quality facilities) as well as limited-size residential facilities. The RML Planning District allows as permitted uses various housing types including single and multi-story attached dwelling units such as duplex/triplexes, apartments, condominiums, townhouses as well as residential facilities such as assisted living and congregate care (TDC 41.020). With the RML designation and a conditional use permit for a retirement facility, the 5.44 acres subject property will accommodate 80 individual independent living dwelling units and the proposed assisted living and skilled nursing residences for 130-170 residents. The proposed RML designation will provide opportunity for more housing types and numbers of dwelling



units that are suitable for senior independent living and care/assisted living, and will meet the public interest listed in 3) above.

The public interests listed in the Tualatin Tomorrow Action Plan calling for a mix of higher-density and affordable housing in the City are discussed in the section under Criterion C of this attachment.

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

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

The Applicant states: "It is a potential developer's best interest to time product delivery on this site to a future upturn in the market. As the market for housing catches up to and hopefully challenges the existing supply over the next two years, a developer of this site can be gaining land use approvals, building permits and constructing a new project. This timeline is in the best interests of the public because it will put Tualatin in a position of prominence with new residential development." (Attachment D, pp. 6-7)

In addition, the amendment is appropriate at this time because prospective residential and senior housing developers require a planning district designation that enables a greater range of housing types and allows senior housing and shared care facilities at a number of units and resident spaces greater than the current standards allow. The property will be more suitable for redevelopment and for the only committed purchaser of the old TES site if the designation is changed to RML. It is in the public interest to change the Planning District designation to RML, thus encouraging redevelopment of the site as a senior housing project.

The City has prepared a development agreement with the applicant (Marquis Companies) and TTSD that will ensure that if the RML Planning District designation is approved in PMA-09-01, the implementing Ordinance will have an effective date tied to Marquis Companies obtaining conditional use and AR approval within 18 months. Construction of the proposed senior housing development then must commence within 12 months or the property will return to the RL Planning District designation. Marquis Companies and TTSD have both signed the agreement, known as the "Non-Statutory Development Agreement". The agreement will be presented to the City Council for approval and authorization at the June 8, 2009 meeting.

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

Criterion "B" is met.

**C. 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.**

Staff agrees with the applicant (Attachment D, pg. 8) the objective of TDC 4.050(6) is met because the RML designation will be a transition between the RL Planning Districts on the south and east of the site with the RML and RH (High Density Residential) Planning Districts on the west and north. These areas are primarily residential except for the church use at the southeast corner of SW Sagert Street and SW Boones Ferry Road. The residential uses allowed in the proposed RML Planning District designation are compatible with residential development in this part of Tualatin. The RML Planning District designation allows a higher number of residential dwelling units and a larger scale residential facility that 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 applicant states, "With this application the request for RML zoning on a specific site addresses the requirement for a variety of living environments. The district also facilitates development of senior housing facilities." (Attachment D, pp 8-9)

Staff agrees the objective of TDC 4.050(9) is met because adding RML land to the SW Boones Ferry Road area would add variety by increasing the amount of land available for medium-low density residential uses by 5.44 acres. The proposed RML designation will complement the RL, RML and RH developments in this area of Tualatin and add to the variety of living environments available. This objective is met.

### **Residential Planning District Objectives:**

#### **TDC 5.030 Objectives (4) Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing and provide residential opportunities in selected commercial areas through the Mixed Use Commercial Overlay District.**

The applicant states "RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping. The site is adjacent to multi-family development with apartments to the north and west of the property." (Attachment D, pg. 9)

The proposed map amendment to designate the 5.44 acre property as RML is an appropriate planning response to the need to redevelop the former TES site in this area of Tualatin. Staff agrees that the RML designation is in an area with existing multi-family housing and with the applicant's reasons, meets the objective.

**TDC 5.030(1) Provide for the housing needs of existing and future City residents.  
(2) Provide housing opportunities for residents with varied income levels and tastes that are aesthetically and functionally compatible with the existing community housing stock.**

The applicant states “A change in the zoning district to RML on the subject property permits construction of 50+ dwellings. 80+ senior housing units can be facilitated through the conditional use provisions of the requested zoning district. A large variety of housing options are available for development on this site with the requested zoning district. These housing options can address varied income levels and tastes that can be functionally and aesthetically compatible.” (Attachment D, pg. 9)

The Tualatin Tomorrow Community Vision and Strategic Action Plan, June 2007, lists under the Diverse Housing Strategy for Housing Choices & Types/Action Item “Town Center Housing Types” action to “Consider a housing element for the Town Center Plan, including guidelines and tools to promote development of a mix of higher-density and affordable housing.” (Action GHT11.1) The TTSD property is within the area considered for the Town Center Plan. As discussed previously, the RML Planning District allows a greater range of housing types and an increase in housing opportunities in respect to resident’s income and needs. These objectives are met.

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

Criterion "C" is met.

**D. 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 includes the areas on both sides of SW Boones Ferry Road and SW Sagert Street, including the existing Old TES campus site (subject site), the residential apartments to the north and duplexes to the east, and the primarily single family residential areas to the south and east. The subject property/Old TES site is close to the Tualatin downtown retail and commercial areas to the north and east. The Applicant states “The application of the RML district to this site will improve the incremental transition from commercial and high-density residential development with a medium density project at this important intersection.”

The proposed amendment is appropriate in relation to the characteristics of the SW Boones Ferry Road/SW Sagert Street residential area.

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

The Applicant states: “The site is suitable for medium density residential development. All of the necessary infrastructure is available or can be made available to serve the project at the intended maximum density.” (Attachment D, pg. 11) The residential and semi-institutional (schools, churches & senior care facilities) land uses allowed in the RML Planning District are consistent with the surrounding land uses in the SW Boones

Ferry Road/SW Sagert Street vicinity. The area is suitable for RML Planning District uses and the proposed senior housing and care facility.

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

The Applicant states: "The continued housing construction slump is predicted for the next few years as inventory of new homes and home resales are absorbed at average or below average rates. If this site were to remain zoned RL, it would accommodate 30+/- new single-family homes. There is no current demand, by either the residential development community or the Tualatin consumer for this product. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site." (Attachment D, pg. 11)

As described in the public interest section, the trends associated with a severe downturn in local and regional housing markets has resulted in no investor interest in redeveloping the Old TES property as RL housing. There is interest by the Marquis Companies to develop a senior housing project on a 5.44 acres portion of the site. Marquis has noted the trends for integrating senior independent living units with assisted living and care facilities in an attractive and service oriented "community" or "village" atmosphere. Marquis proposes to develop this kind of facility on the Old TES site and seeks to change the Planning District designation to RML and request a conditional use permit to allow additional senior housing units.

### **Property values.**

The Applicant states: "The site of the former TES is located in an area of both newer homes (Logan House Subdivision) and older homes (on the south side of Sagert Street)." "Regardless of the quantity of sales or the price of individual homes over the past five years, the presence of an abandoned elementary school has not increased the perception of property values in the vicinity. Redevelopment of the site - which can be facilitated with the requested change in the zoning district - will improve the perception of the immediate community and serve to improve the quality of the neighborhood." (Attachment D, pg. 11)

While there is no evidence that the current vacant use and condition of the Old TES buildings 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: "Granting this request for a Plan Map Amendment is in the public interest because a change from RL to RML zoning will provide underlying value to the property that can encourage development." (Attachment D, pg. 12)

The property owner, TTSD, finds it important to sell the Old TES property and obtain a financial return. As discussed in previous sections, sale of the property is dependent on the financial aspects of redevelopment on the site. The proposed Marquis Companies senior housing project needs a change in the Planning District designation to RML to be

viable and meet the needs of the TTSD while allowing for future development in the area.

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

The Applicant states: "New construction on the site will be conditioned to dedicate additional ROW on Boones Ferry Road. Redevelopment of the site - which can be facilitated with the requested change in the zoning district – will facilitate the dedication of that ROW." (Attachment D, pg. 12) The Engineering Division Memorandum identifies a need for additional ROW on both the SW Boones Ferry Road and SW Sagert Street frontages and discusses the issues of access to SW Boones Ferry Road. 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 Old TES site. The Old TES site includes six Tualatin Heritage Trees (a Douglas Fir, an English Chestnut & four Catalpa) that the owner and developer are aware of and have expressed interest in preserving if possible.

**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: "The Plan Map Amendment from RL to RML on 5.4 acres of land at the intersection of Boones Ferry Road and Sagert Street will facilitate redevelopment of a site that is currently abandoned, and a community detraction. It is in the public interest for the City to find a way, or assist in every way possible, to facilitate redevelopment of this site. The longer the site remains shuttered and unused, the more it becomes an attractive nuisance for vandalism and other inappropriate activity." (Attachment D, pg. 12)

Staff agrees with the Applicant that the proposed amendment creates an opportunity for redevelopment of the no longer needed Old TES site with its vacant condition. 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.**

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 Boones Ferry Road and SW Sagert Street. TDC Map 9-2 Neighborhood Planning

Areas identifies the area in the vicinity of the Old TES as Area 2, characterized by the mix of commercial and industrial service uses, higher density multi-family residential and the school site close to the city's central districts (TDC 9.032). The proposed change to RML conforms to the Area 2 mix of uses. The decision by the TTSD to sell the 12 acre Old TES property for redevelopment represents a significant change in this area that will likely result in more residential development on a site that was largely open playground.

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

The Applicant states: "If the school had not been located for many years on this property, it would have been – and should have been – zoned with a high-density residential or commercial zoning district. The fact that the school facility was an allowable – albeit conditional use - on low density residential zoned land meant that community planners left the site RL zoning. The belief at the time was the school would always own the property and continue to use the site for educational purposes. While this decision is not necessarily a mistake, it did not reflect the best practices for gradient density zoning radiating out from the City Center."

Staff disagrees with the Applicant's statement suggesting that the existing RL designation (established as a residential zone in the 1960's and designated in 1979 as RL) may be a mistake in the plan map. The development of the City of Tualatin Plan and zoning code in the 1960's and succeeding adoption of the Tualatin Community Plan and Development Code in 1979 both represented the thoughtful efforts of the City's leaders at the particular time the low-density residential designations were enacted. It also reflected the reasonable intentions of the school property owners and neighboring residents at the time. In the context of today's conditions, with the school no longer in operation on the site, there may be a change in how the property's use and development intensity may be viewed by owners, developers and neighbors. It represents a change in housing markets, changes to school facility siting and development by the TTSD and the arrangement of various land uses in the City, not a mistake in the plan map.

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

Criterion "D" is met.

**E. The criteria in the Tigard-Tualatin School District Facility Plan were considered.**

The Applicant states: "The property is the location of the former Tualatin Elementary School. The application is signed by the Superintendent of the School District. The School District is cognizant of this request to increase the potential residential density on the property. At such time as a specific development request is made for land use approval, the school district will evaluate the capacity of the schools serving this site and prepare a report for jurisdiction consideration."

The TTSD has not commented on the effect of increasing the allowed residential density on the 5.44 acres property from RL (maximum 6.4 du/acre) to RML (7-10 du/acre) 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. An increase in residential density is something to be evaluated by the TTSD.

Staff agrees with the Applicant that the TTSD has authorized this proposed map amendment and can choose to consider the TTSD Facility Plan at this time or when development actions occur in the future. Criterion E was adequately considered.

#### **F. 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: "The development team has held two neighborhood meetings discussing the potential for development on the property. All of the required steps were followed to ensure opportunity for citizen participation in the land use planning process. The public hearing conducted to discuss this application will provide another opportunity for citizens to become involved in the decision." "The City has an acknowledged Comprehensive Plan and a process for amending the plan map with new or different zoning districts."

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. 15) and describes 50+ - 80+ housing units that can result with the proposed RML designation of the 5.44 acre subject property and discusses the increase in housing forms and types allowed in the RML District over the existing RL Planning District designation.

Staff has prepared information on the effect of changing the designation of the property and the adjacent public ROW from the residential RL to RML on meeting the Metropolitan Housing Rule with updated analysis of planned housing density and

PMA-09-01: Attachment F—Analysis and Findings

June 8, 2009

Page 10

**Table 2A**

**CITY OF TUALATIN-- METRO  
HOUSING RULE COMPLIANCE, PMA-  
09-01--WITH PROPOSED REDUCTION  
OF 5.4 ACRES (+ 0.69 Acres ROW)  
FROM RL and ADDING TO RML  
DISTRICT \***

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,217.2	258.9	188.2	166.0	18.2	2,848.5 Acres
Acres proposed for removal from or added to residential district	-6.1	6.1				0.0
Total acres of ROW in each residential district (+/- 0.69 acres ROW)	-442.7	-59.2	-32.4	-23.6	-3.4	-561.2
Total Gross Buildable Acres	1,768.5	205.8	155.8	142.4	14.8	2,287.3 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%)	-293.5	-44.4	-54.8	-76.4	-12.6	-481.7
Total Acres Minus Environmental Restrictions	1,475.0	161.4	101.0	66.0	2.2	1,805.6 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	1,177.9	149.6	94.7	65.8	2.2	1,490.2 Acres
Residential District (dwelling units per acre)	6.4	10.0	15.0	25.0	30.0	86.4
Total Dwelling Units Allowed	7,538.4	1,495.8	1,421.0	1,646.0	64.8	12,166.1 Dwelling Units
	Dwelling units per acre					8.16

**Table 2B**

**PMA-09-01 Metro Housing Rule New  
Construction Mix**

	RL	RML	RMH	RH	RH/HR	Total
Total acres in each residential district (current)	2,217.2	258.9	188.2	166.0	18.2	2,848.5 Acres
Acres proposed for removal from or added to residential district	-6.1	6.1				0.0
Total acres of ROW in each residential district (+/- 0.69 acres ROW)	-442.7	-59.2	-32.4	-23.6	-3.4	-561.2
Total Gross Buildable Acres	1,768.5	205.8	155.8	142.4	14.8	2,287.3 Acres
Environmental restrictions (100 flood, NRPO, slopes > 25%)(RL only, no shift in density as allowed in RML-RH/HR)	-293.5	0.0	0.0	0.0	0.0	-293.5
Total Acres Minus Environmental Restrictions	1,475.0	205.8	155.8	142.4	14.8	1,993.8 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	1,177.9	194.0	149.5	142.2	14.7	1,678.3 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	7,538.4	1,939.9	2,242.6	3,556.0	441.9	15,719 Dwelling Units
Total Single Family Detached Units Allowed (RL)	7538.4					7538.4 48.0% of Dwelling Units Allowed
Total Attached/Multi-Family Units Allowed (RML, MRMH, RH, RH/HR)						8180.4 52.0% of Dwelling Units Allowed

5/22/2009

\* Removes 5.4 + 0.69 acres from RL Gross; Removes 5.4 acres from RL Non-buildable & 0.69 acres from RL ROW / Adds 5.4 + 0.69 acres to RML Gross; Adds 0.69 acres to RML ROW.



housing mix to reflect the size of the RML properties as shown on Tables 2A & 2B. Staff determined that changing the 5.4 acres of land and .69 acres of public street ROW from RL to RML 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 5.44 acres of RL residential land in the City's supply to RML (with maximum 10 du/acre) will increase the attached/multi-family housing share from 51.9 percent to 52.04 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.

**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: "RML zoning on the corner of Boones Ferry Road and Sagert Street provides an opportunity for higher development along an arterial street and an excellent location for an enhanced Tri-Met service stop. It is also in close proximity to the downtown core with potential pedestrian access for employment and shopping. The detailed (traffic) analysis and executive summary provides conclusions demonstrating that the requested new zoning district will have little impact on regional traffic movement." (Attachment D, pp. 15-16)

The submitted traffic analysis provides extensive analysis of nearby street facilities to the Year 2029 horizon and concludes that "...the proposed land use is not expected to 'significantly affect' an existing or planned transportation facility and is therefore in compliance with the Transportation Planning Rule." (Attachment D, TIA Dunn Traffic Engineering LLC, pp. 5-6)

The Engineering Division provides information concerning the TPR analysis in the narrative and the Reasonable Worst Case Scenarios, Trip Differentials & Impact of Reasonable Worst-Case RML Zone Added to Existing Traffic tables in Attachment G.

Staff agrees with the Applicant that the proposed amendment is consistent with Statewide Planning Goal 12.

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

Staff has reviewed the applicant's material and agrees the PMA is consistent with 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 Boones Ferry Road north of SW Sagert Street as "IN Inner Neighborhood". The proposed amendment revising the Planning District from RL to RML retains the residential use classification with a increased range of housing types and density. This is consistent with the "IN" classification.

Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The PMA proposes to change the low density residential (RL) planning district which supports 1-6.4 dwelling units per acre to low-medium density residential (RML) which supports 7-10 dwelling units per acre. The proposed increase in density allows a greater number of dwelling units to be built on this parcel and therefore increases the City's ability to attain the housing capacity target number set by Metro. For this reason, the proposed PMA could assist the City in compiling with dwelling capacity identified in Table 1 of Title in the UGMFP.

The applicant's responses to the Functional Plan are presented in the application narrative (Attachment D, pp. 17-18). Staff notes that Title 1 (Housing and Employment Accommodation) and Title 7 (Affordable Housing) of the UGMFP (Chapter 3.07) are applicable to the proposed PMA and agrees Titles 1 & 7 are satisfied.

**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 analysis (Attachment D, TIA Report- Dunn Traffic Engineering LLC) analyzes Reasonable Worst Case scenarios for existing RL and changing the Planning District designation of the subject parcel from RL to RML for four scenarios: the old elementary school; RL single family homes; RML apartments; and the Marquis Companies development. The TIA assumes two SW Boones Ferry Road accesses for the Marquis Companies development (see discussion in Attachment G, pg. 2). The 2029 analysis included the benefits of all intersection & street improvements listed in TDC Chapter 11. Under the worst case scenarios for the current RL zone and proposed RML zone in the 2029 analysis, the study intersections of Boones Ferry Road & Avery Street and Martinazzi Avenue & Sagert Street are forecasted to have a LOS less than prescribed in

the TDC during the weekday p.m. peak hour & a.m. peak hour respectively. Both the existing RL and the proposed RML worst case scenarios will result in the LOS forecasted by the TIA. (Attachment G, pp. 3-4)

See Attachment G, a memorandum from Tony Doran, EIT, regarding compliance with Criterion 8.



Approved By Tualatin City Council  
Date 6-8-09  
Recording Secretary W. Smith

## 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*  
William Harper, Associate Planner *WH*

**DATE:** June 8, 2009

**SUBJECT:** RESOLUTION APPROVING A DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF TUALATIN, TIGARD-TUALATIN  
SCHOOL DISTRICT AND MARQUIS COMPANIES

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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, the Tigard-Tualatin School District 23J (TTSD) (the Property Owner) and Marquis Companies (the Developer) for development of a senior living project on a portion of the former Tualatin Elementary School site (the "Site") located on SW Lower Boones Ferry 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 covered by the Agreement encompasses a 5.44 acre parcel on the on the eastern portion of the 12.75 acre Old Tualatin Elementary School site located at 19945 SW Boones Ferry Road in the RL (Low-Density Residential) Planning District (Assessors Map 2S123DD 500/portion).
- The City of Tualatin has approved one (1) land use application associated with potential redevelopment of the Site (HIST-08-01) and is currently considering an application for a Plan Map Amendment (PMA-09-01) to change the designation of the subject portion of the property from RL to RML (Medium-Low Density Residential). The Developer has indicated that if the PMA is approved, they will

submit a Conditional Use Permit application for a retirement housing use for the subject property followed by an Architectural Review application.

- The proposed Agreement has been prepared for the purpose of assuring that if the proposed PMA-09-01 is approved, it will apply only to the proposed Marquis senior living facility and not to another developer or residential development. If the Marquis Companies project has not obtained project approvals within 18 months after the agreement's effective date, the agreement will be null and void and the Plan Amendment will not be enacted. If construction has not commenced within 12 months after the Plan Amendment Effective Date, the Agreement and the Plan Amendment will be null and void and the property will return to the RL Planning District designation.
- A series of agreement points have been reached in the Agreement with the Property Owner and Developer. 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, the City, TTSD and the Developer will have an agreement, which will remain in effect for a period of 18 months after the Agreement Effective Date and if Marquis Companies obtains all development approvals, will remain in effect up to 12 months after of the adoption of the Plan Map Amendment PMA-09-01.

If the City Council does not approve the resolution with the accompanying Agreement, the City, TTSD and the Developer will not have an agreement addressing the proposed plan map amendment for the Site.

#### **ALTERNATIVES TO RECOMMENDATION:**

If the Council wishes to approve the resolution and Agreement, but with modifications, staff will coordinate with the TTSD and Developer 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 the TTSD and the Developer of the Council's decision.

#### **FINANCIAL IMPLICATIONS:**

Staff resources have been budgeted in Fiscal Year 08-09 to work on the Agreement and subsequent review of the project.

#### **DISCUSSION:**

There are six (6) sections contained in the Agreement. Each is briefly described below:

1. Section 1 establishes an effective date for Plan Map Amendment (PMA-09-01) that is associated with the developer obtaining a conditional use permit and

final approval of an Architectural Review for the Marquis Companies senior living project.

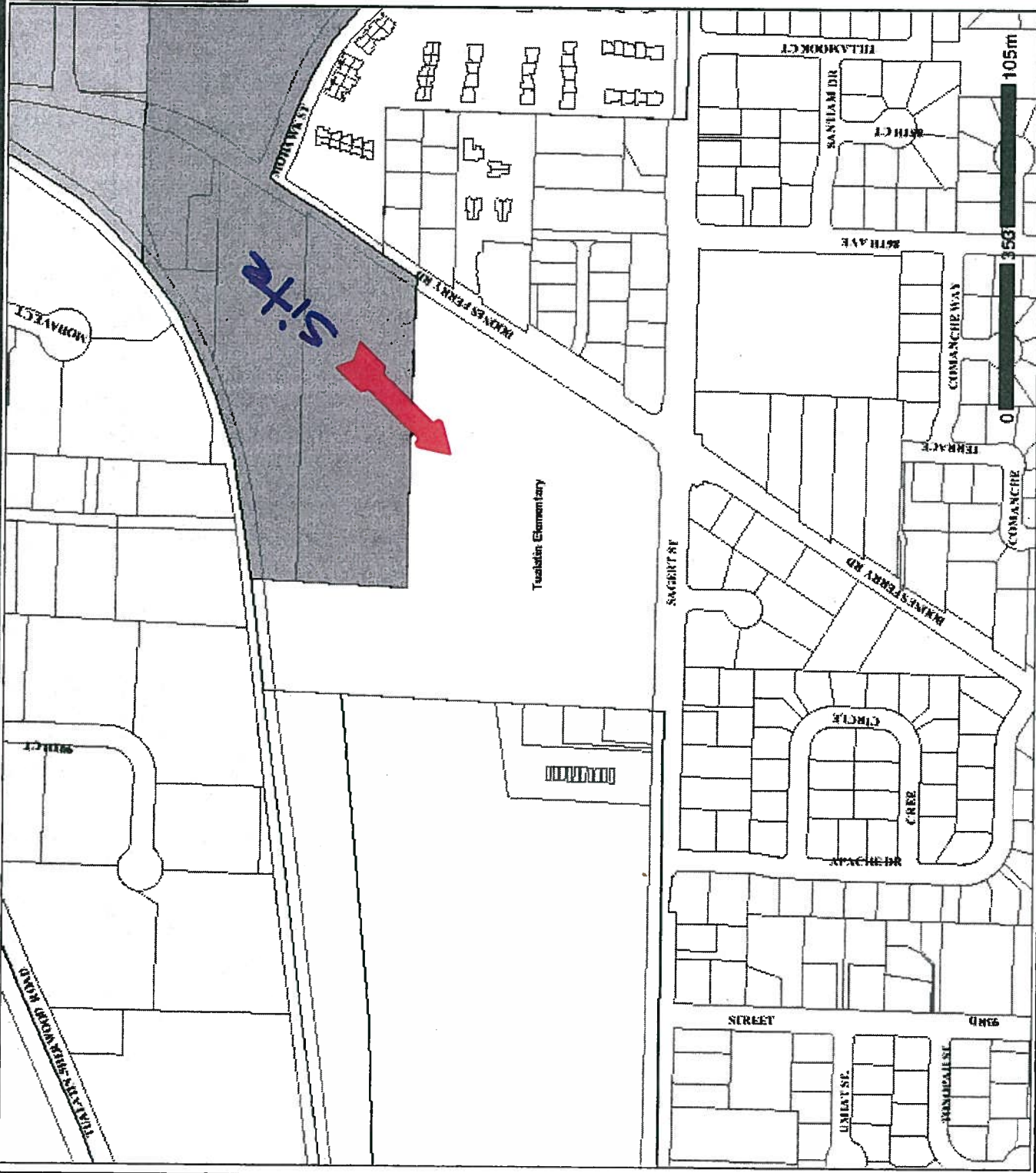
2. Section 2 establishes the term of the agreement and the Plan Map Amendment in respect to obtaining project approvals and commencing construction of the Marquis Companies senior living project on the site.
3. Section 3 specifies that the Agreement is not a statutory development agreement.
4. Section 4 specifies that the Agreement represents the entire and final agreement of the parties.
5. Section 5 allows execution of parts of the Agreement as original parts of one instrument.
6. Section 6 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





TUALATIN MARQUIS

PLAT MAP

**EMERIO**  
Designs

6107 SW MURRAY BLVD., SUITE 147  
BEAVERTON, OREGON 97008  
PH: (503) 515-3528  
FAX: (503) 639-9592

SHEET

1

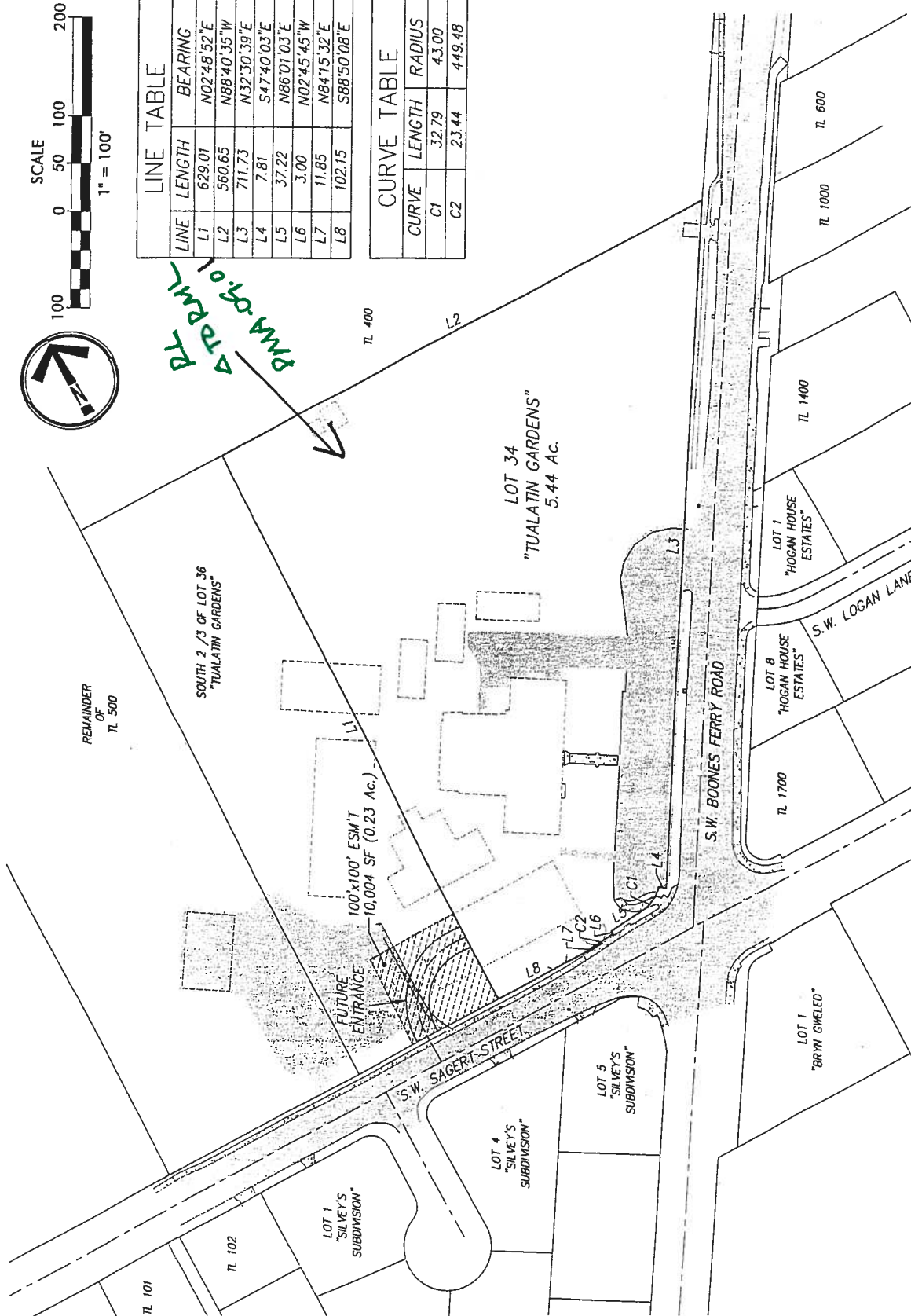
OF

3



LINE TABLE		
LINE	LENGTH	BEARING
L1	629.01	N02°48'52"E
L2	560.65	N88°40'35"W
L3	711.73	N32°30'39"E
L4	7.81	S47°40'03"E
L5	37.22	N86°01'03"E
L6	3.00	N02°45'45"W
L7	11.85	N84°15'32"E
L8	102.15	S88°50'08"E

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	32.79	43.00
C2	23.44	449.48





RESOLUTION NO. 4899-09

A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF TUALATIN, TIGARD-TUALATIN  
SCHOOL DISTRICT AND MARQUIS COMPANIES

WHEREAS, Marquis Companies has applied for a Plan Map Amendment to change a 5.44 acre parcel on the eastern portion of the 12.75 acre Old Tualatin Elementary School site located at 19945 SW Boones Ferry Road from RL (Low-Density Residential) Planning District (Assessors Map 2S123DD 500/portion) to RML (Medium Low-Density Residential) for the purpose of constructing senior living facilities on the site; and

WHEREAS, the proposed Agreement has been prepared to assure that if the Council approves proposed PMA-09-01 Plan Amendment after considering the evidence in a quasi-judicial public hearing, the approval will apply only to the senior living facility proposed by Marquis; and

WHEREAS, the Agreement provides that the Marquis Companies' project has not obtained project approvals within 18 months after the agreement's effective date, the agreement will be null and void and the Plan Amendment will not be enacted. It further provides that if construction has not commenced within 12 months after the Plan Amendment Effective Date, the Agreement and the Plan Amendment will be null and void and the property will return to the RL Planning District designation; and

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;

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 8th day of June, 2009.

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

CITY OF TUALATIN, Oregon

By   
Mayor

ATTEST:

By   
City Manager

## NON-STATUTORY DEVELOPMENT AGREEMENT

This Non-Statutory Development Agreement (this "Agreement") is made and entered into as of the 15 day of May, 2009 (the "Effective Date") by and between Tigard-Tualatin School District 23J, an Oregon school district (the "School District"), Marquis Companies I, Inc., an Oregon corporation ("Marquis") and the City of Tualatin, Oregon (the "City").

### RECITALS

- A. The School District is the owner of 12.75 acres of improved real property located in the City (the "Property").
- B. By Purchase and Sale Agreement dated as of May 9, 2008 (as amended, the "Purchase Agreement"), the School District agreed to sell approximately 5.4 acres of the Property to Marquis, which is more fully depicted on Exhibit A hereto (the "Marquis Property"), and Marquis agreed to purchase the Marquis Property from the School District on the terms and conditions set forth in the Purchase Agreement.
- C. Marquis has applied to the City for approval to develop on the Marquis Property a senior living facility, which will include a skilled nursing facility, assisted living facility and independent living facility (the "Facility").
- D. Marquis has applied for a Plan Map Amendment to permit a change in the zoning of the Marquis Property from RL to RML (the "Amendment").
- E. 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 Facility.
- F. The parties are interested in entering into this Agreement in order to document the Parties' intent.

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

1. If approved by the Tualatin City Council, the Amendment shall provide for an effective date, on the date Marquis has received from the City both a conditional use permit and architectural review board approval for the Facility and the corresponding appeal periods for those approvals have expired (the "Project Approvals"). Provided the conditions set forth in this Section 1 are met, the Amendment shall be effective as of the date described in this Section 1 (the "Amendment Effective Date") without the need for further action or the execution of further documents.

2. In the event (i) Marquis has not obtained the Project Approvals within eighteen (18) months after the Effective Date or (ii) Marquis has not been issued a foundation permit within twelve (12) months after the Amendment Effective Date then, without the need for further action or the execution of further documents, this Agreement, in the case of the event described in clause (i), and this Agreement and the Amendment, in the case of the event described in clause (ii), shall be null and void and of no further force and effect.
3. The parties acknowledge and agree that this Agreement is not intended to be a statutory Development Agreement.
4. 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.
5. 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.
6. 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.

Tigard-Tualatin School District 23J

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

Marquis Companies I, Inc.

By: Scott J. Min  
Its: Director of Property Development

The City of Tualatin

By:   
Its: Mayor

## NON-STATUTORY DEVELOPMENT AGREEMENT

This Non-Statutory Development Agreement (this "Agreement") is made and entered into as of the 18<sup>th</sup> day of May, 2009 (the "Effective Date") by and between Tigard-Tualatin School District 23J, an Oregon school district (the "School District"), Marquis Companies I, Inc., an Oregon corporation ("Marquis") and the City of Tualatin, Oregon (the "City").

### RECITALS

- A. The School District is the owner of 12.75 acres of improved real property located in the City (the "Property").
- B. By Purchase and Sale Agreement dated as of May 9, 2008 (as amended, the "Purchase Agreement"), the School District agreed to sell approximately 5.4 acres of the Property to Marquis, which is more fully depicted on Exhibit A hereto (the "Marquis Property"), and Marquis agreed to purchase the Marquis Property from the School District on the terms and conditions set forth in the Purchase Agreement.
- C. Marquis has applied to the City for approval to develop on the Marquis Property a senior living facility, which will include a skilled nursing facility, assisted living facility and independent living facility (the "Facility").
- D. Marquis has applied for a Plan Map Amendment to permit a change in the zoning of the Marquis Property from RL to RML (the "Amendment").
- E. 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 Facility.
- F. The parties are interested in entering into this Agreement in order to document the Parties' intent.

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

- 1. If approved by the Tualatin City Council, the Amendment shall provide for an effective date, on the date Marquis has received from the City both a conditional use permit and architectural review board approval for the Facility and the corresponding appeal periods for those approvals have expired (the "Project Approvals"). Provided the conditions set forth in this Section 1 are met, the Amendment shall be effective as of the date described in this Section 1 (the "Amendment Effective Date") without the need for further action or the execution of further documents.

EXHIBIT A

2. In the event (i) Marquis has not obtained the Project Approvals within eighteen (18) months after the Effective Date or (ii) Marquis has not been issued a foundation permit within twelve (12) months after the Amendment Effective Date then, without the need for further action or the execution of further documents, this Agreement, in the case of the event described in clause (i), and this Agreement and the Amendment, in the case of the event described in clause (ii), shall be null and void and of no further force and effect.
3. The parties acknowledge and agree that this Agreement is not intended to be a statutory Development Agreement.
4. 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.
5. 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.
6. 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.

Tigard-Tualatin School District 23J

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

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

Marquis Companies I, Inc.

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

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

The City of Tualatin

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

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

Mayor