



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
Monday, July 27, 2009

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 5:00 p.m.**

REGULAR MEETING begins at 7:00 p.m.

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**Mayor Lou Ogden**

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

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

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

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

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

Council meetings are televised “live” on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org).

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

**- SEE ATTACHED AGENDA -**

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

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

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

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

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

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

## TIME LIMITS FOR PUBLIC HEARINGS

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

## EXECUTIVE SESSION INFORMATION

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

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



**A. CALL TO ORDER**

Pledge of Allegiance

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

1. New Employee Introductions – *Dave Peterson, Finance*  
*Laura Vierkandt, Engineering & Building*

**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 –5)**

**Page No.**

*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." 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. 4912-09 Accepting Public Improvements Construction for SW .....  
115<sup>th</sup> Avenue
2. Resolution No. 4913-09 Authorizing an Intergovernmental Agreement with TriMet.....  
and Washington County Regarding WES Train Horn  
Noise Mitigation Funding
3. Approval of a New Liquor License Application for Bambuza Vietnam Grill .....
4. Approval of a New Liquor License Application for The Grand Hotel at Bridgeport .....
5. Community Involvement Committee Appointments .....

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

**Page No.**

None.

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

1. Public Hearing to Consider a Resolution Extending a Conditional Use Permit for the .....  
Warehousing and Primarily Wholesale Distribution of Building Materials at 10700  
SW Tualatin-Sherwood Road (CUP-09-03)

Resolution No. 4914-09 Extending a Conditional Use Permit for the Warehousing  
and Primarily Wholesale Distribution of Building  
Materials at 10700 SW Tualatin-Sherwood Road  
(Tax Map 2S1 27AA, Tax Lot 2100) (CUP-09-03)

**G. GENERAL BUSINESS (Item No. 1)**

Page No.

1. Resolution No. ---- Approving the Proposed Formation of a Special Aquatic.....  
District (Tigard-Tualatin Aquatic District)

**[CONTINUED]**

**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**



# CITY COUNCIL SIGN-UP SHEET

DATE: July 27, 2009

PLEASE COMPLETE TO GIVE TESTIMONY

LIMIT TESTIMONY TO THREE MINUTES

	(PLEASE PRINT CLEARLY) Name	Address	E-mail	Representing	Agenda Item(s) or Citizen Comments
1.	Joe Lipscomb	8400 SW Thurston Rd #205 072062		J. Peter CR	Report
2.	Pam				
3.	Linda Meloff	18791 SW Monticelli		Trabative Chamber	Crawfish Festival Sign Policy
4.					
5.					
6.					
7.					
8.					



Approved By Tualatin City Council

Date 7-27-09

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:** Michael A. McKillip, City Engineer *mgk*  
Mike Darby, Engineering Technician II *MD*

**DATE:** July 27, 2009

**SUBJECT:** RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS  
CONSTRUCTED FOR SW 115<sup>TH</sup> AVENUE

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#### ISSUE BEFORE THE COUNCIL:

Acceptance of public improvements constructed at SW 115<sup>th</sup> Avenue south of SW Itel Street.

#### RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution approving and accepting the constructed public improvements.

#### EXECUTIVE SUMMARY:

All public improvements were constructed as part of SW 115<sup>th</sup> Avenue requirements. The improvements constructed were the installation of "complete street improvements" as required by Public Works Construction Permit #07-23 issued on May 1, 2008. All improvements have been satisfactorily completed.

#### FINANCIAL IMPLICATIONS:

There are minor impacts on utility funds as a result of this work. Costs to be paid by ratepayers.

**Attachments:** A. Resolution

RESOLUTION NO. 4912-09

RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS  
CONSTRUCTED FOR SW 115<sup>TH</sup> AVENUE

WHEREAS the City of Tualatin, hereinafter referred to as CITY, issued Leahy Investment, LLC, hereinafter referred to as DEVELOPER, Public Works Construction Permit No. 07-23 to construct public improvements consisting of the installation of the complete public improvements of SW 115<sup>th</sup> Avenue in association with SW 115<sup>th</sup> Avenue requirements.

WHEREAS DEVELOPER has constructed said required public improvements to standards required by CITY, and now desires to have CITY accept said improvements; and

WHEREAS CITY staff has inspected and recommends approval and acceptance of all public improvements; and

WHEREAS it is in the public interest that CITY accept said improvements.

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

Section 1. The subject improvements are hereby approved and accepted by the CITY.

INTRODUCED AND ADOPTED this 27<sup>th</sup> day of July, 2009.

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

CITY OF TUALATIN, OREGON

By   
Mayor

ATTEST

By   
City Recorder





# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council

Date 7-27-09

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  
Dayna Webb, Project Engineer *DW*

**DATE:** July 27, 2009

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

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### ISSUE BEFORE THE COUNCIL:

Council will consider 1) selecting improvements to be made at the Public Crossings to reduce train horn noise and 2) authorizing an Intergovernmental Agreement (IGA) with TriMet and Washington County regarding WES train horn noise mitigation funding.

### RECOMMENDATION:

Staff recommends Council 1) approve moving forward with the improvements listed and 2) adopt the attached resolution authorizing the funding IGA with TriMet and Washington County and authorize the Mayor to sign the attached IGA.

### EXECUTIVE SUMMARY:

The City has been working on train horn noise for several years. Identifying funding has been an issue; however, funding has now been identified through the American Recovery and Reinvestment Act (ARRA), Tualatin Central Urban Renewal District (CURD) and Washington County. The parties agreed to proceed with planning and designing potential noise mitigation treatments under a separate Intergovernmental Agreement signed by the City Council on June 8, 2009.

TriMet advertised a request for proposals for planning services and, with participation of the parties, selected CH2M Hill as the planning consultant. CH2M Hill subsequently led a Diagnostic Team Field Review that involved Portland & Western Railroad, Inc., Oregon Department of Transportation, the Federal Railroad Administration, TriMet, Washington County and Tualatin.



At the July 13, 2009 work session CH2M Hill and the project team provided two options for creation of a quiet zone. Those options include recommendations as to the most appropriate treatments to achieve optimum train horn noise mitigation at each of the grade crossings in Tualatin. Following a discussion, the majority of the Council members voiced support for moving forward with Scenario 1. Based on those recommendations, the parties intend to implement the treatments shown in Exhibit A of the attached IGA (and listed below).

<b>Crossing Location</b>	<b>Crossing Treatment</b>
Tualatin Road	Wayside Horn & pedestrian gates
Nyberg Street	Wayside Horn
Tualatin-Sherwood Road	Wayside Horn
Pedestrian Crossing	Wayside Horn
95 <sup>th</sup> Avenue	Raised Medians
Avery Street	4-Quadrant Gates
Teton Avenue	4-Quadrant Gates
Industrial Way	No improvements
Browns Transfer	No improvements
Tonquin Road	4-Quadrant Gates

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 request for proposals, with participation of the parties.

The IGA is still under review by Washington County so in the event that Washington County has minor changes, staff is recommending that the Mayor sign said changes. In the event there are major changes, the IGA will come back to City Council for approval.

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

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

- Ability to move forward with the implementation of the proposed crossing treatments.

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

- Inability to move forward with the implementation of the proposed crossing treatments.

**FINANCIAL IMPLICATIONS:**

The IGA includes a breakdown of the funding used for the project. A plan amendment is being prepared for the Tualatin Development Commission. Additional IGA's will be prepared to transfer construction funds

- Attachments:**
- A. Resolution
  - B. Intergovernmental Agreement

RESOLUTION NO. 4913-09

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

WHEREAS the parties agreed to proceed with planning and designing potential noise mitigation treatments under the Intergovernmental Agreement signed by the City Council on June 8, 2009; and

WHEREAS the Parties intend to implement the treatments shown in Exhibit A of the attached IGA; 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

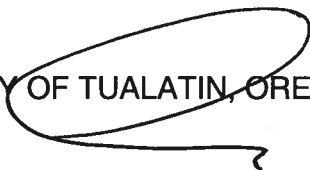
WHEREAS the Mayor is authorized to enter into said Intergovernmental Agreement and Council understands that this is still under review by Washington County, in the event that Washington County has minor changes, the Mayor is authorized to sign said changes. In the event there are major changes, Council directs it back to City Council for approval.

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 27<sup>th</sup> day of July, 2009.

CITY OF TUALATIN, OREGON

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

ATTEST:

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

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

**Implementation Phase**

This Intergovernmental Agreement ("Agreement") 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 July, 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 ("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 ("FRA") 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 along that portion of the Subject Line running through Tualatin, on June 8, 2009, the Parties entered into an Intergovernmental Agreement ("IGA") pursuant to which they agreed to secure consultants and contractors for the purpose of identifying solutions 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. As contemplated in the IGA, TriMet advertised a request for proposals for planning services and, with participation of the Parties, selected CH2M Hill as the planning consultant. CH2M Hill subsequently led a Diagnostic Team Field Review and made preliminary recommendations as to the most appropriate treatments to achieve optimum train horn noise mitigation at each of the grade crossings in Tualatin. Based on

those recommendations, the Parties intend to implement the treatments shown in Exhibit A, attached hereto and incorporated by this reference herein.

The Parties agree as follows:

### **AGREEMENT**

1. It is anticipated that various sources of funds will be utilized to pay some or all of the costs related to implementation of noise mitigation treatments (the "Project"). More specifically:

- a. The Federal Transit Administration ("FTA") has provided federal American Recovery and Reinvestment Act ("ARRA") funds directly to TriMet. TriMet has applied to use \$250,000 of these funds for noise mitigation treatments in Tualatin. Funds must be obligated by March 5, 2010, or are subject to withdrawal. Obligated funds are available for use through September 30, 2015.
- b. The Federal Highway Administration has provided ARRA funds to the Oregon Department of Transportation ("ODOT"), and ODOT has provided a portion of these funds to Metro pursuant to a formula in the law. Subject to FTA approval, \$689,000 of these funds will be designated for noise mitigation treatments in Tualatin and provided by Metro to TriMet. Unobligated funds can be withdrawn on or after March 3, 2010, and obligated funds are available for use through September 30, 2012.
- c. FTA will not make the ARRA funds available until it has approved the Project for compliance with environmental laws. This approval is not expected for 30 to 60 days.
- d. Tualatin expects to obtain up to \$1.3 million in tax increment financing to pay a portion of Project costs. These funds require an Urban Renewal Plan amendment to be made by the Tualatin Development Commission. This process has not been completed as of this date. These funds are expected to be available by approximately November 2009, and their use is limited to improvements at Tualatin Road, Nyberg Road, Tualatin-Sherwood Road, and the Tualatin-Sherwood Road Pedestrian Crossing.
- e. Tualatin has also submitted a request for a federal earmark in the sum of \$2.5 million for noise mitigation projects. At this time, it is not known whether these federal funds will be secured.
- f. The County expects to obtain MSTIP funds to pay a portion of project costs. Specifically, the County will pay up to a maximum of One Million Dollars (\$1,000,000) for (i) design and installation of four-quadrant crossing gates, wayside horns, or other appropriate mitigation measures at Tonquin Road, and

(ii) design and installation of wayside horns or other appropriate mitigation measures at the private Browns Transfer crossing. Pursuant to the IGA, the County has previously made \$55,650 available for funding the consultant contract; this sum shall be subtracted from the County's obligation for implementation costs.

- g. The Parties shall program the sums shown below to pay for Project costs. TriMet shall be responsible for management of the "Metro" funds, which have been provided to TriMet as discussed in Section 1.b above.

<b>Jurisdiction</b>	<b>Amount of Funds (\$)</b>	<b>Source of Funds</b>	<b>Expected Availability of Funds</b>
TriMet	250,000	ARRA – FTA	September 2009
Metro	689,000	ARRA-FHWA/FTA	September 2009
Tualatin	1,300,000 2,500,000	Tax Increment Financing Federal Earmark	November 2009 uncertain
County	1,000,000 (subject to 1.f above)	MSTIP	February 2010

2. The specific treatments selected have been sized commensurate with the Project's available funds. The Parties will agree upon allocation of funds from the various sources as the need arises, except that Washington County is only obligated for capital costs of mitigation measures at Tonquin Road and Brown's Transfer. If no work is required at either location, County's financial obligation ends.

3. The Parties recognize that the selected treatments will need to be approved by the regulatory agencies (ODOT Rail and FRA) prior to implementation.

4. Unless otherwise agreed by the Parties, TriMet will procure and manage contractors to implement the necessary improvements within the railroad right-of-way; Tualatin will procure and manage contractors to implement the necessary improvements within the street network. Contracts must include all necessary ARRA requirements. Recognizing the complexities relating to availability of funds as described in Section 1 above, and subject to the agreed-upon allocation of funds required by Section 2, each of the Parties agrees that it will provide funds to the Party that secures a contract for the Project in accordance with Section 4 of this Agreement, within thirty (30) days after receiving a request for reimbursement from such Party.

5. Tualatin, with support of the other Parties, will provide final approvals and distribute all public notices required by law.

6. Following installation and acceptance of the crossing treatments, TriMet will own and maintain all improvements installed within the railroad right-of-way (e.g., four-quadrant crossing gates, wayside horns), and Tualatin will own and maintain all improvements installed within the street network (e.g., medians).

7. In view of the timelines for use of ARRA funds imposed by the Federal government, the Parties will make every effort to complete the implementation of the mitigation measures within the ARRA obligation and expenditure schedule.

8. The Parties will conduct monthly or as needed coordination meetings in Tualatin through completion of the Project.

9. 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.

#### 10. 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: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By:   
Name: Lou Ogden  
Title: Mayor  
Date: July 27, 2009

Approved as to Form for TriMet

Approved to Form for Tualatin

\_\_\_\_\_  
TriMet Legal Department

  
Tualatin City Attorney

WASHINGTON COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to Form for Washington County

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

**EXHIBIT A**  
**NOISE MITIGATION TREATMENTS**

<b><u>Location</u></b>	<b><u>Treatment</u></b>
95 <sup>th</sup> Avenue	Medians
Teton Avenue	Four Quadrant Gates
Avery Street	Four Quadrant Gates
Tonquin Road	Four Quadrant Gates




# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 7-27-09  
Recording Secretary W. Smith

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

**FROM:** Sherilyn Lombos, City Manager 

**DATE:** July 27, 2009

**SUBJECT:** APPROVAL OF A NEW LIQUOR LICENSE APPLICATION FOR BAMBUZA VIETNAM GRILL

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a new liquor license application for Bambuza Vietnam Grill restaurant.

### RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Bambuza Vietnam Grill.

### EXECUTIVE SUMMARY:

Bambuza Vietnam Grill has submitted a new liquor license application. The liquor license is for Limited On-Premises Sales. The business is located at 7628 SW Nyberg Street. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### FINANCIAL IMPLICATIONS:

A fee has been paid by the applicant.

**Attachments:** Vicinity Map  
Bambuza Liquor License Application



**CITY OF TUALATIN**  
**LIQUOR LICENSE APPLICATION**

Date 7/15/09

**IMPORTANT:** This is a three-page form. You are required to complete all sections of the form. If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.  
**Thank you for your assistance and cooperation.**

**SECTION 1: TYPE OF APPLICATION**

- ☒ Original (New) Application - \$100.00 Application Fee.  
☐ Change in Previous Application - \$75.00 Application Fee.  
☐ Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License # \_\_\_\_\_  
☐ Temporary License - \$35.00 Application Fee.

**SECTION 2: DESCRIPTION OF BUSINESS**

Name of business(dba): Bambuza Vietnam Grill

Business address: 7628 SW Nyberg St City: Tualatin State: OR Zip Code: 97062

Telephone #: [REDACTED] (cell) Fax #: n/a

Name(s) of business manager(s): First Daniel Middle L. Last Nguyen

Date of birth [REDACTED] Social Security # [REDACTED] ODL# [REDACTED] M ☒ F ☐

Home address: [REDACTED] City: Portland State: OR Zip Code: 97230  
(attach additional pages if necessary)

Type of business: Restaurant

Type of food served: Vietnamese

Type of entertainment (dancing, live music, exotic dancers, etc.): - Recorded Music

Days and hours of operation: Mon-Sat 11am through 9pm

Food service hours: Breakfast: N/A Lunch: 11am - 4pm Dinner: 4pm - 9pm

Restaurant seating capacity: 49 Outside or patio seating capacity: 8

How late will you have outside seating? 9pm How late will you sell alcohol? 9pm

How many full-time employees do you have? 3 Part-time employees? 3



### SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants: \_\_\_\_\_

GNV Group, LLC dba Bambusa Vietnam Grill.  
Type of liquor license (refer to OLCC form): Limited On-Premise

Form of entity holding license (check one and answer all related applicable questions):

☐ **INDIVIDUAL:** If this box is checked, provide full name, date of birth, and residence address.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **PARTNERSHIP:** If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **CORPORATION:** If this box is checked, complete (a) through (c).

(a) Name and business address of registered agent.

Full name: \_\_\_\_\_

Business address: \_\_\_\_\_

(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

(c) Are there more than 35 shareholders of this corporation? \_\_\_\_ Yes \_\_\_\_ No. If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.

Full name of president: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of treasurer: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of secretary: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☒ **LIMITED LIABILITY COMPANY:** If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.

Full name: Daniel Nguyen Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name: Katherine Lam Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **OTHER:** If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

**SECTION 4: APPLICANT SIGNATURE**

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

  
Signature of Applicant \_\_\_\_\_ Date 7/15/09

**For City Use Only**

Sources Checked:

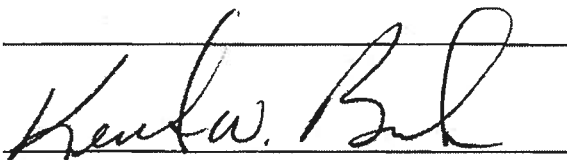
☒ DMV by MS ☒ LEDS by MS ☒ TuPD Records by MS  
☒ Public Records by MS

It is recommended that this application be:

☒ Granted

☐ Denied

Cause of unfavorable recommendation: \_\_\_\_\_

  
Signature \_\_\_\_\_

7/17/09  
Date

Kent W. Barker  
Chief of Police  
Tualatin Police Department



OREGON LIQUOR CONTROL COMMISSION  
LIQUOR LICENSE APPLICATION

FILE COPY ✓

PLEASE PRINT OR TYPE

Application is being made for:

**LICENSE TYPES**

- ☐ Full On-Premises Sales (\$402.60/yr)  
☐ Commercial Establishment  
☐ Caterer  
☐ Passenger Carrier  
☐ Other Public Location  
☐ Private Club  
☒ Limited On-Premises Sales (\$202.60/yr)  
☐ Off-Premises Sales (\$100/yr)  
☐ with Fuel Pumps  
☐ Brewery Public House (\$252.60)  
☐ Winery (\$250/yr)  
☐ Other: \_\_\_\_\_

**ACTIONS**

- ☐ Change Ownership  
☒ New Outlet  
☐ Greater Privilege  
☐ Additional Privilege  
☐ Other \_\_\_\_\_

Applying as:

- ☐ Limited Partnership  
☐ Corporation  
☒ Limited Liability Company  
☐ Individuals

**FOR CITY AND COUNTY USE ONLY**

The city council or county commission:

City of Tualatin  
(name of city or county)

recommends that this license be:

Granted ☒ Denied ☐

By: \_\_\_\_\_ July 27, 2009  
(signature) (date)

Name: Lou Ogden

Title: Mayor

**OLCC USE ONLY**

Application Rec'd by: [Signature]

Date: 7-10-09

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① GNV Group, LLC ③ [Redacted]

② [Redacted] ④ \_\_\_\_\_

2. Trade Name (dba): Bambuza Vietnam Grill

3. Business Location: 7628 SW Nyberg St. Tualatin Washington Oregon 97062  
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 7628 SW Nyberg St. Tualatin OR 97062  
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-692-9800 (phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: \_\_\_\_\_ Type of License: \_\_\_\_\_

8. Former Business Name: \_\_\_\_\_

9. Will you have a manager? ☐ Yes ☒ No Name: \_\_\_\_\_  
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Tualatin  
(name of city or county)

11. Contact person for this application: Daniel Nguyen 206-669-6347  
(name) (phone number(s))  
7628 SW Nyberg St. Tualatin, OR 97062 - daniel@bambuza.com  
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 6/3/09 ③ [Signature] Date 6/3/09  
② [Signature] Date \_\_\_\_\_ ④ \_\_\_\_\_ Date \_\_\_\_\_

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www.oregon.gov/olcc

(rev. 12/07)



# OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

FILE COPY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Bambuza Vietnam Grill City: Tualatin

1. Name: Nguyen Daniel Loc  
(last) (first) (middle)

2. Other names used (maiden, other): \_\_\_\_\_

3. Residence Address: 15923 NE Glisan St. Portland OR 97230  
(number and street) (city) (state) (ZIP code)

4. Home Phone: (206) 669-6347 Business Phone: (503) 692-9800

5. \*SSN: 536-82-5251 Place of Birth: WA-USA DOB: 10 / 21 / 1978 Sex: M ☒ F ☐  
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: nguyed1228p1 State: WA Spouse's name: Katherine Lam

7. List all states, other than Oregon, where you have lived during the past ten years:  
Washington, Arizona

8. Do you currently hold, or have you ever held a liquor license in this or any other state? ☒ Yes ☐ No  
If yes, when, where and name of premises? Bambuza Vietnam Bistro - Seattle since 2003

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony? ☒ Yes ☐ No  
If yes, what, when and where? Traffic - Seattle - 2003, Traffic - Seattle - 2006

10. Have you ever entered into a diversion agreement? ☐ Yes ☒ No  
If yes, when and where? \_\_\_\_\_

OSP/DMV  
Search Completed

11. Do you have any arrests or citations that have not been resolved? ☐ Yes ☒ No  
If yes, arrested/cited for: \_\_\_\_\_ Date: \_\_\_\_\_ County/City/State/ JUN 29 2009

12. If you are applying for a retail liquor license:  
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? ☐ Yes ☒ No If yes, what and where: \_\_\_\_\_  
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? ☐ Yes ☒ No If yes, who? \_\_\_\_\_

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? ☐ Yes ☒ No If yes, when: \_\_\_\_\_ where: \_\_\_\_\_

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: [Signature] Date: 6/3/09

**\*SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: [Signature] Date: 6/3/09



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# OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

FILE COPY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Bambuza Vietnam Grill City: Tualatin

1. Name: Lam Katherine Thu  
(last) (first) (middle)

2. Other names used (maiden, other): Lam, Anh Thu

3. Residence Address: 15923 NE Glisan St. Portland OR 97230  
(number and street) (city) (state) (ZIP code)

4. Home Phone: (503) 734-9777 Business Phone: (503) 692-9800

5. \*SSN: 542-41-0163 Place of Birth: Vietnam DOB: 03 / 03 / 80 Sex: M ☐ F ☒  
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: 6165607 State: OR Spouse's name: Daniel Nguyen

7. List all states, other than Oregon, where you have lived during the past ten years:  
Washington

8. Do you currently hold, or have you ever held a liquor license in this or any other state? ☒ Yes ☐ No  
If yes, when, where and name of premises? Bambuza Vietnam Bistro - Portland - since 2008

9. In the past twelve years, have you been convicted of **any** violation, misdemeanor or felony? ☒ Yes ☐ No  
If yes, what, when and where? Traffic Olympia - 2004, Traffic Portland - 3/2009

10. Have you ever entered into a diversion agreement? ☐ Yes ☒ No  
If yes, when and where?

11. Do you have any arrests or citations that have not been resolved? ☐ Yes ☒ No  
If yes, arrested/cited for: \_\_\_\_\_ Date \_\_\_\_\_ County/City/State/ \_\_\_\_\_

12. If you are applying for a retail liquor license:

a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? ☐ Yes ☒ No If yes, what and where: \_\_\_\_\_

b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? ☐ Yes ☒ No If yes, who? \_\_\_\_\_

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? ☐ Yes ☒ No If yes, when: \_\_\_\_\_ where: \_\_\_\_\_

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: [Signature] Date: 6/3/09

**\*SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (42 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: [Signature] Date: 6/3/09



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OREGON LIQUOR CONTROL COMMISSION  
BUSINESS INFORMATION

FILE COPY

Please Print or Type

Applicant Name: GNV Group, LLC Phone: 503-692-5800  
Trade Name (dba): Bambusa Vietnam Grill  
Business Location Address: 7628 SW Nyberg St.  
City: Tualatin ZIP Code: 97062

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday CLOSE to CLOSE  
Monday 11am to 9pm  
Tuesday 11am to 9pm  
Wednesday 11am to 9pm  
Thursday 11am to 9pm  
Friday 11am to 9pm  
Saturday 11am to 9pm

Outdoor Area Hours:

Sunday CLOSE to CLOSE  
Monday 11am to 9pm  
Tuesday 11am to 9pm  
Wednesday 11am to 9pm  
Thursday 11am to 9pm  
Friday 11am to 9pm  
Saturday 11am to 9pm

The outdoor area is used for:

☒ Food service Hours: 11am to 9pm  
☒ Alcohol service Hours: 11am to 9pm  
☐ Enclosed, how \_\_\_\_\_

The exterior area is adequately viewed and/or supervised by Service Permittees.

\_\_\_\_\_  
(Investigator's Initials)

Seasonal Variations: ☒ Yes ☐ No If yes, explain: Patio-Outdoor Seating not available  
in fall & winter - weather permitting

ENTERTAINMENT

Check all that apply:

- |  |   |
|--|---|
| <input type="checkbox"/> Live Music                | <input type="checkbox"/> Karaoke                |
| <input checked="" type="checkbox"/> Recorded Music | <input type="checkbox"/> Coin-operated Games    |
| <input type="checkbox"/> DJ Music                  | <input type="checkbox"/> Video Lottery Machines |
| <input type="checkbox"/> Dancing                   | <input type="checkbox"/> Social Gaming          |
| <input type="checkbox"/> Nude Entertainers         | <input type="checkbox"/> Pool Tables            |
|  | <input type="checkbox"/> Other: _____           |

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday none to none  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday \_\_\_\_\_ to \_\_\_\_\_  
Friday \_\_\_\_\_ to \_\_\_\_\_  
Saturday \_\_\_\_\_ to \_\_\_\_\_

SEATING COUNT

Restaurant: 48 Outdoor: 8  
Lounge: \_\_\_\_\_ Other (explain): \_\_\_\_\_  
Banquet: \_\_\_\_\_ Total Seating: 56

OLCC USE ONLY

Investigator Verified Seating: \_\_\_\_ (Y) \_\_\_\_ (N)  
Investigator Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 6/3/09

1-800-452-OLCC (6522)  
www.oregon.gov/olcc

(rev. 12/07)



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 7-27-09  
Recording Secretary W. Smith

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Sherilyn Lombos, City Manager *SL*  
**DATE:** July 27, 2009  
**SUBJECT:** APPROVAL OF A NEW LIQUOR LICENSE APPLICATION FOR  
THE GRAND HOTEL AT BRIDGEPORT

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a new liquor license application for The Grand Hotel at Bridgeport.

### RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for The Grand Hotel at Bridgeport.

### EXECUTIVE SUMMARY:

The Grand Hotel at Bridgeport has submitted a new liquor license application for Limited On-Premises Sales and Off-Premises Sales. The business is located at 7265 SW Hazel Fern Road. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### FINANCIAL IMPLICATIONS:

A fee has been paid by the applicant.

**Attachments:** Vicinity Map  
The Grand Hotel Liquor License Application





**CITY OF TUALATIN**  
**LIQUOR LICENSE APPLICATION**

Date July 15, 2009

**IMPORTANT:** This is a three-page form. You are required to complete all sections of the form. If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.

**Thank you for your assistance and cooperation.**

**SECTION 1: TYPE OF APPLICATION**

- ☒ *Original (New) Application - \$100.00 Application Fee.*  
☐ *Change in Previous Application - \$75.00 Application Fee.*  
☐ *Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License # \_\_\_\_\_*  
☐ *Temporary License - \$35.00 Application Fee.*

**SECTION 2: DESCRIPTION OF BUSINESS**

Name of business(dba): The Grand Hotel

Business address: 7265 SW Hazelfern Rd City: Tigard State: OR Zip Code: 97224

Telephone #: (503) 968-5757 Fax #: (503) 968-5755

Name(s) of business manager(s): The hotel is managed by The Tualatin Group, LLC, which is located at 201 Liberty St, Salem, OR, 97301. The contact person for the Tualatin Group is Steven Johnson who may be reached at [REDACTED]. [REDACTED]

Type of business: Hotel

Type of food served: "Catered events" and accompaniments for "wine hour".

Type of entertainment (dancing, live music, exotic dancers, etc.): none

Days and hours of operation: 24 hrs 7 days a week

Food service hours: Breakfast: 6:00-11:00AM Lunch: catered events Dinner: catered events only  
approx 11:00-2:00PM approx 5:00-11:00

Restaurant seating capacity: 102 Outside or patio seating capacity: 20

How late will you have outside seating? 11:00PM How late will you sell alcohol? 2:30AM

How many full-time employees do you have? 23 # expected Part-time employees? 18 # expected

### SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants: The Tualatin Group, LLC

Type of liquor license (refer to OLCC form): Off-Premise Sales License and Limited On-Premise Sales License.

Form of entity holding license (check one and answer all related applicable questions):

☐ **INDIVIDUAL:** If this box is checked, provide full name, date of birth, and residence address.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **PARTNERSHIP:** If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **CORPORATION:** If this box is checked, complete (a) through (c).

(a) Name and business address of registered agent.

Full name: \_\_\_\_\_

Business address: \_\_\_\_\_

(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

(c) Are there more than 35 shareholders of this corporation? Yes \_\_\_\_\_ No \_\_\_\_\_. If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.

Full name of president: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of treasurer: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of secretary: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☒ **LIMITED LIABILITY COMPANY:** If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.

Full name: see attached \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **OTHER:** If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

**SECTION 4: APPLICANT SIGNATURE**

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

The Tualatin Group, LLC  
by VIP'S Hotel's Inc Member

Signature of Applicant  
by Steven V. Johnson, President

7-15-09  
Date

**For City Use Only**

Sources Checked:

☒ DMV by MG ☒ LEDS by MG ☒ TuPD Records by MG  
☒ Public Records by MG

It is recommended that this application be:

☒ Granted

☐ Denied

Cause of unfavorable recommendation: \_\_\_\_\_

Kent W. Barker  
Signature

7/17/09  
Date

Kent W. Barker  
Chief of Police  
Tualatin Police Department



# OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

*Reg 90 day for off-prem*

**FILE COPY** ✓

**PLEASE PRINT OR TYPE**

Application is being made for:

**LICENSE TYPES**

- ☐ Full On-Premises Sales (\$402.60/yr)
- ☐ Commercial Establishment
- ☐ Caterer
- ☐ Passenger Carrier
- ☐ Other Public Location
- ☐ Private Club
- ☒ Limited On-Premises Sales (\$202.60/yr)
- ☒ Off-Premises Sales (\$100/yr)
- ☐ with Fuel Pumps
- ☐ Brewery Public House (\$252.60)
- ☐ Winery (\$250/yr)
- ☐ Other: \_\_\_\_\_

**ACTIONS**

- ☐ Change Ownership
- ☒ New Outlet
- ☐ Greater Privilege
- ☐ Additional Privilege
- ☐ Other \_\_\_\_\_

Applying as:

- ☐ Limited Partnership
- ☐ Corporation
- ☒ Limited Liability Company
- ☐ Individuals

**FOR CITY AND COUNTY USE ONLY**

The city council or county commission:  
City of Tualatin

(name of city or county)

recommends that this license be:

☒ Granted

☐ Denied

By: \_\_\_\_\_  
(signature)

July 27, 2009  
(date)

Name: Lou Ogden

Title: Mayor

**OLCC USE ONLY**

Application Rec'd by: *[Signature]*

Date: 7-10-09

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① The Tualatin Group, LLC ③ \_\_\_\_\_

② \_\_\_\_\_ ④ \_\_\_\_\_

2. Trade Name (dba): Grand Hotel at Bridgeport

3. Business Location: 7265 SW Hazelfern RD Tigard Washington Oregon 97224  
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 201 Liberty ST SE Salem OR 97301  
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 779-1604 (503) 779-1667  
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: \_\_\_\_\_ Type of License: \_\_\_\_\_

8. Former Business Name: \_\_\_\_\_

9. Will you have a manager? ☒ Yes ☐ No Name: Joshua M. Sanders  
(manager must fill out an individual history form)

10. What is the local governing body where your business is located? Tualatin, Washington County  
(name of city or county)

11. Contact person for this application: Steve Johnson (503) 779-1604  
(name) (phone number(s))  
201 Liberty Street, Salem, OR 97301 (503) 779-1667 steve.j@vipsinc.net  
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

The Tualatin Group, LLC, By VIP's Hotels, Inc., manager

① *[Signature]* Date 6-9-09 ③ \_\_\_\_\_ Date \_\_\_\_\_

by Steven V. Johnson, its President

② \_\_\_\_\_ Date \_\_\_\_\_ ④ \_\_\_\_\_ Date \_\_\_\_\_

**1-800-452-OLCC (6522)**  
www.oregon.gov/olcc

(rev. 12/07)

FILE COPY

These are the individuals who have a financial interest in the Grand Hotel:

Name: Bob L. Smith  
Address: 2857 Paradise Rd. #2002  
Las Vegas, NV 89109  
DOB: 02/15/1938  
Drivers License #: 0001864069

Name: Pamela E. Smith  
Address: 2857 Paradise Rd. #2002  
Las Vegas, NV 89109  
DOB: 02/09/1943  
Drivers License #: 2101864080

Name: Steven V. Johnson  
Address: 10404 Hazelgreen Rd. NE  
Silverton, OR 97381  
DOB: 05/23/1951  
Drivers License #: 1358192

This individual will be the General Manager for the Grand Hotel:

Name: Joshua M Sanders  
Address: 14280 SW Cougar Ridge Dr  
Beaverton, OR 97008  
DOB: 05/05/1973  
Drivers License #: 5537254

FILE COPY

The Tualatin Group, LLC

REC'D  
CITY OF TUALATIN

July 15, 2009

JUL 16 2009

MAYOR \_\_\_\_\_ COUNCIL \_\_\_\_\_ POLICE \_\_\_\_\_ ADM \_\_\_\_\_  
FINANCE \_\_\_\_\_ COMM DEV \_\_\_\_\_ LEGAL \_\_\_\_\_ OPER \_\_\_\_\_  
COMMSVCS \_\_\_\_\_ ENG & BLDG \_\_\_\_\_ LIBRARY \_\_\_\_\_

City of Tualatin  
18880 SW Martinazzi Avenue  
Tualatin, Oregon 97062  
Attn: Maureen Smith

Re: **Off-Premises Sales License and Limited On-Premise Sales License Applications**  
**The Tualatin Group, LLC (Applicant)**  
**The Grand Hotel (Trade Name)**

Dear Ms. Smith

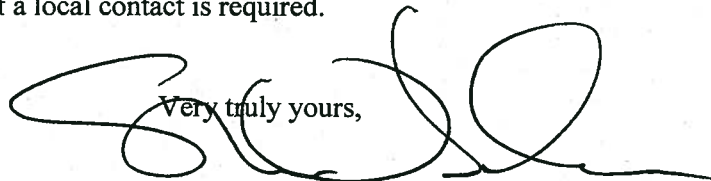
The Tualatin Group, LLC is the developer and manager of the soon to be opened Grand Hotel at Bridgeport, 7265 SW Hazelfern Rd, SW, Tigard, Oregon 97224 (located just to the south of Bridgeport Village). The Tualatin Group LLC's managing member is VIP'S Hotels, Inc., who's President is Steve Johnson.

Enclosed is The Tualatin Group, LLC's Liquor License Application for an Off-Premise Sales License and a Limited On-Premise Sales License for the Grand Hotel at Bridgeport. The Off-Premise Sales License will be used to permit the sale and service of beer and wine from the hotel's gift shop. The Limited On-Premise Sales License will be used to permit the applicant's service and sales of beer and wine in its lobby, meetings rooms and hospitality suites. We are also enclosing our check for the application fee in the amount \$100.00

In the section of the Application that requests the business manager's name, we've shown that the Manager is The Tualatin Group, LLC, and given Steve Johnson's name as the contact person. Steve can be reached at (503) 779-1604. His complete personal information is provided on the OLCC Individual History form that is enclosed with this application.

The hotel will be staffed 24/7 if a local contact is required.

Very truly yours,



The Tualatin Group, LLC  
By VIP'S Hotels, Inc., member  
By Steven V. Johnson, its President.

SVJ:SH  
Encl.

201 Liberty St. S.E., Salem, Oregon 97301  
Telephone 503-779-1605 Fax 503-779-1667



# STAFF REPORT CITY OF TUALATIN

Approved By Tualatin City Council  
Date 7-27-09  
Recording Secretary W. Smith

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager *SL*  
**FROM:** Maureen Smith, Administration *MS*  
**DATE:** July 27, 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 July 6, 2009, the Community Involvement Committee met and interviewed citizens interested in participating on City Committees and Boards. The Committee recommends appointing the following individuals:

<b>Individual</b>	<b>Committee/Board</b>	<b>Term</b>
Brian Wethington	Architectural Review Board (Alternate Landscape Architect)	Full term ending 6/30/11
Connie Ledbetter	Parks & Recreation Advisory Committee	Partial term ending 2/28/10

## FINANCIAL IMPLICATIONS:

Not applicable.





Approved By Tualatin City Council  
Date 7-27-09  
Recording Secretary [Signature]

## STAFF REPORT CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager [Signature]

**FROM:** Doug Rux, Community Development Director [Signature]  
Colin Cortes, Assistant Planner C.C.

**DATE:** July 27, 2009

**SUBJECT:** A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT  
FOR THE WAREHOUSING AND PRIMARILY WHOLESALE  
DISTRIBUTION OF BUILDING MATERIALS AT 10700 SW  
TUALATIN-SHERWOOD ROAD (CUP-09-03)

---

### ISSUE BEFORE THE COUNCIL:

A request to extend for two (2) years the approval of conditional use permit CUP-08-02 that allows the warehousing and wholesale distribution of building materials and retail sales of home improvement materials and supplies in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road (Tax Map 2S1 27AA, Tax Lot 2100).

### RECOMMENDATION:

Staff recommends that the City Council consider the staff report and supporting attachment(s) and provide direction.

### EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- The City Council approved CUP-08-02 via Resolution No. 4814-08 (Attachment A) on 7/28/2008.
- The resolution granting approval of the CUP expires 7/14/2009.
- The national recession has prompted the client, Mutual Materials, to delay its relocation and construction of its new site.
- On 5/21/2009, the applicant, Mutual Materials Company, requested an extension of the CUP (Attachment B). In a follow-up e-mail dated 6/03/2009, the applicant requested that the extension be for two (2) years.

- Tualatin Development Code (TDC) 32.090(2) allows the Council to provide for an extension of time beyond one year through a resolution granting extension of a conditional use permit.
- Because the application, the approved uses, and the conditions have not changed since approval, the original CUP-08-02 staff report is attached (Attachment C) as analysis and findings for the extension request and is also an exhibit to the resolution to extend the conditional use.
- The applicant submitted a related extension request for application AR-08-13 per TDC 73.056(2). Staff administratively approved the request on 6/01/2009 by extending the AR expiration date to 2/14/2010. The site development approved through architectural review (AR) assumes the uses approved via CUP-08-02.
- The request for extension is based on the following TDC Section 32.090 "Automatic Termination of Conditional Use," which reads:
  - (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void 1 year after the effective date upon which it was granted unless one of the following events occur:
    - (a) The applicant or his successor in interest has secured a building permit within said 1-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said 1-year period.
    - (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said 1-year period.
  - (2) The applicant may submit a request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be filed with the City Recorder prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.
- Neither (a) nor (b) within Section 32.090(1) has occurred or will occur by the expiration date, and the applicant has exercised Section 32.090(2) by submitting a written request on 5/21/2009 to extend the CUP approval.

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

Approval of the Conditional Use Permit (CUP) extension request would result in the following:

1. CUP-08-02 is extended for a period of time as specified by the Council.
2. The applicant is allowed to retain approval for the wholesale and warehousing of building materials and supplies and showroom area greater than 5% of gross floor area (GFA).

Denial of the Conditional Use Permit (CUP) extension request would result in the following:

1. The resolution granting approval of the CUP expires 7/14/2009.

2. The applicant is not allowed to retain approval for the wholesale and warehousing of building materials and supplies and showroom area greater than 5% of gross floor area (GFA).

**ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the Council are:

1. Approve the proposed conditional use permit (CUP) extension with the conditions the Council deems necessary.
2. Deny the request for the proposed CUP extension.

**FINANCIAL IMPLICATIONS:**

Revenue for conditional use permits is budgeted for Fiscal Year (FY) 2008/09, and the applicant submitted payment on 5/29/2009 to renew CUP-08-02 per the City of Tualatin Fee Schedule.

**Attachments:**

- A. Resolution No. 4814-08
- B. Applicant Extension Request
- C. CUP-08-02 7/14/2008 Staff Report and Attachments
- D. Resolution No. \_\_\_\_-09

RESOLUTION NO. 4814-08

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW BUILDING MATERIALS AND SUPPLIES, WAREHOUSING AND WHOLESALING, AND HOME IMPROVEMENT MATERIALS AND SUPPLIES RENTAL AT 10700 SW TUALATIN-SHERWOOD ROAD (TAX MAP 2S1 27AA, TAX LOT 2100) (CUP 08-02).

Whereas a public hearing was held before the City Council of the City of Tualatin on July 14, 2008, upon the application of Mutual Materials, represented by Group Mackenzie, for a Conditional Use Permit to allow building materials and supplies, warehousing and wholesaling, and home improvement materials and supplies rental in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road, described as Tax Map 2S1 27AA, Tax Lot 2100, Washington County, Oregon, and further described in the Staff Report dated July 14, 2008, and attached as "Exhibit C".

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 Beikman 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 July 14, 2008, 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 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. Mutual Materials, represented by Group Mackenzie, is granted a Conditional Use Permit to allow building materials and supplies, warehousing and

wholesaling, and home improvement materials and supplies rental in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road (Tax Map 2S1 27AA, Tax Lot 2100).

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

CITY OF TUALATIN, Oregon

By

Mayor

ATTEST:

By

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden  
CITY ATTORNEY

## Colin Cortes

---

**From:** Kendall Anderegg [kendalla@mutualmaterials.com]  
**Sent:** Thursday, May 21, 2009 4:38 PM  
**To:** Colin Cortes  
**Cc:** Dennis Woods; TPaulson@grpmack.com; Craig Olsen  
**Subject:** Conditional Use Permit extension request

Dear Colin,

The purpose of this email is to formally request an extension of CUP-08-02 for the Mutual Materials project located at 10700 SW Tualatin-Sherwood Road, or more specifically, tax lot 2100 of map 2S 1 27AA. The Conditional Use approval expires July 14, 2009. It is our understanding that per current City policy (TDC 73.056 (2)), extensions are only granted for 6 months. However, according to Doug Rux, Community Development Director, the City will be adopting a new extension policy in light of the current economic climate. As such, this extension request anticipates that a new extension policy will be approved this summer, thereby ultimately extending this request for a time period longer than 6 months.

I will be following up with a check for \$1225.00 first thing next week.

Sincerely,

Kendall Anderegg  
Director, Residential Sales and Branch Operations  
Mutual Materials Company  
tel: (425) 452-2351  
cell: (206) 618-0208  
fax: (425) 637-0771  
[www.mutualmaterials.com](http://www.mutualmaterials.com)

**Colin Cortes**

---

**From:** Kendall Anderegg [kendalla@mutualmaterials.com]  
**Sent:** Wednesday, June 03, 2009 4:31 PM  
**To:** Colin Cortes  
**Cc:** Doug Rux; STACY CRAWFORD; Dennis Woods; TPaulson@grpmack.com; Craig Olsen  
**Subject:** Re: FW: Conditional Use Permit extension request (CUP-08-02 Mutual Materials)

Colin,

We'd like to extend the CUP for two additional years.

Thanks.  
Kendall

>>> "Colin Cortes" <CCortes@ci.tualatin.or.us> 6/3/2009 9:57 AM >>>  
Kendall,

The City Council can extend a CUP for any length of time; only the AR extension is limited to 6 months. For how long would you like the Council to extend approval?

- Colin

---

**From:** Colin Cortes  
**Sent:** Monday, June 01, 2009 11:54 AM  
**To:** 'Kendall Anderegg'  
**Cc:** Doug Rux; STACY CRAWFORD; Dennis Woods; TPaulson@grpmack.com; Craig Olsen  
**Subject:** RE: Conditional Use Permit extension request (AR-08-13 / CUP-08-02 Mutual Materials)

Kendall,

I received the checks Friday. You (and Theresa of Group Mackenzie) will receive a letter that extends the AR-08-13 approval and returns check no. 335134 because there is no fee for an AR approval extension. Regarding the CUP-08-02 extension, this morning Doug scheduled the request for the City Council public hearing on Monday, July 13 at 7 p.m. in the Council Chamber at 18880 SW Martinazzi Avenue.

- Colin

---

**From:** Kendall Anderegg [mailto:kendalla@mutualmaterials.com]  
**Sent:** Thursday, May 28, 2009 12:10 PM  
**To:** Colin Cortes  
**Cc:** Doug Rux; STACY CRAWFORD; Dennis Woods; TPaulson@grpmack.com; Craig Olsen  
**Subject:** RE: Conditional Use Permit extension request

Colin,

Just talked with AP and they were mailed out today. Should be there tomorrow or Monday at the latest.

Thank you.

Kendall


7/13/2009





# 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   
Colin Cortes, Assistant Planner 

**DATE:** July 14, 2008

**SUBJECT:** CONDITIONAL USE PERMIT FOR BUILDING MATERIALS AND SUPPLIES, WAREHOUSING AND WHOLESALING, AND HOME IMPROVEMENT MATERIALS AND SUPPLIES RETAIL; TDC SECTION 61.030(1). (CUP-08-02)

---

### ISSUE BEFORE THE CITY COUNCIL:

A request for a conditional use permit (CUP) that would allow the warehousing and wholesale distribution of building materials and retail sales of home improvement materials and supplies in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road.

### RECOMMENDATION:

Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare a resolution granting CUP-08-02.

### EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- This matter is a conditional use permit (CUP) request.
- The applicant is Mutual Materials, represented by Group Mackenzie.
- The subject property is 5.0 acres and is Tax Lot 2S 1 27AA 2100 located at 10700 SW Tualatin-Sherwood Road in the MG Planning Districts. TriMet through its contractor Stacy and Witbeck, Inc. uses the undeveloped property temporarily to store and deliver rail ties for construction of Washington County Commuter Rail known as the Westside Express Service (WES). Vicinity and tax maps and the site plan are included respectively as Attachments A, B and C. The applicant's materials including a site plan are included as Attachment D.
- Partition PAR-02-03 created the lot in 2002.
- "Building materials and supplies, wholesale sales, and warehousing," is a conditional use per TDC Section 61.030, which incorporates by reference the conditional uses listed in TDC 60.040.



## **STAFF REPORT: CUP-08-02 – Mutual Materials**

April 14, 2008

Page 2 of 3

- Retail sales of home improvement materials and supplies is a conditional use per TDC 61.030(1).
- The applicant predicts that 95% of sales will be wholesale with the remaining 5% of sales as retail.
- The home improvement materials and supplies retail sales use allows for showroom and retail sales above the cap established by TDC 61.010.
- The applicant submitted an architectural review application (AR-08-13) for site development approval premised on approval of CUP-08-02.
- The applicant has prepared a narrative that addresses the Conditional Use Permit (CUP) approval criteria (Attachment D). Attachment E is the Background Information and staff has reviewed the application material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F). Staff recommends no conditions of approval.
- The applicable policies and regulations that apply to the proposed conditional use in the MG Planning District include TDC 7.040(3) Manufacturing Planning District Objectives – General Manufacturing; 32.030 Conditional Uses – Siting Criteria; and, 61.010 General Manufacturing Planning District – Purpose. The Analysis and Findings (Attachment F) considers the applicable policies and regulations.
- Before granting the proposed amendment, the City Council must find that the criteria listed in TDC 32.030 are met: The Analysis and Findings (Attachment F) examines the application in respect to the criteria for granting a CUP.
- The Council has taken no previous land use action related to the subject property.

### **OUTCOMES OF DECISION:**

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

1. The applicant is allowed to obtain approval for an architectural review (AR) application proposing a showroom area greater than 5% of the gross floor area (GFA) illustrated on the preliminary site plan.

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

1. The applicant will not be allowed to construct showroom area greater than 5% of the gross floor area (GFA).

### **ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the Council are:

- Approve the proposed conditional use permit (CUP) with conditions the Council deems necessary.
- Deny the request for the proposed CUP.
- Continue the discussion of the proposed CUP and return to the matter at a later date.

**FINANCIAL IMPLICATIONS:**

Revenue for conditional use permits has been budgeted for Fiscal Year 07/08.

**PUBLIC INVOLVEMENT:**

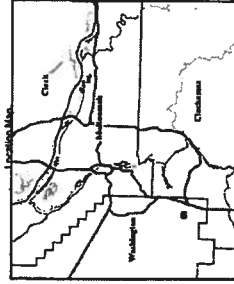
The Applicant conducted a Neighborhood/Developer meeting at the Tualatin Historical Society at 8700 SW Sweek Drive on May 12, 2008, to explain the conditional use permit (CUP) proposal to neighboring property owners and to receive comments. No members of the public or nearby property owners attended the meeting.

- Attachments:**
- A. Vicinity Map
  - B. Tax Map
  - C. Site Plan
  - D. Application Materials and Supporting Documents
  - E. Background
  - F. Analysis and Findings
  - G. Engineering Division memo dated 6/18/2008
  - H. Clean Water Services (CWS) memo dated 6/10/2008

MUTUAL MATERIALS  
300 Foot Buffer  
Tualatin, OR



Source Data  
Aerial Base Data, November 2007  
Geographic Projection Information  
NAD 83 NADN, Oregon South  
Lambert Conformal Conic



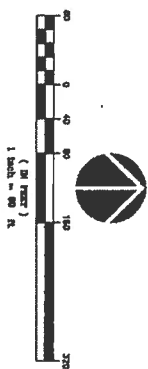
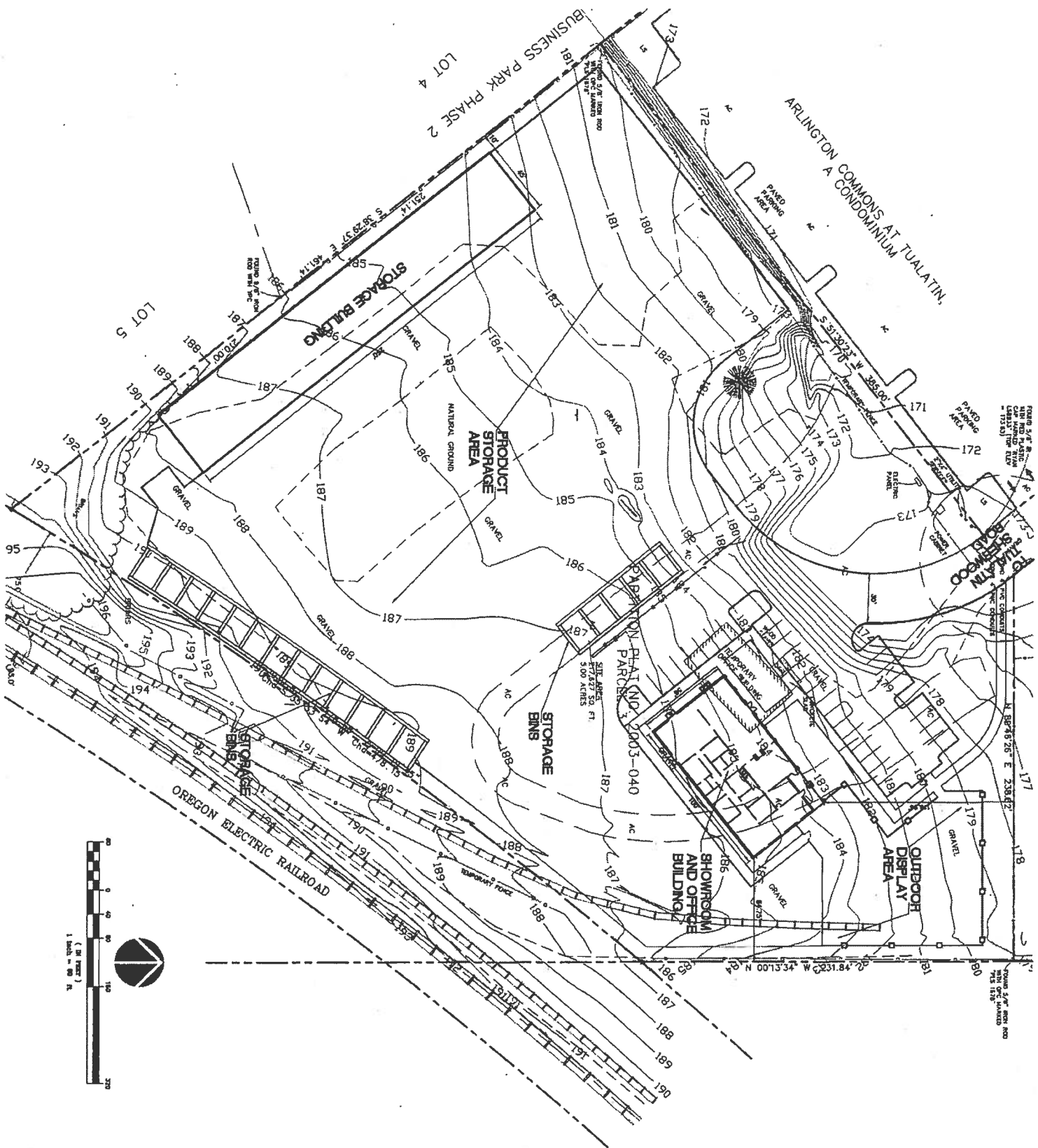
GROUP  
**MACKENZIE**  
PORTLAND, OR | SEASIDE, WA | VACAVILLE, WA  
P.O. Box 1000 | 1000 1st Avenue, S.W. | Portland, OR 97204  
Tel: 503.234.1500 | Fax: 503.234.1501 | [www.mackenzie.com](http://www.mackenzie.com)

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Don Mackenzie  
Vice President  
Tel: 503.234.1500  
Fax: 503.234.1501







PROJECT:  
MUTUAL MATERIALS  
TUALATIN,  
OREGON



GROUP  
**MACKENZIE**

Civil Engineering  
Structural Engineering  
Transportation Planning  
Landscape Architecture

Architecture  
Interior Design  
Land Use Planning

Portland OR 503.224.9560  
Vancouver WA 360.696.7879  
Seattle WA 206.749.9993

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DATE:

5/16/2008

ORIGINAL SHEET:

CONDITIONAL  
USE  
SITE  
PLAN

JOB NO.:

2080081.00



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**CITY OF TUALATIN  
RECEIVED  
MAY 16 2008  
COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

**Submittal**  
Conditional Use Permit

**To**  
City of Tualatin  
Planning Division

**For**  
Mutual Materials  
Company

**Submitted**  
May 16, 2008

**Project Number**  
2080081.01

GROUP MACKENZIE  
Since 1960

RiverEast Center | PO Box 14310 | Portland, OR 97293  
1515 SE Water Ave, Suite 100 | Portland, OR 97214  
T 503.224.9560 | F 503.228.1285 | [www.grpmack.com](http://www.grpmack.com)

**I. PROJECT SUMMARY**

The applicant requests Conditional Use Permit approval to allow wholesale and minor retail sales of Building Materials and Supplies, and also Conditional Use Permit approval to allow for showroom area greater than allowed in the base zone.

**Applicant/Owner:** Mutual Materials  
605 – 119<sup>th</sup> NE  
Bellevue, Washington 98005  
(425) 452-2351  
Attention: Kendall Anderegg

**Land Use Planner:** Group Mackenzie  
PO Box 14310  
Portland, Oregon 97293  
503-224-9560  
Contact: Theresa Paulson, Senior Planner/AICP

**Cross Streets:** SW Tualatin Sherwood Road

**Map/Tax Lot of Site:** 2S 1W 27AA tax lot 2100

**Site Size:** 5.00 acres (217,627 SF)  
*Source:* 3/5/08 Survey by Hickman and Associates, Inc.

**Zoning:** The site is zoned MG (General Manufacturing)

**Applicable Criteria:** *City of Tualatin Development Code*  
Chapter 7 – Manufacturing Districts  
Chapter 61 – General Manufacturing Planning District  
Chapter 32.030 – Conditional Uses

## II. INTRODUCTION

The Mutual Materials Company, which started in 1900 and has 16 locations in the western United States, distributes products to wholesale customers, including mason and hardscape contractors, builders, lumberyards, major home improvement centers and other retail outlets. These products include brick masonry, cultured stone, concrete block, architectural slab and pavers.

Mutual Materials branches typically range from 3 to 5 acres and include a small building for branch administration. In addition, branches include a showroom in which materials are displayed and samples can be checked out to architects or contractors. On occasion, contractors and architects direct their clients to the showroom to select products, and once selected, the products are ultimately purchased by the architect or contractor (wholesale sales). The indoor office and showroom areas are accessory to the primary use of the site, which is wholesale sales, storage and distribution of products. Most products are packaged on wood pallets and stored either within shed structures or outside on paved yard spaces.

Mutual Materials sales are primarily wholesale in nature. On average, the maximum retail sales for a Mutual Materials branch is 5% of total sales, with at least 95% wholesale sales. Because some of Mutual Materials' largest clients are large building supply retail stores, the company does not desire to compete with their customers. Typically any retail sale transactions occur if a building material retail store discontinues a product and additional material is needed to complete a project. Similar to the existing branch operations, the proposed Mutual Materials branch in Tualatin will be primarily wholesale sales, and retail sales of more than 5% are not anticipated.

## CURRENT SITE CONDITIONS

The subject property is located south of SW Tualatin Sherwood Road in Tualatin, Oregon. The parcel is also described as Lot #3 of a partition completed by Specht Development in 2002 (PAR-02-03) (see Exhibit B). Lot #1 has since been developed as Arlington Commons, an industrial condominium development, which consists of two buildings. Lot #2 was developed with a Lakeside Lumber facility which processes and warehouses cedar siding products. Previously, the subject site supported the manufacturing of concrete pipes and culverts by Oregon Culvert. The site is currently being used to store and deliver rail ties by METRO as part of the commuter rail project.

The site is bound by Lakeside Lumber and Arlington Commons to the north (MG zone), and an industrial park to the west (MG zone), an undeveloped industrial parcel to the east (MG zone), and railroad tracks and industrial uses to the south (ML zone). Further south, a residential subdivision is located approximately 350 feet from the southwest corner of the property, though separated by an active rail line and existing industrial development (see Exhibit C).

The site is a flag lot with only driveway frontage (i.e., no building frontage) to Tualatin Sherwood Road, which is classified as a major arterial by Washington County. The site accesses Tualatin-Sherwood Road via a driveway shared with Lakeside Lumber and Arlington Commons.



## PROPOSED DEVELOPMENT

Though this application is for Conditional Use approval only, a preliminary site plan has been submitted for context (see Exhibit D). If approval of the requested conditional use is granted, it is the intent of the contract purchaser to then submit for Architectural Review approval, similar to the preliminary site plan. The proposed Mutual Materials branch is to include an approximately 6,500 SF building, housing showroom and office space accessory to the primary distribution use. The remainder of the site will be designed for outdoor storage and display, yard area, customer and employee parking, and landscaping. An approximately 11,700 SF, three-sided metal structure is proposed along the west property line. This structure will house materials that must be sheltered from the elements. Storage bins are proposed along the south property line for materials that do not need to be protected from the sun, wind, rain, or snow.

### III. CHAPTER 32 – CONDITIONAL USES

The Tualatin Development Code acknowledges that land use planning is dynamic in nature and uses not listed outright may be permitted in certain zones based on many factors. The code allows for a Conditional Use process, in which some uses may be allowed if specific criterion is satisfied. This application is for Conditional Use approval. As such, the following addresses the five criteria for review of Conditional Use applications.

***Section 32.030 Criteria for Review of Conditional Uses.***

*The City Council may allow a conditional use, after a hearing conducted pursuant to TDC 32.070, provided that the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and further provided that the applicant demonstrates that the proposed use also satisfies the following criteria:*

*(1) The use is listed as a conditional use in the underlying planning district.*

**Response:** According to City Staff, the wholesale sales and distribution of masonry and hardscape materials is classified as a Conditional Use in the MG zone. Section 61.030 of the Tualatin Development Code states that all conditional uses listed in the ML zone (Section 60.040) are also considered conditional uses in the MG zone. Section 60.040.b. lists "Building materials and supplies, wholesale sales, and warehousing" as a conditional use. As such, the proposed use is classified as a conditional use in the MG zone.

In addition, the proposed development also warrants Conditional Use approval as the proposed showroom area exceeds the maximum allowance. Section 61.010 declares that a primary purpose of the MG zone is to:

*... allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 SF.*

The proposed development is for wholesale sales, storage and distribution of materials supplied by Mutual Materials, with a minor retail sales component of the products packaged and wholesaled on site, as allowed by this code provision. However, due to the nature of the products, the primary use of the site occurs outside of a building, and the accessory administration and showroom uses occur inside of a building. Therefore, the building itself is a minor component to the primary use of the site. The primary use occupies the majority of the site, including an 11,700 SF storage shelter, outdoor storage bins, large storage yards, truck scales and outdoor product display area. In total, this area is equal to 70% (3.53 acres/153,899 SF) of the total site area. Conversely, the accessory use, which occupies the only building on-site, has a 5,600 SF footprint (is 6,500 SF in total size), or 2.6% of the total site area. As such, the nature of the Mutual Materials facility is unique in that the primary use does not occur within a building, but rather outside of a building.

The criteria for determining allowed retail/showroom area is solely based on gross floor area, regardless if the primary use of the site occurs outside of a building. Therefore, the determination of allowable showroom area based on the proposed building is not reflective of the actual area used for the primary use. Based on the retail provision outlined above, a maximum of 325 SF is permitted for a showroom of a 6,500 SF building. The proposed showroom for the proposed building is approximately 1,350 SF, exceeding the maximum allowed showroom area. However, if the primary uses were to be located within a building (warehouse and distribution), the facility would require a 153,899 SF building, and therefore would be allowed up to 1,500 SF of retail/showroom area. As such, the proposed

1,350 SF showroom area would be allowed under Section 61.010 and Conditional Use approval for the showroom would not be required.

The proposed 1,350 SF showroom area is used primarily by contractors and architects, and also their clients who may be directed to the general showroom to select materials for the contractors to purchase. As such, although the City's code classifies the proposed showroom as 'retail' area, the majority of sales related to the 1,350 SF showroom area is for wholesale sales. On average, Mutual Materials branches do not exceed 5% of retail sales per year, as Mutual Materials is a wholesale distribution company, making the showroom area virtually for wholesale sales. Assuming 5% retail sales, based on a 1,350 SF showroom area, only 67.5 SF is related to retail sales, while the remaining 1,282.5 SF is related to wholesale sales. Based on the provision of Section 61.010, the showroom area for retail sales is less than the maximum allotment of 325 SF for a 6,500 SF building, thereby meeting the intent of the regulation.

Because of the unique nature of Mutual Materials facilities, in which the primary use is located outside of a building, and because the entire showroom area is considered retail space though the branch is anticipated to have no more than 5% retail sales per year (with 95% wholesale sales), this application also requests conditional use approval to allow 1,350 SF of showroom area. This criterion is met.

- (2) *The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.*

**Response:** The site is well-suited for the proposed wholesale and distribution of building materials. The subject site is relatively flat and has been previously graded for past industrial uses, including the manufacturing of culverts. According to City of Tualatin mapping (Map 72-3), no significant natural resources exist on the property. The site has a relatively rectilinear shape, which is conducive to the wholesale and distribution use. The site does not have building frontage on SW Tualatin Sherwood Road, which is not required for industrial uses. True retail uses require building frontage and high visibility from the adjacent right-of-way. However, the proposed use is an industrial use, and the facility is a destination location. Typical Mutual Materials branches are 3 to 5 acres in size, and the subject site is 5 acres, meeting this requirement. Access to the site and the requisite infrastructure was constructed as a condition of the 2002 partition. The majority of the adjacent properties are already developed with industrial uses.

Based on the site characteristics and surrounding development, the property is well suited for the proposed wholesale sales, storage and distribution of building materials. This criterion is met.

- (3) *The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.*

**Response:** The site is well served by an existing transportation system, public facilities and services, as demonstrated below.

#### **Water, Sewer, Storm**

A 24" storm line, 12" water line and 8" sanitary sewer line are located within Tualatin Sherwood Road. As a condition of the 2002 partition, water, sewer and storm lines were stubbed to the site, within the private access drive connecting to SW Tualatin Sherwood Road. The existing 8" sewer line, 2" water line and 15" storm lines are suitable for a warehouse and distribution facility with a 1,350 SF showroom. According to the City, there is adequate water and sewer capacity for the proposed use.

### Transportation

A Traffic Impact Analysis was conducted as a part of this conditional use application (see attached Traffic Impact Analysis). The analysis studied the potential trip generation for the following three scenarios:

- Development of the site with an allowed use (manufacturing);
- Development of the site with retail use only (building materials) allowed by conditional use; and
- Development of the site with the proposed Mutual Materials branch (wholesale sales, warehouse and distribution of building supplies, and minor retail use and showroom area) allowed by conditional use.

The analysis therefore compared a reasonable worst case development scenario under an existing allowed use, a reasonable worst case scenario for a strictly retail use, and the proposed Mutual Materials development.

Under the current MG zoning, assuming 40% building coverage, the site could house a 78,400 SF manufacturing facility. Based on data contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7<sup>th</sup> edition, a manufacturing facility of this size would generate 58 PM peak hour trips.

A retail development of a similar use and similar trip generation rate (4.49 trips per thousand square feet (KSF)), Building Materials (Land Use 812) was also studied. A review of ITE data showed the data set upper limit to be 20,000 SF. This is smaller than the 60,000 SF allowed by code, but is more appropriate for a Building Material sales development where the building is secondary to outdoor storage and display. Based on data contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7<sup>th</sup> edition, a building materials retail development of this size would generate 90 PM peak hour trips.

An existing Mutual Materials site in Vancouver, Washington was surveyed to determine the trip generation rate for the proposed development in Tualatin. The Vancouver branch building is 4,144 SF in size, and has the same wholesale, showroom, and office uses as the proposed Tualatin development; however, the Tualatin development will have a larger gross square footage. The Vancouver site was surveyed on January 31, 2008 for the PM peak hour. A PM peak hour trip generation rate of 6.52/KSF was calculated based on the survey of the existing site. Based on this data, the proposed facility would generate 42 PM peak hour trips.

The following table presents a summary of the trip generation comparison:

TABLE 1 – AM AND PM PEAK HOUR TRIP GENERATION								
Development	Land Use	Square Feet	AM			PM		
			Enter	Exit	Total	Enter	Exit	Total
Manufacturing	140	78,400	44	13	57	21	37	58
Retail (Building Materials)	812	20,000	35	17	52	42	48	90
Mutual Materials		6,500	12	30	42	12	30	42

As shown in Table 1, if the requested conditional use application is approved, the estimated PM peak hour trips is approximately 28% less than a manufacturing development allowed outright in the MG zone. Though this application also requests allowance of a 1,350 SF showroom area and minor retail sales, the proposed

development generates less than half the number of trips that a building supply retail center would generate.

In addition to trip generation analysis, the TIA studied the operation of the intersection of Tualatin-Sherwood Road/SW 112<sup>th</sup> Avenue/Avery Street intersection, under Washington County jurisdiction. Based on the Washington County's standards for acceptable level of service for signalized intersections, the proposed 6,500 SF Mutual Materials development results in the same level of service as a manufacturing development allowed outright in the MG zone. In addition, the study area intersection meets Washington County operating standards in the existing and build-out year scenarios.

In summary, based on the TIA conducted for this application and an analysis of existing infrastructure, approval of the requested conditional use is consistent with the existing transportation, public facilities, and service infrastructure. This criterion is met.

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

**Response:** The subject site is bound by MG and ML zoned properties and adjacent to a functioning rail line. All but one of the adjacent properties is developed with industrial uses. The proposed wholesale sales, storage and distribution use is much less intense than uses allowed outright in the MG zone, such as chemical warehouse and distribution, battery manufacturing or a planing mill.

The nearest residential zoned property is approximately 350 feet from the southwest corner of the property, and is separated from the subject property by a railroad right-of-way and existing industrial development (ML zoned property). However, the southern edge of the property will be visible by users of the new commuter rail line. Therefore, the proposed development will incorporate site design features (such as landscaping) to create an attractive southern edge. In an effort to shield the outdoor storage yard from view, outdoor storage bins are located along the south property line, adjacent to the rail right-of-way. A generous 10-foot' landscape buffer, consisting of evergreen shrub material at least 6 feet in height, is anticipated to shield the bins from view. In addition, the 11,700 SF metal shed structure, located along the west property boundary, will have a masonry façade, and may thereby be more aesthetically pleasing than a metal siding structure. The use of the masonry is not only more attractive than a typical metal siding, but it also showcases materials distributed on-site.

Section 61.075 of the Tualatin Development Code requires sound barrier construction to intercept all straight-line lateral paths of 450 feet or less between a residential property and any large doorways or building mechanical devices. Based on the proposed site plan, the storage bins are the only program element located within 450 feet of the nearest residentially zoned property. No overhead doors or building mechanical devices are proposed on the property within 450 feet. As such, no noise sources are located within the noise barrier area.

Trucks are anticipated to periodically enter and exit the storage yard for shipping and receiving of construction materials. These shipping and receiving activities will occur at a distance greater than 450 feet from the closest residentially zoned property. In addition, operations will comply with the City's sound ordinance which requires activity past 9:00 p.m. to be fewer than 60 decibels. Furthermore, it should be noted that a functioning railway and existing industrial development exist between the subject property and the nearest adjacent residential property.

As shown above, potential impacts are mitigated by building orientation, generous landscape buffers, specialty building materials for a shed structure, and compliance with the City's established noise regulations. As such, the proposed development is not anticipated to increase impact greater than what exists with the current surrounding development.

- (5) *The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.*

**Response:** The Tualatin Development code describes each of the four planning districts and the planning objectives for each district. The following lists the four objectives of the General Manufacturing planning district and how the approval of the proposed conditional use application still meets the intent of the associated objectives.

**Section 7.040 Manufacturing Planning District Objectives.**

- (3) *General Manufacturing Planning District (MG).*

- (a) *Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects. Rail access and screened open storage would be allowed in this area, conforming to defined architectural, landscape and environmental design standards. Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.*

**Response:** The proposed development is for wholesale sales, storage and distribution of materials supplied by Mutual Materials, with a minor retail sales component of the products packaged and wholesaled on site, as allowed by this code provision. Because the wholesale sale, storage and distribution of building materials is listed as a conditional use, and because this application requests approval of a showroom area greater than 5% of the building area, this application requests Conditional use approval (See response to Section 32.030). This criterion is met.

- (b) *The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.*
- (i) *Application of the Industrial Business Park Overlay District (TDC Chapter 69).*
  - (ii) *The retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the show-room area, shall be no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.*
  - (iii) *Within the Special Setbacks for Commercial Uses Area (TDC 61.035) the retail sale of home improvement materials and supplies is allowed provided it is not greater than 60,000 square feet of*

*gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.*

**Response:** The proposed retail/showroom area is 1,350 SF in size. As such, this criterion does not apply.

- (c) *In accordance with the Industrial Business Park Overlay District, TDC Chapter 69, selected office and retail uses are allowed to provide services to businesses and employees. The purpose is also to allow certain commercial service uses in the Commercial Services Overlay shown in the specific areas illustrated on Map 9-5 and allow selected commercial uses subject to distance restrictions from residential areas and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.*

**Response:** The proposed development is not within the Commercial Services Overlay. It should be noted that a portion of the private drive is located within this overlay, but not the proposed use. Therefore, this criterion does not apply.

- (d) *The heaviest manufacturing uses that are environmentally adverse or pose a hazard to life and safety will not be allowed. [Amended Ord. 592-83 §34, 6/13/1983; Ord. 942-95, 3/27/1995; Ord. 1003-98, 4/27/1998; Ord. 1026-99, 8/9/1999; Ord. 1046-00, 2/14/2000 (Ord. 1133-03, 3/24/2003; Ord. 1212-06; 6/26/2006)]*

**Response:** The proposed warehouse distribution use with minor retail and showroom area is not considered a heavy manufacturing use and will therefore not have significant environmentally adverse effects or significant life and safety hazards. This criterion is met.

#### IV. CONCLUSION

Mutual Materials, which is a wholesale supplier of brick, concrete masonry and hardscape products, provides materials directly to contractors and masons and also to distributors such as independent lumber yards, major home improvement centers, masonry suppliers and retail outlets. Mutual Materials is proposing a new branch facility, which will be for wholesale sales, storage and distribution of products and will also include a minor retail sales and showroom component. The provision of minor retail sales associated with products warehoused on site is consistent with the provisions of the MG zone.

Due to the unique characteristics of the proposed facility, however, the primary use is located outside of a building. As such, the calculation of the allowed showroom area is disproportionate to the actual primary use as the calculation only considers building area, not actual use area outside of a building. In addition, the calculation does not differentiate between showroom area related to wholesale sales and showroom area related to retail sales. Because the anticipated retail sales for the proposed Mutual Materials branch is estimated less than 5%, the associated retail sale area is proportional to 67.5 SF, well under the provision of Section 61.010.

Per City Staff, the proposed wholesale sales and distribution of brick, concrete masonry and hardscape products are classified as building materials, thereby requiring conditional use approval. However, the subject materials are similar in nature to other materials allowed outright in the MG zone, such as the storage and retail sales of rock and gravel. Therefore, the subject products are not dissimilar to the storage and distribution of materials allowed outright in the MG zone.

Based on the above justification, combined with the fact that the allowance of this use will not disrupt existing development or preclude surrounding property from developing according to the underlying planning districts, approval of the requested Conditional Use application is warranted.



**V. EXHIBITS**

- A. Land Use Application – Conditional Use Permit
- B. Assessors Map (Map# 18S12E04A)
- C. Site Aerial and Project Boundary Map
- D. Site Plan
- E. Neighborhood Meeting Materials
  - Neighborhood Meeting Letter
  - Mailing List
  - Preliminary Site Plan
  - 300' Buffer Notice Map
- F. Title Report and Deed

## APPLICATION FOR CONDITIONAL USE

City of Tualatin Community Development Department - Planning Division  
 18880 S.W. Martinazzi Avenue  
 Tualatin, OR 97062  
 503-691-3026

Case No. CUP-08-02  
 Fee Rec'd. 61225 -  
 Receipt No. 4633  
 Date Rec'd. 5-16-08  
 By Scrawford

PLEASE PRINT IN INK OR TYPE

Code Section 61.030 Conditional Use to allow Showroom and building material, wholesale sales

Planning District (MG) General Manufacturing

Owner's Name SFP Tualatin, LLC Attn: Joe Curran Phone (503) 646-2202  
 Owner's Address 15325 SW Beaverton Creek Court Beaverton OR 97006  
~~15400 SW Milliken Way~~  
 (street) (city) (state) (ZIP)

Owner recognition of application: SFP Tualatin, LLC  
an Oregon limited liability company  
 By: Specht Properties, Inc.  
Its Manager  
 By: Gregory L. Specht, President  
signature of owner(s)

Applicant's Name Group Mackenzie Phone (503) 224-9560  
 Applicant's Address 1515 SE Water Avenue Portland OR 97214  
 (street) (city) (state) (ZIP)

Applicant is: Owner ☐ Contract Purchaser ☐ Developer ☐ Agent ☒ X

Other ☐

Contact person's name Theresa Paulson - Senior Planner Phone (503) 224-9560

Contact person's address 1515 SE Water Avenue Portland OR 97214  
 (street) (city) (state) (ZIP)

Assessor's Map Number 2S127AA Tax Lot Number(s) 2100

Address of Property 10700 SW Tualatin-Sherwood Road Lot Area 5.0 acres

Existing Buildings (Number and Type) None

Current Use Vacant Lot

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

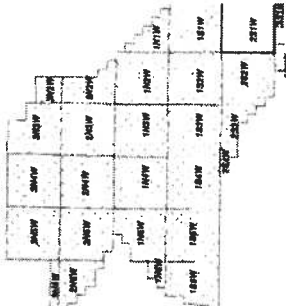
Name Theresa Paulson Date 5-16-08 Phone 503-224-9560  
 Address 1515 SE Water Avenue Portland OR 97214  
 (street) (city) (state) (ZIP)

CITY OF TUALATIN  
RECEIVED

MAY 16 2008

COMMUNITY DEVELOPMENT  
PLANNING DIVISION

25 1 27AA



WASHINGTON COUNTY OREGON  
NE1/4 NE1/4 SECTION 27 T2S R1W W.M.  
SCALE 1" = 100'

36	37	32	33	34	35	36	37
1	6	5	4	3	2	1	8
12	7	6	6	10	17	12	7
13	18	17	16	16	14	13	18
24	12	20	21	22	23	24	19
25	30	26	28	27	20	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT  
[www.co.washington.or.us](http://www.co.washington.or.us)

SECTION 27

Cancelled Taxlots For: 2S127AA  
500,000, 600,000, 300,100, 100,200, 1000,



# Cartography

PLOT DATE: June 26, 2007  
FOR ASSESSMENT PURPOSES  
ONLY - DO NOT RELY ON  
FOR OTHER USE

Map areas delineated by white gray shading or a cross hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.

**TUALATIN**

# **Exhibit C**

## **Vicinity Map**

**G O U P**  
**MACKENZIE**  
PORTLAND, OR | SEATTLE, WA | VANCOUVER, WA  
Newline: Carole 1155 Newline Ave., Suite 101 | Portland, OR 97204  
TOL: Bill 1430 | Portland, OR 97203  
T: 503.224.8666 | F: 503.293.1287 | [www.groupmackenzie.com](http://www.groupmackenzie.com)

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Order 607-100  
Map Created by: EROS  
Revised: Mar. 2004, 1:1 00

**Exhibit D**  
**Preliminary Site Plan**



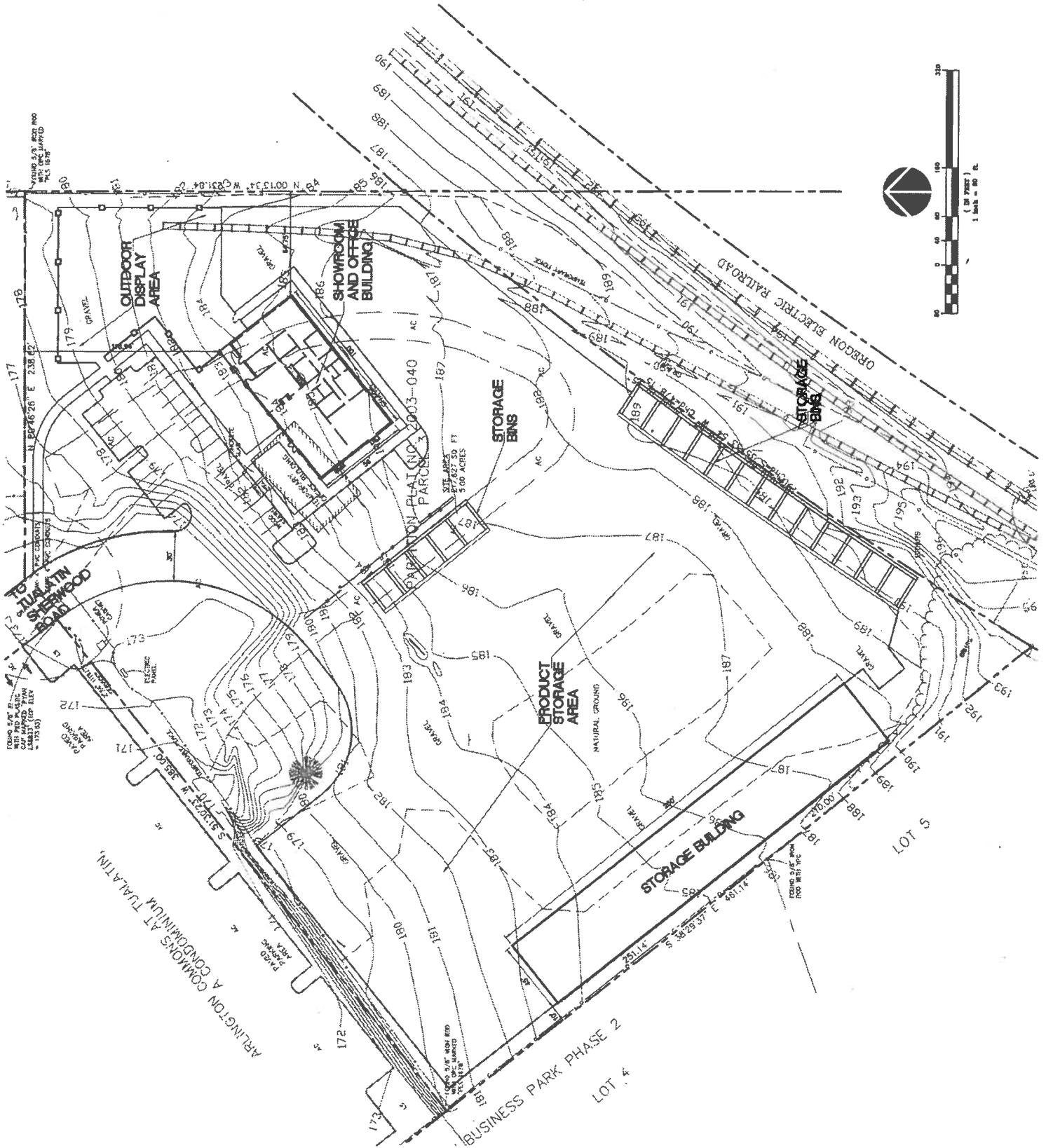
PROJECT:  
**MUTUAL MATERIALS**  
**TUALATIN, OREGON**

© 2008 MACKENZIE GROUP  
 THESE DRAWINGS ARE THE PROPERTY OF  
 MACKENZIE GROUP AND ARE NOT TO BE  
 REPRODUCED OR TRANSMITTED IN ANY  
 FORM OR BY ANY MEANS, WITHOUT WRITTEN PERMISSION

DATE:  
**5.16.2008**

ORIGINAL SHEET:  
**CONDITIONAL  
 USE  
 SITE  
 PLAN**

JOB NO:  
**2080081.00**



**Exhibit E**  
**Neighborhood / Developer Meeting Packet**





2S122DD00400  
Anthro Corporation  
10450 SW Manhasset Dr.  
Tualatin, OR 97062

2S122DD00600  
Huston James H.  
2268 SE Mulberry Dr.  
Milwaukie, OR 97267

2S122DD00100  
BT Property LLC  
PO Box 28606  
Atlanta, GA 30358

2S122DD00700 and 500  
Pascuzzi Investment LLC  
10250 SW North Dakota  
Tigard, OR 97223

2S127AA90000  
Arlington Commons At Tualatin  
1800 SW First Ave, Suite 100  
Portland, OR 97201

2S127AA01800  
Black Lab Investments LLC  
PO Box 3850  
Tualatin, OR 97062

2S127AA00901  
Schwan's Sales Enterprises Inc  
PO Box 35  
Marshall, MN 56258

2S127AA0100  
HG Holdings Inc  
PO Box 2090  
Tualatin, OR 97062

2S127AA01200  
5 Yankee MTN LLC  
20460 SW Avery Ct.  
Tualatin, OR 97062

2S127AA01100  
MS Jones Holdings LLC  
10655 SW Avery St.  
Tualatin, OR 97062

2S127A000400  
ORE-CAL Coca-Cola Bottling CO  
1334 South Central Ave.  
Los Angeles, CA 90021

2S127A000401  
Portland General Electric  
121 SW Salmon St.  
Portland, OR 97204

2S127A000403  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

2S127AA00700  
Gehring Limited Partnership  
13215 SW Ash Dr.  
Tigard, OR 97223

2S126B000114  
Classic Woodworking  
10385 SW Avery St.  
Tualatin, OR 97062

2S126B000106  
Teton Building LLC  
PO Box 3750  
Tualatin, OR 97062

2S126B000105  
Air Liquide America LTD PTSHP  
PO Box 460149  
Houston, TX 77056

2S127AA02000  
Lakeside Lumber Inc  
10600 SW Tualatin Sherwood Rd.  
Tualatin, OR 97062

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

Kaaren Hofman, City Engineer  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

2S122DD00500  
1701 NW 14th LLC  
Portland, OR 97209

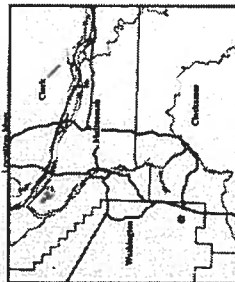
2S122DD00500  
1603 NW 14th Ave.  
Portland, OR 97209



**MUTUAL MATERIALS**  
**300 Foot Buffer**  
**Tualatin, OR**



Source Data  
 Aerial Photo Data, November 2007  
 Geographic Projection Information  
 NAD 83 WGS 84 Oregon State  
 Lambert Conformal Conic



**GROUP**  
**MACKENZIE**  
 10000 1<sup>st</sup> AVENUE, SUITE 200, PORTLAND, OR 97206  
 TEL: 503.244.8800 | FAX: 503.244.8801 | WWW.GROUPMACKENZIE.COM

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See also: 2008  
 Project No. 20080118



# **Exhibit F**

## **Property Title**

*This exhibit is available for viewing in the Community Development Department upon request.*

## **ATTACHMENT E**

### **CUP-08-02: BACKGROUND**

This section summarizes pertinent background information from the submitted application for CUP-08-02 and other supporting documents.

The applicant is Kendall Anderegg of Mutual Materials and the consulting land use planner is Theresa Paulson of Group Mackenzie. The subject property of approximately 5.0 acres is a flag lot located at 10700 SW Tualatin-Sherwood Road and is Tax Lot 2S 1 27AA 2100 in an MG Planning District.

The property is undeveloped. Because the property is adjacent to and has a spur from the Portland & Western (P&W) rail line, TriMet through its contractor Stacy and Witbeck, Inc. temporarily uses it to store and deliver rail ties for construction of Washington County Commuter Rail known as the Westside Express Service (WES). Vicinity and tax maps and the site plan are included respectively as Attachments A, B, and C. The application materials including a preliminary site plan are included as Attachment D. The applicant submitted an application for architectural review (AR-08-13) premised upon approval of CUP-08-02.

Exhibit D of the CUP application (Attachment C) presents a preliminary site plan showing improvements including a 6,500 s.f. distribution center with accessory office and showroom space, a partially-enclosed storage shed of 11,700 s.f., outdoor storage areas, an outdoor display area, 31 parking spaces, and a stormwater detention pond incorporating the two trees on site. Review of AR-08-13 will require further information.

## **ATTACHMENT F**

### **CUP-08-02: ANALYSIS AND FINDINGS**

In order to grant the proposed conditional use permit (CUP), the request must meet the approval criteria of Tualatin Development Code (TDC) Section 32.030. The applicant prepared a narrative that addresses the criteria (Attachment D), and staff has reviewed this and other application materials and included pertinent excerpts below:

**1. The use is listed as a conditional use in the underlying planning district.**

The subject property, Tax Lot 2S 1 27AA 2100, is within a General Manufacturing (MG) Planning District as defined in TDC Chapter 61. "Building materials and supplies, wholesale sales, and warehousing," is a conditional use per TDC Section 61.030(1)(b), which incorporates by reference the conditional uses listed in TDC 60.040(1)(b). "Home Improvement materials and supplies retail sale" is a conditional use per TDC Section 61.030(1), which incorporates by reference the conditional uses listed in TDC 60.040(1)(q). The criterion is met.

**2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.**

- |             |   |
|-------------|---|
| Size:       | The minimum lot size within an MG Planning District is 20,000 square feet (s.f.), approximately 0.46 acres. The subject property is approximately 5.0 acres and exceeds the minimum lot size requirement. The applicant proposes one main building of 6,500 s.f., a partially enclosed outdoor storage shed of 11,700 s.f., and related site improvements. Together the two buildings equate to approximately 8.4% lot coverage. The site size is suitable for the proposed use.                              |
| Shape:      | The subject property is a flag lot created as Lot 3 through partition application PAR-02-03 with access from SW Tualatin-Sherwood Road. The lot shape is suitable for the proposed use.   |
| Location:   | The proposed use is located within an MG Planning District with access from SW Tualatin-Sherwood Road, a major arterial (Eb&t) as illustrated in TDC Figure 11-1 and described in TDC Table 11-1. The site has a rail spur from the Portland & Western (P&W) rail line. Metro had designated the larger area as an industrial "design type," one of the general categories of urban form and function that is part of the 2040 Growth Concept and specified in Metro Code 3.07.130. The location is suitable. |
| Topography: | As shown in Exhibit E of the application, the site has minor downward slope from southeast to northwest, which does not interfere with the proposed use.  |

**Improvements:** The site plan (Exhibit D) shows improvements including a 6,500 s.f. distribution center with accessory office and showroom space, a partially-enclosed storage shed of 11,700 s.f., outdoor storage areas, an outdoor display area, 31 parking spaces, and a stormwater detention pond. The site can accommodate these improvements.

**Natural Features:** The only natural features are two existing trees as shown in recent satellite imagery. The detention pond is sited such that they would be preserved and stand at the higher-elevation south/southwest edge of the pond. The proposed use will accommodate the natural features of the site.

Criterion 2 is met.

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

*Transportation:* The site is a flag lot on the south side and accessing SW Tualatin-Sherwood Road, between SW Avery Street/112<sup>th</sup> Avenue and SW Teton Avenue.

SW Tualatin-Sherwood Road is a Washington County facility 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 travel lanes, a center turn lane, bike lanes, planter strips, and sidewalks. SW Tualatin-Sherwood Road is currently approximately 94 feet wide (49 feet on this development's side) with two 12-foot travel lanes, one center turn lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks.

The submitted application included a traffic study that showed adequate capacity (LOS C/D for AM/PM Peaks, respectively) at the intersection of SW 112<sup>th</sup> Avenue/SW Avery Street/SW Tualatin-Sherwood Road in Post-Development situations of Manufacturing, Retail, or Mutual Materials.

*Water, Sanitary, & Storm:* Connections to City systems currently exist.

Based on staff review and analysis of the application, the existing and approved public facilities for the site are adequate for the proposed use and the development is timely.

Criterion 3 is met.

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

The subject property is in the MG Planning District. Surrounding land uses include:

N:	MG	Arlington Commons industrial condominiums
	MG	Lakeside Lumber, Inc.
E:	MG	undeveloped lot (owned by Air Liquide America, LP to north)
S:	ML	Gearing Property multi-tenant industrial building (across the rail line)
	ML	Teton Building, LLC / Fashion Craft Furniture / Manufacturing, Inc. (across the rail line)
W:	MG	MS Jones Holdings, LLC / HG Holdings, Inc.

There are residences within an RL Planning District within 400 feet of the southwest corner of the subject property. This portion of the Miller Forest subdivision is located southeast across both the rail line and the Gearing Property, south of SW Avery Street, and east of SW 105<sup>th</sup> Avenue. They are visible on the vicinity map (Attachment A).

Because the surrounding uses are manufacturing and because the residences are separated by a lot with a less intense industrial use allowed within the ML Planning District and three rights-of-way, the proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.

Criterion 4 is met.

#### **5. The proposal is consistent with plan policies.**

The applicable Tualatin Community Plan policies are in TDC Section 7.040(3) Manufacturing Planning District Objectives – General Manufacturing. Other TDC Sections that are not part of the Community Plan yet are relevant include 32.030 Conditional Uses – Siting Criteria and 61.010 General Manufacturing Planning District – Purpose.

#### **General Manufacturing Planning District (MG)**

**7.040(3)(a) Suitable for light manufacturing uses and also for a wide range of heavier manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects. Rail access and screened open storage would be allowed in this area, conforming to defined architectural, landscape and environmental design standards. Also suitable is the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500**



**square feet. Also suitable for the retail sale of home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035. Please refer below to staff analysis related to the requirement of 61.010.**

**7.040(3)(b) The following uses within the General Manufacturing District shall comply with the following size limits established by Metro. Retail sale, retail service and professional service uses shall be no greater than 5,000 square feet of sales or service area per outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following exceptions.**

**(i) Application of the Industrial Business Park Overlay District (TDC Chapter 69).**

**(ii) The retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, shall be no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.**

The proposed uses are not within the Industrial Business Park Overlay District (IBPOD). For 7.040(3)(b)(ii), please refer below to staff analysis related to the requirement of 61.010.

**61.010 [General Manufacturing Planning District] Purpose.**

**The purpose of this district is to provide areas of the City that are suitable for light industrial uses and also for a wide range of heavier manufacturing and processing activities. These uses are expected to be more unsightly and have more adverse environmental effects than the uses allowed in the Light Manufacturing Planning District. Railroad access and screened outdoor storage will be allowed in this district, conforming to defined architectural, landscape, and environmental design standards. The heaviest industrial uses that are environmentally adverse or pose a hazard to life and safety shall be prohibited. The purpose is also to allow the retail sale of products manufactured, assembled, packaged or wholesaled on the site provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet. Also suitable for the retail sale of building and home improvement materials and supplies provided it is not greater than 60,000 square feet of gross floor area per building or business and subject to the Special Commercial Setback from arterial streets as generally illustrated in Map 9-5 and specifically set forth in TDC 61.035.**

The proposed light industrial uses are expected to be regarded commonly as unsightly in the absence of landscaping and screening, abut a rail line, and include screened outdoor storage. The main building, the partially enclosed outdoor storage area, and the combined s.f. each does not exceed 60,000 s.f. in area. The proposal is in keeping with the purpose of the MG Planning District.

The applicant explains in Section II "Introduction" on page 3 of the narrative dated 5/16/2008 that, "If approval of the requested conditional use is granted, it is the intent of the contract purchaser to then submit for Architectural Review approval ..." The applicant has submitted an architectural review application (AR-08-13) premised upon approval of CUP-08-02. Of sales, 95% will be wholesale and 5% retail, making retail sales a minor use and *de minimis* in impact. In the Introduction on page 2, the applicant explains that because it sells most of its product to building supply retail stores, it does not compete with them through retail sales and expects most retail sales to be of products discontinued by other such retailers.

The following definitions from 31.060 are useful in further elaborating that the proposed use is virtually wholly for wholesale:

building materials and supplies: wholesale sales and warehousing of materials and supplies including, but not limited to, electrical supplies; fencing materials; building insulation; lumber; prefabricated trusses and structural frames; structural metal materials; masonry supplies; ceramic & stone tile and pavers; painting supplies; plumbing supplies; plywood and wood panel materials; roofing; siding; flooring; window materials; door materials; and tools (handheld and table or stand mounted).

home improvement materials and supplies retail sales: retail sale of home improvement materials and supplies including, but not limited to, electrical supplies; fencing materials; floor coverings such as hardwood, linoleum, vinyl, carpet and rugs; garden tractors and lawn mowers; hardware; building insulation; wall coverings, draperies, window shades, and blinds; lawn and garden supplies; lawn mowers; lighting fixtures; lumber; masonry supplies; painting supplies; plumbing supplies and fixtures; plywood and wood panel materials; siding; roofing; window materials; durable household goods (e.g. refrigerators, stoves and washing machines); and tools (handheld and table or stand mounted).

The applicant provided a preliminary site plan as Exhibit D of the application (Attachment C). The application meets 61.010 because the key points of the narrative and the preliminary site plan show the proposed use is virtually wholly for the wholesale of building materials and supplies as defined above, with a *de minimis* portion of the use for home improvement materials and supplies retail sales as defined above.

The proposal satisfies those objectives and policies of the Tualatin Development Code (TDC) that are applicable to the proposed use.

The proposal is consistent with plan policies.

**Criterion 5 is met.**

**Based on the application and the above analysis and findings, the Mutual Materials conditional use permit (CUP) application meets the criteria of TDC 32.030.**

# **MEMORANDUM**

DATE: June 18, 2008

TO: Colin Cortes  
Assistant Planner

FROM: Tony Doran, EIT  
Engineering Associate

SUBJECT: CUP 08-02 – Mutual Materials - To allow the wholesale, warehousing, and distribution of building materials with a 6,500 sq. ft building and related site improvements. (MG Planning District)  
10700 SW Tualatin-Sherwood Road Tax Lot: 2S127AA02100

---

Colin,

**TDC 32.030 (3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.**

*Transportation:* The site is a flag lot on the south side and accessing SW Tualatin-Sherwood Road, between SW Avery Street/112<sup>th</sup> Avenue and SW Teton Avenue.

SW Tualatin-Sherwood Road is a Washington County facility 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 travel lanes, a center turn lane, bike lanes, planter strips, and sidewalks. SW Tualatin-Sherwood Road is currently approximately 94 feet wide (49 feet on this development's side) with two 12-foot travel lanes, one center turn lane, 6-foot bike lanes, 6-foot planter strips, and 6-foot sidewalks.

The submitted application included a traffic study that showed adequate capacity (LOS C/D for AM/PM Peaks, respectively) at the intersection of SW 112<sup>th</sup> Avenue/SW Avery Street/SW Tualatin-Sherwood Road in Post-Development situations of Manufacturing, Retail, or Mutual Materials (AR 08-13.)

*Water, Sanitary, & Storm:* Connections to City systems currently exist.

Please let me know if you have questions, ext 3035.

**MEMORANDUM**

**CITY OF TUALATIN  
RECEIVED  
JUN 12 2008  
COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

**DATE:** June 10, 2008  
**FROM:** David Schweitzer, Clean Water Services  
**TO:** Colin Cortes, Assistant Planner City of Tualatin  
**SUBJECT:** Review Comments – CUP 08-02, Mutual Materials ANN 68-07

**GENERAL COMMENTS**

- This Land Use Review by Clean Water Services (District) does not constitute approval of storm or sanitary sewer compliance with the NPDES permit held by the District. The District, prior to issuance of any connection permit, must review and approve final construction plans.
- All provisions of the development shall be in accordance with Clean Water Services (CWS) Design and Construction Standards, Resolution and Order No. 07-20 (R&O 07-20), and the Intergovernmental Agreement between the City and CWS.
- A Stormwater Connection Permit shall be required, as authorized by CWS, prior to construction of sanitary sewer, storm and surface water systems, and plat approval.
- Final construction plans must be reviewed by CWS for conformance with R&O 07-20 and Service Provider Letter for Tax/Map lot 2S1 27AA-02100.
- All public sewer easements shall be reflected on the final construction plans.

**SANITARY SEWER**

- The lot shall be provided with a direct gravity side sewer (service lateral) connection to a public sanitary sewer mainline in accordance with current CWS Design and Construction Standards. The sanitary lateral shall provide service to only one lot and shall be contiguous with public right-of-way or public sewer easement.
- As proposed connection to the existing 8" sanitary stub in the within the private access drive may be permitted.

## STORM DRAINAGE AND WATER QUALITY

- The project shall be provided with a gravity service lateral and individual connection to a public storm conveyance.
- A hydraulic and hydrological analysis of the existing storm conveyance system in accordance with R&O 07-20 is required. A downstream conveyance analysis is required in accordance with CWS Design and Construction Standards. The applicant is responsible for mitigating downstream storm conveyance if the existing system does not have the capacity to convey the runoff volume of a 25-year, 24-hour storm event.
- Per R&O 07-20 chapter 4.05 new impervious surfaces shall require treatment of storm flows through a water quality facility. Facilities serving multiple tax lots and/or receiving flows from the public right of way shall be public facilities and designed to CWS standards.
- Private proprietary storm treatment facilities shall meet R&O 07-20 chapters 4.05.3 (a) and 4.05.8. Public (serving more than one tax lot) underground detention facilities shall not be permitted.
- As proposed this tax lot will be served by an on site water quality/quantity facility.

## SENSITIVE AREA

- Clean Water Services Sensitive Area Pre-Screening Site Assessment No. 08-000990, dated April 11, 2008 has been issued for this site; the proposed activity does not meet the definition of development or the lot was plated after 9/9/95 and no site assessment or Service Provider Letter is required.

## EROSION CONTROL

- All CWS erosion control requirements shall be met in accordance with R&O 07-20, per the last amendment of the Sensitive Area Pre-Screening Site Assessment.
- A NPDES 1200-C erosion control permit is required for site development with total ground disturbing activities, including all off-site work, exceeding one acre.

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

A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE  
WAREHOUSING AND PRIMARILY WHOLESALE DISTRIBUTION OF  
BUILDING MATERIALS AT 10700 SW TUALATIN-SHERWOOD ROAD  
(TAX MAP 2S1 27AA, TAX LOT 2100) (CUP 09-03).

Whereas the City Council granted a Conditional Use Permit (CUP 08-02) to Mutual Materials, represented by Group Mackenzie located in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road, described as Tax Map 2S1 27AA, Tax Lot 2100, Washington County, Oregon on July 28, 2008 after a public hearing was held before the City Council of the City of Tualatin on July 14, 2008;

WHEREAS the conditional use permit CUP-08-02 will automatically become null and void 1 year after the effective date upon which it was granted unless one of the events in either Tualatin Development Code (TDC) 32.090(1)(a) or (b) occurs and neither has occurred or will occur prior to expiration, and the applicant as allowed by TDC 32.090(2) submitted a written request on May 21, 2009 to extend the CUP approval, which was within the 1 year period, and which is attached as "Exhibit A"; and

WHEREAS notice of public hearing to hear the request for an extension 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 B," 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 C," 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 report, dated July 27, 2009, marked "Exhibit D," 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 extension have been satisfied and that granting the conditional use permit extension 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. Mutual Materials, represented by Group Mackenzie, is granted a two-year extension up to July 14, 2011 for the Conditional Use Permit to allow building materials and supplies, warehousing and wholesaling, and home improvement materials and supplies rental in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road (Tax Map 2S1 27AA, Tax Lot 2100).

INTRODUCED AND ADOPTED this 27th day of July, 2009.

CITY OF TUALATIN, Oregon

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

ATTEST:

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



RESOLUTION NO. 4914-09

A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE  
WAREHOUSING AND PRIMARILY WHOLESALE DISTRIBUTION OF  
BUILDING MATERIALS AT 10700 SW TUALATIN-SHERWOOD ROAD  
(TAX MAP 2S1 27AA, TAX LOT 2100) (CUP 09-03).

Whereas the City Council granted a Conditional Use Permit (CUP 08-02) to Mutual Materials, represented by Group Mackenzie located in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road, described as Tax Map 2S1 27AA, Tax Lot 2100, Washington County, Oregon on July 28, 2008 after a public hearing was held before the City Council of the City of Tualatin on July 14, 2008;

WHEREAS the conditional use permit CUP-08-02 will automatically become null and void 1 year after the effective date upon which it was granted unless one of the events in either Tualatin Development Code (TDC) 32.090(1)(a) or (b) occurs and neither has occurred or will occur prior to expiration, and the applicant as allowed by TDC 32.090(2) submitted a written request on May 21, 2009 to extend the CUP approval, which was within the 1 year period, and which is attached as "Exhibit A"; and

WHEREAS notice of public hearing to hear the request for an extension 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 B," 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 C," 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 Truax 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 July 27, 2009, marked "Exhibit D," 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 extension have been satisfied and that granting the conditional use permit extension 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. Mutual Materials, represented by Group Mackenzie, is granted a two-year extension up to July 14, 2011 for the Conditional Use Permit to allow building materials and supplies, warehousing and wholesaling, and home improvement materials and supplies rental in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road (Tax Map 2S1 27AA, Tax Lot 2100).

INTRODUCED AND ADOPTED this 27th day of July, 2009.

CITY OF TUALATIN, Oregon

By

Mayor

ATTEST:

By

City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Brader  
CITY ATTORNEY

**Linda Odermott**

---

**From:** Kendall Anderegg [kendalla@mutualmaterials.com]  
**Sent:** Thursday, May 21, 2009 4:38 PM  
**To:** Colin Cortes  
**Cc:** Dennis Woods; TPaulson@grpmack.com; Craig Olsen  
**Subject:** Conditional Use Permit extension request

Dear Colin,

The purpose of this email is to formally request an extension of CUP-08-02 for the Mutual Materials project located at 10700 SW Tualatin-Sherwood Road, or more specifically, tax lot 2100 of map 2S 1 27AA. The Conditional Use approval expires July 14, 2009. It is our understanding that per current City policy (TDC 73.056 (2)), extensions are only granted for 6 months. However, according to Doug Rux, Community Development Director, the City will be adopting a new extension policy in light of the current economic climate. As such, this extension request anticipates that a new extension policy will be approved this summer, thereby ultimately extending this request for a time period longer than 6 months.

I will be following up with a check for \$1225.00 first thing next week.

Sincerely,

Kendall Anderegg  
Director, Residential Sales and Branch Operations  
Mutual Materials Company  
tel: (425) 452-2351  
cell: (206) 618-0208  
fax: (425) 637-0771  
www.mutualmaterials.com

EXHIBIT A

6/26/2009

## AFFIDAVIT OF MAILING

STATE OF OREGON                     )  
  ) SS  
COUNTY OF WASHINGTON        )

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

That on the 30<sup>th</sup> day of June, 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 30<sup>th</sup> day of June, 2009.



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

RE: CUP-09-03—A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE WAREHOUSING AND WHOLESALE DISTRIBUTION OF BUILDING MATERIALS—MUTUAL MATERIALS AT 10700 SW TUALATIN-SHERWOOD ROAD (TAX MAP 2S127AA, TAX LOT 2100)

EXHIBIT B



2S122DD00400  
Anthro Corporation  
10450 SW Manhasset Dr.  
Tualatin, OR 97062

2S122DD00600  
Huston James H.  
2268 SE Mulberry Dr.  
Milwaukie, OR 97267

2S122DD00100  
BT Property LLC  
PO Box 28606  
Atlanta, GA 30358

2S122DD00700 and 500  
Pascuzzi Investment LLC  
10250 SW North Dakota  
Tigard, OR 97223

2S127AA90000  
Arlington Commons At Tualatin  
1800 SW First Ave, Suite 100  
Portland, OR 97201

2S127AA01800  
Black Lab Investments LLC  
PO Box 3850  
Tualatin, OR 97062

2S127AA00901  
Schwan's Sales Enterprises Inc  
PO Box 35  
Marshall, MN 56258

2S127AA0100  
HG Holdings Inc  
PO Box 2090  
Tualatin, OR 97062

2S127AA01200  
5 Yankee MTN LLC  
20460 SW Avery Ct.  
Tualatin, OR 97062

2S127AA01100  
MS Jones Holdings LLC  
10655 SW Avery St.  
Tualatin, OR 97062

2S127A000400  
ORE-CAL Coca-Cola Bottling CO  
1334 South Central Ave.  
Los Angeles, CA 90021

2S127A000401  
Portland General Electric  
121 SW Salmon St.  
Portland, OR 97204

2S127A000403  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

2S127AA00700  
Gehring Limited Partnership  
13215 SW Ash Dr.  
Tigard, OR 97223

2S126B000114  
Classic Woodworking  
10385 SW Avery St.  
Tualatin, OR 97062

2S126B000106  
Teton Building LLC  
PO Box 3750  
Tualatin, OR 97062

2S126B000105  
Air Liquide America LTD PTSHP  
PO Box 460149  
Houston, TX 77056

2S127AA02000  
Lakeside Lumber Inc  
10600 SW Tualatin Sherwood Rd.  
Tualatin, OR 97062

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

Kaaren Hofman, City Engineer  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

2S122DD00500  
1701 NW 14th LLC  
Portland, OR 97209

2S122DD00500  
1603 NW 14th Ave.  
Portland, OR 97209



# 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., Monday, July 27, 2009**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

### CUP-09-03—A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE WAREHOUSING AND WHOLESALE DISTRIBUTION OF BUILDING MATERIALS

In reviewing the conditional use the City Council must find that:

- (1) The use is listed as a conditional use in the underlying planning district;
- (2) The characteristics of the site are suitable for the proposed use;
- (3) The proposed use is timely;
- (4) 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;
- (5) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

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 **Colin Cortes, Assistant Planner at (503) 691-3024**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

# 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 30<sup>th</sup> day of June, 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 30<sup>th</sup> day of June, 2009.

Stacy Crawford  
Stacy Crawford

Subscribed and sworn to before me this 30<sup>th</sup> day of June, 2009.



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

RE: CUP-09-03—A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE WAREHOUSING AND WHOLESALE DISTRIBUTION OF BUILDING MATERIALS—MUTUAL MATERIALS AT 10700 SW TUALATIN-SHERWOOD ROAD (TAX MAP 2S127AA, TAX LOT 2100)

EXHIBIT C



# 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., Monday, July 27, 2009**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

### CUP-09-03—A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT FOR THE WAREHOUSING AND WHOLESALE DISTRIBUTION OF BUILDING MATERIALS

In reviewing the conditional use the City Council must find that:

- (1) The use is listed as a conditional use in the underlying planning district;
- (2) The characteristics of the site are suitable for the proposed use;
- (3) The proposed use is timely;
- (4) 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;
- (5) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

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 **Colin Cortes, Assistant Planner at (503) 691-3024**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder





# 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  
Colin Cortes, Assistant Planner

**DATE:** July 27, 2009

**SUBJECT:** A RESOLUTION EXTENDING A CONDITIONAL USE PERMIT  
FOR THE WAREHOUSING AND PRIMARILY WHOLESALE  
DISTRIBUTION OF BUILDING MATERIALS AT 10700 SW  
TUALATIN-SHERWOOD ROAD (CUP-09-03)

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

A request to extend for two (2) years the approval of conditional use permit CUP-08-02 that allows the warehousing and wholesale distribution of building materials and retail sales of home improvement materials and supplies in the General Manufacturing (MG) Planning District at 10700 SW Tualatin-Sherwood Road (Tax Map 2S1 27AA, Tax Lot 2100).

### **RECOMMENDATION:**

Staff recommends that the City Council consider the staff report and supporting attachment(s) and provide direction.

### **EXECUTIVE SUMMARY:**

- This matter is a quasi-judicial public hearing.
- The City Council approved CUP-08-02 via Resolution No. 4814-08 (Attachment A) on 7/28/2008.
- The resolution granting approval of the CUP expires 7/14/2009.
- The national recession has prompted the client, Mutual Materials, to delay its relocation and construction of its new site.
- On 5/21/2009, the applicant, Mutual Materials Company, requested an extension of the CUP (Attachment B). In a follow-up e-mail dated 6/03/2009, the applicant requested that the extension be for two (2) years.

EXHIBIT D

- Tualatin Development Code (TDC) 32.090(2) allows the Council to provide for an extension of time beyond one year through a resolution granting extension of a conditional use permit.
- Because the application, the approved uses, and the conditions have not changed since approval, the original CUP-08-02 staff report is attached (Attachment C) as analysis and findings for the extension request and is also an exhibit to the resolution to extend the conditional use.
- The applicant submitted a related extension request for application AR-08-13 per TDC 73.056(2). Staff administratively approved the request on 6/01/2009 by extending the AR expiration date to 2/14/2010. The site development approved through architectural review (AR) assumes the uses approved via CUP-08-02.
- The request for extension is based on the following TDC Section 32.090 "Automatic Termination of Conditional Use," which reads:
  - (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void 1 year after the effective date upon which it was granted unless one of the following events occur:
    - (a) The applicant or his successor in interest has secured a building permit within said 1-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said 1-year period.
    - (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said 1-year period.
  - (2) The applicant may submit a request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be filed with the City Recorder prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.
- Neither (a) nor (b) within Section 32.090(1) has occurred or will occur by the expiration date, and the applicant has exercised Section 32.090(2) by submitting a written request on 5/21/2009 to extend the CUP approval.

**OUTCOMES OF DECISION:**

Approval of the Conditional Use Permit (CUP) extension request would result in the following:

1. CUP-08-02 is extended for a period of time as specified by the Council.
2. The applicant is allowed to retain approval for the wholesale and warehousing of building materials and supplies and showroom area greater than 5% of gross floor area (GFA).

Denial of the Conditional Use Permit (CUP) extension request would result in the following:

1. The resolution granting approval of the CUP expires 7/14/2009.

2. The applicant is not allowed to retain approval for the wholesale and warehousing of building materials and supplies and showroom area greater than 5% of gross floor area (GFA).

**ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the Council are:

1. Approve the proposed conditional use permit (CUP) extension with the conditions the Council deems necessary.
2. Deny the request for the proposed CUP extension.

**FINANCIAL IMPLICATIONS:**

Revenue for conditional use permits is budgeted for Fiscal Year (FY) 2008/09, and the applicant submitted payment on 5/29/2009 to renew CUP-08-02 per the City of Tualatin Fee Schedule.

**Attachments:**

- A. Resolution No. 4814-08
- B. Applicant Extension Request
- C. CUP-08-02 7/14/2008 Staff Report and Attachments
- D. Resolution No. \_\_\_\_-09



CONTINUED

~~Approved By Tualatin City Council~~

Date 7-27-09

Recording Secretary LL Smith

## STAFF REPORT CITY OF TUALATIN

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

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

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

**DATE:** July 27, 2009

**SUBJECT:** RESOLUTION APPROVING PROPOSED FORMATION OF SPECIAL AQUATIC DISTRICT (TIGARD-TUALATIN AQUATIC DISTRICT)

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### ISSUE BEFORE THE COUNCIL:

The Council will consider adopting a resolution approving a petition for the formation of a special district with the limited purpose of funding, managing and operating the aquatic centers owned by the Tigard-Tualatin School District (TTSD) at Tualatin High School and Tigard High School for community and school uses.

### RECOMMENDATION:

Staff recommends that the Council consider the attached resolution and determine if the City should support placement of this proposal on the May 2010 election ballot.

### EXECUTIVE SUMMARY:

- Members of the Steering Committee for the Formation of Tigard-Tualatin Aquatic District (Steering Committee) have submitted a letter and additional information requesting formation of the Tigard-Tualatin Aquatic District (See Attachment 1). Steering Committee members will present a brief overview of the proposed Tigard-Tualatin Aquatic District and answer Council questions at the Council meeting.
- The Tigard-Tualatin School District has determined that it can no longer afford to operate the aquatic centers at Tualatin High School and Tigard High School. The purpose of the proposed Tigard-Tualatin Aquatic District is to create a stable, long-term source of funding for both aquatic centers. The proposed district would have the limited scope of managing and operating the aquatic centers for the benefit of the surrounding communities and TTSD schools.

STAFF REPORT: Resolution Approving Proposed Formation of Special Aquatics District (Tigard-Tualatin Aquatics District)

July 27, 2009

Page 2 of 4

- The pools are open this summer, one will be closed in the fall, and the other will remain open until the voters decide whether or not to create the proposed Tigard-Tualatin Aquatic District. If the Tigard-Tualatin Aquatic District is not formed, TTSD will close the remaining pool. If the Tigard-Tualatin Aquatic District is formed, it will fund and operate both aquatic centers.
- Under Oregon statute, each city that would be included within the boundaries of a special district must approve of its formation. All or a portion of Durham, King City, Tigard, and Tualatin would be included within the boundaries of the proposed Tigard-Tualatin Aquatic District.
- Formation of a special district requires a vote to create the district, establish a permanent tax rate, and to elect the governing board.
- The Steering Committee is coordinating with Washington County to place the measure on the May 2010 election ballot. The intention is that Washington County will coordinate with Clackamas County to ensure that Tualatin's Clackamas County residents that are within the TTSD boundary are provided the opportunity to vote on whether or not that area of Tualatin will be in the proposed district.
- Given the time constraints to make the May 2010 ballot, the Steering Committee is requesting the cities adopt resolutions approving formation of the district before obtaining the required signatures from 15% of the registered voters within the proposed district.
- The proposed district would have a permanent tax rate of nine cents per one thousand dollars of taxable assessed value. This equates to an annual property tax of about \$16 for the average property owner within the proposed district.
- The proposed Tigard-Tualatin Aquatic District would be managed by a five-person board of directors to be elected at large by the registered voters within the special district at the May 2010 election.
- The boundaries of the proposed Tigard-Tualatin Aquatic District would match those of the Tigard-Tualatin School District, excluding portions of the City of Tualatin that are in the Sherwood School District, West Linn/Wilsonville School District, and Lake Oswego School District. See Attachment 2 for a map of the TTSD attendance boundaries.
- The Steering Committee is in the process of creating key points for an agreement with the TTSD that would cover a long-term lease of the pools, including provisions for public access to the pools for swim lessons and other recreational purposes as well as access for school related classes and high school teams. TTSD has informally expressed a willingness to the Steering Committee to enter

into such an agreement should the proposed Tigard-Tualatin Aquatic District be formed.

- The consequence of Tualatin not approving the attached resolution is the proposed special district would not be placed on the May 2010 election ballot and as a result voters would not have the opportunity to decide this issue.

The Steering Committee has indicated that they will not pursue formation of a special district exempting the boundaries of any city that does not consent to formation. Each of the other cities is scheduled to consider similar resolutions approving formation within the next month.

The TTSD School Board has indicated that it will shut down both pools if alternative funding is not secured. Bonds for construction of the Tualatin pool and renovation of the Tigard pool will continue to be paid through property taxes levied by the TTSD through 2016 whether the pools are open or not.

- This is a citizen-initiated process and the attached materials have been developed by citizens in consultation with the TTSD and Washington County. Staff has provided a minimal review of the attached materials and in concept has determined that the formation of a special services district is a viable mechanism for ensuring that the aquatic centers can continue to operate in a manner similar to how they have operated in the past.

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

The Council could choose to place conditions on the proposed district or not to participate in the proposed district.

#### **FINANCIAL IMPLICATIONS:**

The formation of the proposed Tigard-Tualatin Aquatic District would create a permanent tax rate of nine cents (\$.09) per one thousand dollars of taxable assessed valuation for property owners within the special district's boundaries. If approved by voters, new taxes would begin being collected in FY10/11.

The Steering Committee has learned that Washington County uses an average real market value of \$333,119 and an average assessed value of \$193,975. Thus, it appears that the annual cost for a house within the proposed district with a real market value of \$300,000, would about \$16. Taxes for those with a higher real market value would be higher and those with a lower real market value would be lower.

Property owners calculate their approximate taxes by using the following formula:

Real Market Value (what you could sell your property for) x Assessed  
Value (approximately .58, the percent of real market value that property  
taxes are paid on) / 1,000 x Tax Rate \$0.9 = Property Tax

Residents can also check their most recent property tax statement or call the county tax  
collector for more information on property values or taxes.

- Attachments:**
1. Letter of Request from Steering Committee for the Formation of  
Tigard-Tualatin Aquatic District and attachments
  2. Map of TTSD Attendance Boundaries
  3. Resolution

- c:
1. Steering Committee for Formation of Tigard-Tualatin Aquatic District
  2. Rob Saxton, Superintendent, Tigard-Tualatin School District
  3. Tualatin Park Advisory Committee

## ATTACHMENT 1

June 29, 2009

Paul Hennon  
Community Services Director  
City of Tualatin  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062

Dear Mr. Hennon:

Thank you for the opportunity to present a resolution to the Tualatin City Council to approve the formation of the Tigard-Tualatin Aquatic District (TTAD). Enclosed please find a draft resolution, fact sheet, and economic feasibility statement.

The purpose of the proposed TTAD is to relieve the Tigard-Tualatin School District (TTSD) of the economic burden of operating the aquatic centers at Tigard and Tualatin High Schools while maintaining these valuable resources for the benefit of the schools and surrounding communities. Currently, more than 80% of the pools' usage is by the community (balance is school use) and we anticipate that ratio will continue under a long-term agreement with TTSD.

The TTAD formation process is somewhat complex because the TTSD and the proposed TTAD include part or all of the cities of Tigard, Tualatin, King City, and Durham as well as unincorporated areas in Washington and Clackamas counties. A petition and signature-gathering process will be necessary in order to form TTAD. The enclosed proposed resolution is intended to provide approval from the City of Tualatin should the required number of signatures be gathered. Similar resolutions and corresponding documents will be presented to the City Councils of Tigard, King City, and Durham at scheduled meetings during the month of July 2009.

The proposal to form TTAD and to fund its operations through a permanent tax levy would appear on the May 2010 ballot as would the candidates for the five at-large directors who would manage TTAD. A petition for the formation of TTAD must be filed with Washington County no later than 180 days before the election (about November 18, 2009). The petition formation process requires 15% of the registered voters in the proposed TTAD sign a petition approving its formation before the petition can be filed with Washington County. Certified copies of resolutions from the affected cities must be presented to Washington County. This tight time frame is the reason that we are asking the cities to approve resolutions before the petition signatures have been gathered.

The proposed boundary for TTAD is the boundary of TTSD. The households within this boundary will continue to finance the bond for construction costs of the aquatic centers until 2016. If the boundary of TTAD matches that of TTSD, the same



households will pay for the operation of the aquatic centers. TTSD, which will retain ownership of the aquatic centers and with which TTAD must contract to lease them, favors a boundary for TTAD that matches the boundary of TTSD. While the proposed boundary does not include portions of the cities of Tigard and Tualatin, it is anticipated that TTAD resources would be available to all citizens of those cities. The TTAD board will decide if those households should pay a nominal additional use fee to account for the construction and operational costs that they will not pay through tax levies. The boundary of TTAD also could be modified in the future to encompass the entire cities of Tigard and Tualatin.

Notwithstanding the preference for the boundary of TTAD to match the boundary of TTSD, it is possible that the boundary of TTAD will need to be adjusted in order to simplify the election or government approval process. The only potential adjustments to the boundary would be 1) the exclusion of the territory in Clackamas County that is within the TTSD boundary and/or 2) the inclusion of incorporated areas of the cities of Tigard and Tualatin that are not within the TTSD boundary. The enclosed proposed resolution is intended to provide approval from the City of Tualatin for any ultimate TTAD boundary within these parameters.

A survey will be conducted this summer to gauge likely voter approval for the creation of TTAD and the anticipated permanent tax levy of 9 cents per thousand dollars of assessed value. Even if the affected cities and counties approve the formation of TTAD, the effort to create it will not continue unless the voter survey indicates that a statistically valid percentage of the voters in the district are likely to support the measure and tax levy.

Please let us know if we can provide additional information in advance of the presentation to the City Council of Tualatin on July 27, 2009. Thank you very much for your assistance.

Sincerely,

Steering Committee for the  
Formation of Tigard-Tualatin  
Aquatic District

Enclosures: Fact sheet  
Economic feasibility statement

# **TIGARD-TUALATIN POOLS**

## **Preliminary Fact Sheet**

**Rev 07/15/2009 - 1**

### **SITUATION**

The Tigard-Tualatin School District (TTSD) owns and operates two swim centers, located on the school grounds at Tigard and Tualatin High Schools. The school district's projected budget can no longer support the operation of the pools and the cities of Tigard and Tualatin are not able to take over operation. TTSD recognizes the value of the pools to the local communities and is willing to coordinate with a citizen group to keep the pools open and/or maintained long enough for the group to develop a long-term stable funding and management option for both swim centers.

TTSD has proposed that it will pay to keep one swim center open and to "mothball" (close to any use but maintain for future reopening) one pool through July 2010. If no other funding source emerges, TTSD will shut down both pools. This would be irreversible and the community would permanently lose both pools.

### **UTILIZATION**

The pools support both school district and community use and are typically open 130-150 hours per week (combined). During the school year, about 500 people per day (total) use the pools, of which approximately 20% is school usage and 80% community. During the summer, usage increases to about 1,000 people per day, which is 100% community use. Usage includes school and community swim lessons; high school swim and water polo practices and meets/games; community swim and water polo club practices and meets/games; community fitness, rehabilitation, and exercise classes; open swim for recreational and family use; community lap swim; special-use rentals; and training for law enforcement and water rescue operations.

### **FINANCIAL STATUS**

The pools were built (and later upgraded) using bond funds that will continue to be paid by TTSD residents through 2016 whether the pools are open or not. The bond was for construction costs only, not operating costs.

Operating costs vary, but average about \$30,000/month for each pool (utilities, water, chemicals, repairs, personnel, etc.). Revenue from community use fees and rentals typically range from \$8,000-\$10,000/month, for a total net loss of \$500,000-\$600,000 per year for both pools (combined).

The cost to "mothball" a pool is approximately \$100,000 per year per pool. This includes heat, chemicals, and minimum required maintenance for equipment and facilities.

### **PROPOSED SOLUTION**

Develop an aquatic district pursuant to Chapter 198 of the Oregon Revised Statutes with a permanent tax levy that will support the operation of the pools indefinitely for use by the district's residents. This proposal is limited to an aquatic district only; it would not include any other park or recreation types of activities.

The required tax levy is currently estimated at \$.09/\$1,000 of assessed value, or approximately \$16 per year for owners of a \$300,000 home.

The aquatic district boundary is expected to match the TTSD boundary, which incorporates part or all of the cities of Tigard, Tualatin, Durham, and King City as well as unincorporated areas in Washington and Clackamas counties. These are the same households that are already paying the construction bond for the pools, and the same households that pay in-district fees for pool use. TTSD is a recognized district with the Washington County elections division and property assessment data is available. It is possible that the aquatic district boundary could be established with exceptions to the TTSD boundary in order to incorporate areas of Tigard and Tualatin that are not in the TTSD boundary or to simplify the process by

**DRAFT: SUBJECT TO REVISION**

# **TIGARD-TUALATIN POOLS**

## **Preliminary Fact Sheet**

**Rev 07/15/2009 - 2**

limiting its scope to one county. Aquatic district boundaries can be changed in future.

The aquatic district will be managed by a board of five directors to be elected at-large from residents of the district.

The board will negotiate a contract with TTSD that will likely include a long-term lease of the pools from TTSD as well as a provision requiring a certain amount of pool use to be reserved for school activities such as swim classes and high school teams.

Funds collected by the tax levy will be managed by the aquatic district board as required by law. The board will hire necessary personnel and pay operating and maintenance costs for the pools as specified in the contract with TTSD.

### **TIMING**

A special district election that includes a tax levy must occur in May or November of even-numbered years. The requirements to get a measure on the ballot mean the earliest date for this election is May 2010, with funding by July 2010.

ORS Chapter 198 requires a citizen-initiated petition or county-initiated formation request. A county-initiated formation request can only occur for a district that is entirely within one county. A citizen-initiated petition requires signatures of at least 15% of the registered voters within the proposed special district, which must be presented to the county for examination before the petition is filed. The petition to form the special district must be filed with Washington County at least 180 days before the election (i.e., by mid-November 2009).

Approval by resolution of the City Councils of all four cities is required before a petition to form a special district can be filed with the county. The steering committee for the aquatic district formation has met with the city managers of all four cities. All have indicated their willingness to allow the group to present a resolution to their councils. The steering committee is also engaged in ongoing discussions with the TTSD superintendent to discuss interim pool operations, access, and costs. It is hoped that resolutions from the cities and a tentative agreement with TTSD can be obtained by the end of July 2009.

For a citizen-initiated process, a proposed petition and an economic feasibility statement must be submitted to Washington County for approval, after which signatures must be gathered. This is planned for July – September 2009, with final petition and signatures submitted to Washington County in October.

### **CURRENT STATUS**

The date for mothballing one pool is still under discussion; the current proposal is August 2009 to allow revenue-producing summer programs to continue at both pools.

The decision on which pool to close has not been made yet, but any closure will have a dramatic impact on all of the local communities. Because the pools are owned by TTSD, all school programs (including both high schools' competitive swim and water polo teams) will be moved to the remaining pool, which will essentially eliminate community access to either pool.

Fundraising and publicity groups for the aquatic district are working to create a political action committee (PAC) and to begin extensive fundraising activities to fund the election process as well as to supplement operating costs to keep both pools open until tax levy funds are available.

### **MORE INFORMATION**

<http://groups.google.com/group/ttpools>

**DRAFT: SUBJECT TO REVISION**

# **ECONOMIC FEASIBILITY STATEMENT**

## **For the Proposed Tigard-Tualatin Aquatic District**

### **I. Introduction**

Oregon law requires petitioners to file an economic feasibility statement with the county clerk before circulating a petition for the creation of a special district. The economic feasibility statement must contain a description of the services and functions to be performed or provided by the proposed district, an analysis of the relationships between those services and functions and other existing or needed government services, and a proposed first-year line item operating budget and projected third-year line item operating budget for the new district that demonstrate its economic feasibility. ORS 198.749.

### **II. Background**

The Tigard-Tualatin School District (TTSD) owns and operates pools at Tigard and Tualatin High Schools (the Aquatic Centers). The Tigard Swim Center is located at 8680 SW Durham Rd., Tigard, OR. The Tualatin Swim Center is located at 22380 SW Boones Ferry Road, Tualatin, OR. The Aquatic Centers were built (and later upgraded) using bond funds that will continue to be paid by TTSD residents through 2016 whether or not the centers remain open.

TTSD can no longer afford to operate the Aquatic Centers, which have a combined average net loss of approximately \$500,000 - \$600,000 per year. Unless alternative funding is found, both Aquatic Centers will be permanently closed. The purpose of the proposed Tigard-Tualatin Aquatic District (TTAD) is to assume responsibility for the operation and management of the Aquatic Centers for the benefit of the local community. If approved by voters, TTAD will be funded by a permanent but limited tax levy that will provide a stable funding source for operating the Aquatic Centers.

### **III. Description of Proposed Services and Functions of the Tigard-Tualatin Aquatic District**

The Aquatic Centers currently are used by approximately 500 people per day during the school year and 1000 people per day during the summer. They typically are open 130-150 hours per week. The function of TTAD would be to manage and operate the Aquatic Centers.

The types of services provided by TTAD would be substantially similar to those now provided at the Aquatic Centers and would include the following:

School Use (approximately 20% during the school year)

- high school aquatic classes (PE)
- water polo team practices and games
- swim team practices and meets
- sports conditioning

Community Use (approximately 80% during the school year; 100% outside of school hours)

- youth swim lessons
- fitness and exercise classes
- physical therapy
- open swim for recreational and family use
- lap swim
- competitive swim club
- water polo club
- special-use rentals
- scuba training
- lifeguard and water safety instruction
- law enforcement and water rescue operations
- special events (e.g. triathlons; youth parties)

#### **IV. Analysis of Relationships Between Services to be Provided by Tigard-Tualatin Aquatic District and Other Existing or Needed Government Services**

The boundaries of TTAD will include territory in the cities of Tigard, Tualatin, King City and Durham. Other than the Aquatic Centers, there are no public swimming pools in these cities. The smattering of private pools do not serve most of the community, are not affordable for many people, may be outdoors (so are unavailable for significant portions of the year), and do not have the capacity to absorb the pool needs currently served by the Aquatic Centers.

The services to be provided by TTAD currently are provided by TTSD. However, TTSD has expressed an intent to discontinue long-term funding of the operations of the Aquatic Centers, thus creating the necessity for TTAD. TTSD will continue to own the Aquatic Centers after the formation of TTAD. TTAD will enter into a contract with TTSD that will likely include a long-term lease of the pools from TTSD as well as a provision requiring a certain amount of pool use to be reserved for school activities such as swim classes and high school teams.

## **V. Operating Budgets**

TTAD will be managed by a board of five unpaid directors elected at-large from residents of the district. Funds collected by a tax levy to be approved by voters will be managed by TTAD's board as required by law. The board will hire necessary personnel and pay operating and maintenance costs for the Aquatic Centers as specified in the contract with TTSD.

TTAD's operations will be funded by a permanent tax levy in the probable amount of 9 cents per \$1,000 of assessed value of real property within the district. The district boundary is presumed to be the boundary of TTSD, which incorporates part or all of the cities of Tigard, Tualatin, Durham, and King City as well as unincorporated areas in Washington and Clackamas counties. TTSD is a recognized district with the Washington County election division and property assessment data is available. The projections attached hereto are based on that data. It is possible that the TTAD boundary could be established with exceptions to the TTSD boundary in order to incorporate areas of Tigard or Tualatin that are not in the TTSD boundary or to simplify the process by which TTAD is formed. These potential variations would not have a significant impact on the accompanying projections but could cause a slight variation in the amount of the proposed tax levy.

Attached hereto are a ten-year budget forecast, including assumptions on which the budget is based, as well as a year-one and year-three line item operating budget demonstrating the economic viability of TTAD. The budget is based on levying the full amount of 9 cents per \$1,000 of assessed value in the first three years of operation, which will cover expected costs and build a contingency fund for unexpected repair or maintenance costs, and 8 cents per \$1,000 of assessed value thereafter. The TTAD board of directors will decide the actual levy amount each year of operation based on actual and anticipated costs for that year.

The proposed permanent tax levy for TTAD will not cause the total local government tax rates to exceed those authorized by law.

**Tigard-Tualatin Aquatics District  
Economic Feasibility  
Combined Pools**

**Revenue**

	2011	2012
Passes	30,238	31,768
Lessons	107,625	113,074
Rental	54,838	57,614
Miscellaneous	22,550	23,692
<b>Total Revenue</b>	<b>215,250</b>	<b>226,147</b>

**Expenditures**

Salaries	287,885	305,417
PERS	31,930	33,875
Social Security	21,115	22,401
Other Required Payroll Costs	21,115	22,401
Contractual Employee Benefits	66,950	71,027
<b>Total Wages &amp; Benefits</b>	<b>428,995</b>	<b>455,121</b>
Property Services		
Utilities	176,130	186,856
Other	10,300	10,927
Travel	1,030	1,093
Communication	1,030	1,093
Non Instructional	36,050	38,245
Consumable Supplies	37,595	39,885
Non-Consumable Supplies	12,875	13,659
Computer Hardware	2,060	2,185
Depreciable Assets	115,900	107,782
Dues and Fees	2,060	2,185
Insurance	30,900	32,782

<b>Total Expenses</b>	<b>854,925</b>	<b>891,813</b>
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<b>Fund Surplus / (Deficit)</b>	<b>(639,675)</b>	<b>(665,666)</b>
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<b>Tax Assessment</b>	<b>717,883</b>	<b>676,980</b>
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<b>Beginning Fund Balance</b>	<b>89,224</b>	<b>308,461</b>
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<b>Ending Fund Balance</b>	<b>167,433</b>	<b>319,775</b>
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<b>Projected Assessed Value</b>	<b>8,396,298,123</b>	<b>8,907,632,678</b>
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<b>Tax Assessment - \$.09/1000 yr 1-3</b>	<b>755,667</b>	<b>712,611</b>
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<b>Collected Tax Assessment</b>	<b>717,883</b>	<b>676,980</b>
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## **Tigard-Tualatin Pool Budget 10 Year Budget Assumptions**

1. Revenue grows at a rate of 2.5% per year.
2. Expenses grow at a rate of 3.0% per year.
3. PERS contribution averages the current rate.
4. Insurance costs of \$15,000 per pool in year one (complete WAG).
5. Specific maintenance items per Mike Branam, \$30,000 of annual capital expenditures plus four unknown \$75,000 maintenance projects.
6. School district continues to provide accounting and maintenance service in return for use of pools.
7. Assessed value for SD# 23 Tigard-Tualatin grows at a rate of 3% per year.
8. Tax assessment of \$.09 per thousand of assessed value years 1-3, \$.08 per thousand thereafter, minus 5% uncollected.



**Tigard-Tualatin Aquatics District  
10 Year Pro Forma  
Combined Pools**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
<b>Revenue</b>											
Pases	29,500	30,236	30,993	31,768	32,562	33,377	34,211	35,068	35,943	36,841	
Lessons	105,000	107,825	110,318	113,074	115,900	118,798	121,768	124,812	127,932	131,131	
Rental	53,500	54,838	56,208	57,614	59,054	60,530	62,044	63,595	65,185	66,814	
Miscellaneous	22,000	22,550	23,114	23,682	24,264	24,861	25,473	26,101	26,745	27,405	
<b>Total Revenue</b>	<b>210,000</b>	<b>215,250</b>	<b>220,531</b>	<b>226,147</b>	<b>231,801</b>	<b>237,566</b>	<b>243,536</b>	<b>249,624</b>	<b>255,865</b>	<b>262,281</b>	

<b>Expenditures</b>											
Salaries	279,500	287,885	296,522	305,417	314,580	324,017	333,738	343,750	354,062	364,684	
PERS	31,000	31,930	32,888	33,875	34,891	35,937	37,016	38,126	39,270	40,448	
Social Security	20,500	21,115	21,748	22,401	23,073	23,765	24,478	25,212	25,969	26,748	
Other Required Payroll Costs	20,500	21,115	21,748	22,401	23,073	23,765	24,478	25,212	25,969	26,748	
Contractual Employee Benefits	65,000	66,950	68,958	71,027	73,158	75,353	77,613	79,942	82,340	84,810	
Total Wages & Benefits	416,500	428,965	441,865	455,121	468,774	482,838	497,323	512,242	527,610	543,438	
Property Services	171,000	176,130	181,414	186,856	192,462	198,236	204,183	210,308	216,618	223,118	
Utilities	10,000	10,300	10,609	10,927	11,255	11,593	11,941	12,299	12,668	13,048	
Other	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Travel	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Communication	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Non Instructional	36,000	36,060	37,132	38,245	39,393	40,575	41,792	43,046	44,337	45,667	
Consumable Supplies	36,500	37,585	38,723	39,905	41,081	42,314	43,583	44,890	46,237	47,624	
Non-Consumable Supplies	12,500	12,875	13,261	13,659	14,069	14,491	14,926	15,373	15,835	16,310	
Computer Hardware	2,000	2,060	2,122	2,185	2,251	2,319	2,388	2,460	2,534	2,610	
Depreciable Assets	100,250	115,900	57,827	107,782	108,765	109,778	110,822	111,898	38,003	284,143	
Dues and Fees	2,000	2,060	2,122	2,185	2,251	2,319	2,388	2,460	2,534	2,610	
Insurance	30,000	30,900	31,827	32,782	33,765	34,778	35,822	36,898	38,003	39,143	
<b>Total Expenditures</b>	<b>817,750</b>	<b>854,925</b>	<b>819,023</b>	<b>867,813</b>	<b>916,318</b>	<b>941,557</b>	<b>987,554</b>	<b>984,331</b>	<b>946,911</b>	<b>1,230,318</b>	

<b>Fund Surplus / (Deficit)</b>	<b>(607,750)</b>	<b>(639,675)</b>	<b>(598,392)</b>	<b>(645,696)</b>	<b>(684,517)</b>	<b>(703,982)</b>	<b>(724,018)</b>	<b>(744,707)</b>	<b>(691,046)</b>	<b>(988,057)</b>	
<b>Tax Assessment</b>	<b>698,974</b>	<b>717,883</b>	<b>739,420</b>	<b>676,980</b>	<b>697,289</b>	<b>718,208</b>	<b>739,754</b>	<b>761,947</b>	<b>784,805</b>	<b>808,350</b>	
<b>Beginning Fund Balance</b>	<b>-</b>	<b>89,224</b>	<b>167,433</b>	<b>308,461</b>	<b>319,775</b>	<b>332,547</b>	<b>346,784</b>	<b>362,530</b>	<b>379,770</b>	<b>473,530</b>	
<b>Ending Fund Balance</b>	<b>89,224</b>	<b>167,433</b>	<b>308,461</b>	<b>319,775</b>	<b>332,547</b>	<b>346,784</b>	<b>362,530</b>	<b>379,770</b>	<b>473,530</b>	<b>313,622</b>	

<b>Projected Assessed Value</b>	<b>8,151,745,750</b>	<b>8,308,298,123</b>	<b>8,648,187,088</b>	<b>8,907,832,878</b>	<b>9,174,881,659</b>	<b>9,450,107,508</b>	<b>9,733,610,734</b>	<b>10,025,618,056</b>	<b>10,326,387,627</b>	<b>10,638,179,256</b>	
<b>Tax Assessment - \$.089/1000 yr 1-3</b>	<b>733,657</b>	<b>755,967</b>	<b>778,337</b>	<b>712,611</b>	<b>733,989</b>	<b>756,008</b>	<b>778,689</b>	<b>802,050</b>	<b>826,111</b>	<b>850,894</b>	
<b>Collected Tax Assessment</b>	<b>698,974</b>	<b>717,883</b>	<b>739,420</b>	<b>676,980</b>	<b>697,289</b>	<b>718,208</b>	<b>739,754</b>	<b>761,947</b>	<b>784,805</b>	<b>808,350</b>	

**Tigard-Tualatin Aquatics District  
10 Year Pro Forma  
Tigard Pool**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
<b>Revenue</b>											
Pastes	21,200	21,730	22,273	22,830	23,401	23,986	24,586	25,200	25,830	26,478	
Lessons	67,000	68,675	70,382	72,152	73,955	75,804	77,699	79,642	81,633	83,674	
Rentals	40,800	41,820	42,866	43,937	45,036	46,161	47,315	48,498	49,711	50,954	
Miscellaneous	12,000	12,300	12,608	12,923	13,246	13,577	13,916	14,264	14,621	14,986	
<b>Total Revenue</b>	<b>141,000</b>	<b>144,525</b>	<b>148,138</b>	<b>151,842</b>	<b>155,638</b>	<b>159,529</b>	<b>163,517</b>	<b>167,606</b>	<b>171,795</b>	<b>176,080</b>	
<b>Expenditures</b>											
Salaries	124,500	128,235	132,082	136,045	140,128	144,330	148,660	153,119	157,713	162,444	
PERS	13,000	13,390	13,792	14,205	14,632	15,071	15,523	15,986	16,468	16,962	
Social Security	9,500	9,785	10,078	10,381	10,692	11,013	11,343	11,684	12,034	12,395	
Other Required Payroll Costs	9,000	9,270	9,546	9,835	10,130	10,433	10,746	11,068	11,401	11,743	
Contractual Employee Benefits	32,500	33,475	34,479	35,514	36,579	37,676	38,807	39,971	41,170	42,405	
<b>Total Wages &amp; Benefits</b>	<b>188,500</b>	<b>194,155</b>	<b>199,980</b>	<b>205,979</b>	<b>212,158</b>	<b>218,523</b>	<b>225,079</b>	<b>231,831</b>	<b>238,796</b>	<b>245,960</b>	
Property Services	64,000	65,920	67,898	69,935	72,033	74,194	76,419	78,712	81,073	83,506	
Utilities	5,000	5,150	5,305	5,464	5,628	5,796	5,970	6,149	6,334	6,524	
Other	500	515	530	546	563	580	597	615	633	652	
Travel	500	515	530	546	563	580	597	615	633	652	
Communication	15,000	15,450	15,914	16,391	16,883	17,389	17,911	18,448	19,002	19,572	
Non Instructional	17,500	18,025	18,568	19,123	19,696	20,287	20,896	21,523	22,168	22,834	
Consumable Supplies	5,000	5,150	5,305	5,464	5,628	5,796	5,970	6,149	6,334	6,524	
Non-Consumable Supplies	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Computer Hardware	45,250	100,450	41,914	16,391	91,863	17,389	17,911	93,448	19,002	19,572	
Depreciable Assets	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Dues and Fees	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305	
Insurance	15,000	15,450	15,914	16,391	16,883	17,389	17,911	18,448	19,002	19,572	
<b>Total Expenses</b>	<b>358,250</b>	<b>422,840</b>	<b>373,975</b>	<b>358,414</b>	<b>444,167</b>	<b>380,242</b>	<b>391,649</b>	<b>478,399</b>	<b>415,501</b>	<b>427,968</b>	
<b>Fund Surplus / (Deficit)</b>	<b>(217,250)</b>	<b>(278,315)</b>	<b>(225,837)</b>	<b>(206,573)</b>	<b>(288,529)</b>	<b>(220,713)</b>	<b>(228,132)</b>	<b>(310,794)</b>	<b>(243,706)</b>	<b>(251,878)</b>	

**Tigard-Tualatin Aquatics District**  
**10 Year Pro Forma**  
**Tualatin Pool**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Revenue</b>													
Passes	8,300	8,508	8,720	8,938	9,162	9,391	9,625	9,866	10,113	10,368			
Lessons	38,000	38,960	39,824	40,822	41,945	42,994	44,068	45,170	46,289	47,457			
Rental	12,700	13,018	13,343	13,677	14,018	14,369	14,728	15,098	15,474	15,861			
Miscellaneous	10,000	10,250	10,506	10,769	11,038	11,314	11,597	11,887	12,184	12,489			
<b>Total Revenue</b>	<b>68,000</b>	<b>70,725</b>	<b>73,483</b>	<b>74,305</b>	<b>76,163</b>	<b>78,067</b>	<b>80,019</b>	<b>82,019</b>	<b>84,070</b>	<b>86,172</b>			
<b>Expenditures</b>													
Salaries	155,000	159,650	164,440	169,373	174,454	179,687	185,078	190,630	196,348	202,240			
PERS	18,000	18,540	19,086	19,688	20,259	20,867	21,483	22,138	22,802	23,486			
Social Security	11,000	11,330	11,670	12,020	12,381	12,752	13,135	13,529	13,934	14,353			
Other Required Payroll Costs	11,500	11,845	12,200	12,566	12,943	13,332	13,732	14,144	14,568	15,005			
Contractual Employee Benefits	32,500	33,475	34,479	35,514	36,579	37,676	38,807	39,971	41,170	42,405			
<b>Total Wages &amp; Benefits</b>	<b>228,000</b>	<b>234,940</b>	<b>241,885</b>	<b>249,142</b>	<b>256,816</b>	<b>264,314</b>	<b>272,244</b>	<b>280,411</b>	<b>288,824</b>	<b>297,488</b>			
Property Services	107,000	110,210	113,516	116,922	120,429	124,042	127,764	131,597	135,544	139,611			
Utilities	5,000	5,150	5,305	5,464	5,628	5,796	5,970	6,149	6,334	6,524			
Maintenance	500	515	530	546	563	580	597	615	633	652			
Travel	500	515	530	546	563	580	597	615	633	652			
Communication	20,000	20,800	21,218	21,856	22,510	23,185	23,881	24,597	25,335	26,095			
Non Instructional	19,000	19,570	20,157	20,762	21,385	22,026	22,687	23,368	24,069	24,791			
Consumable Supplies	7,500	7,725	7,957	8,195	8,441	8,695	8,955	9,224	9,501	9,786			
Non-Consumable Supplies	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305			
Computer Hardware	55,000	56,450	57,914	59,391	60,883	62,399	63,931	65,488	67,062	68,655			
Depreciable Assets	1,000	1,030	1,061	1,093	1,126	1,159	1,194	1,230	1,267	1,305			
Dues and Fees	15,000	15,450	15,914	16,391	16,883	17,389	17,911	18,448	18,992	19,542			
Insurance													
<b>Total Expenditures</b>	<b>459,500</b>	<b>432,085</b>	<b>445,048</b>	<b>453,398</b>	<b>472,151</b>	<b>481,315</b>	<b>495,905</b>	<b>515,832</b>	<b>531,410</b>	<b>547,352</b>			
<b>Fund Surplus / (Deficit)</b>	<b>(380,500)</b>	<b>(361,360)</b>	<b>(372,554)</b>	<b>(459,094)</b>	<b>(395,988)</b>	<b>(463,248)</b>	<b>(485,888)</b>	<b>(433,813)</b>	<b>(447,340)</b>	<b>(716,181)</b>			

# Capital Maintenance Schedule

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
<b>Tigard</b>											
Miscellaneous	15,000	15,450	15,914	16,391	16,883	17,389	17,911	18,448	19,002	19,572	
Paint Natatorium		85,000									
Repair Gutters	5,000										
Repair Diving Board	4,250										
Replace Exterior Doors	21,000										
Replace Boys Lockers			26,000								
Unknown 1					75,000						
Unknown 2								75,000			
<b>Total</b>	<b>45,250</b>	<b>100,450</b>	<b>41,914</b>	<b>16,391</b>	<b>91,883</b>	<b>17,389</b>	<b>17,911</b>	<b>93,448</b>	<b>19,002</b>	<b>19,572</b>	
<b>Tualatin</b>											
Miscellaneous	15,000	15,450	15,914	16,391	16,883	17,389	17,911	18,448	19,002	19,572	
Re-plaster Pool						75,000					
Replace Boiler											
Replace Roof	40,000										255,000
Unknown 1				75,000							
Unknown 2							75,000				
<b>Total</b>	<b>55,000</b>	<b>15,450</b>	<b>15,914</b>	<b>91,391</b>	<b>16,883</b>	<b>92,389</b>	<b>92,911</b>	<b>18,448</b>	<b>19,002</b>	<b>274,572</b>	



# TIGARD-TUALATIN SCHOOL DISTRICT 23J

## 2008-09 ATTENDANCE BOUNDARIES



**Elementary Schools**  
 Alberta Rider  
 Bridgeport  
 Edward Byrne  
 Deer Creek  
 Dunkan  
 Metzger  
 James Templeton  
 Charles F. Tignor  
 Tualatin  
 Mary Woodward

**Address**  
 14850 S.W. 132<sup>nd</sup> Terrace, Tigard 97224  
 5503 S.W. Roland Rd., Tualatin 97062  
 21800 S.W. 91<sup>st</sup> Ave., Tualatin 97062  
 18155 S.W. 131<sup>st</sup> Ave., Tigard 97224  
 7980 S.W. Durham Rd., Tigard 97224  
 10350 S.W. Lincoln, Tigard 97223  
 9500 S.W. Harbeck St., Tigard 97224  
 12855 S.W. Grant, Tigard 97223  
 20485 S.W. 93<sup>rd</sup> Ave., Tualatin 97062  
 12325 S.W. Katherine St., Tigard 97223

**Principal**  
 Dawn Bonard  
 Jerry Nihil  
 Bob Frisoe  
 Vanessa Barker  
 Joyce Woods  
 Karen Twiss  
 Todd Hansen  
 Kirk Sharvill  
 Carole Baker  
 Vicki Tellez

**Phone**  
 431-4900  
 431-4200  
 431-4300  
 431-4450  
 431-4500  
 431-4600  
 431-4850  
 431-4400  
 431-4800  
 431-4700

### Middle Schools

Fowler Middle School (grades 6-8)  
 Hazelbrook Middle School (grades 6-8)  
 Tualatin Middle School (grades 6-8)

10865 S.W. Walnut St., Tigard 97223  
 11200 S.W. Hazelbrook Rd., Tualatin 97062  
 14650 S.W. 97<sup>th</sup> Ave., Tigard 97224

**Shelley Corry**  
 Liz Ryan  
 Rick Patrick

431-5000  
 431-5100  
 431-5200

### High Schools

Tigard High School (grades 9-12)  
 Tualatin High School (grades 9-12)

9000 S.W. Durham Rd., Tigard 97224  
 22300 S.W. Boones Ferry Rd., Tigard 97224

**Jon Schell**  
 Jeff Smith

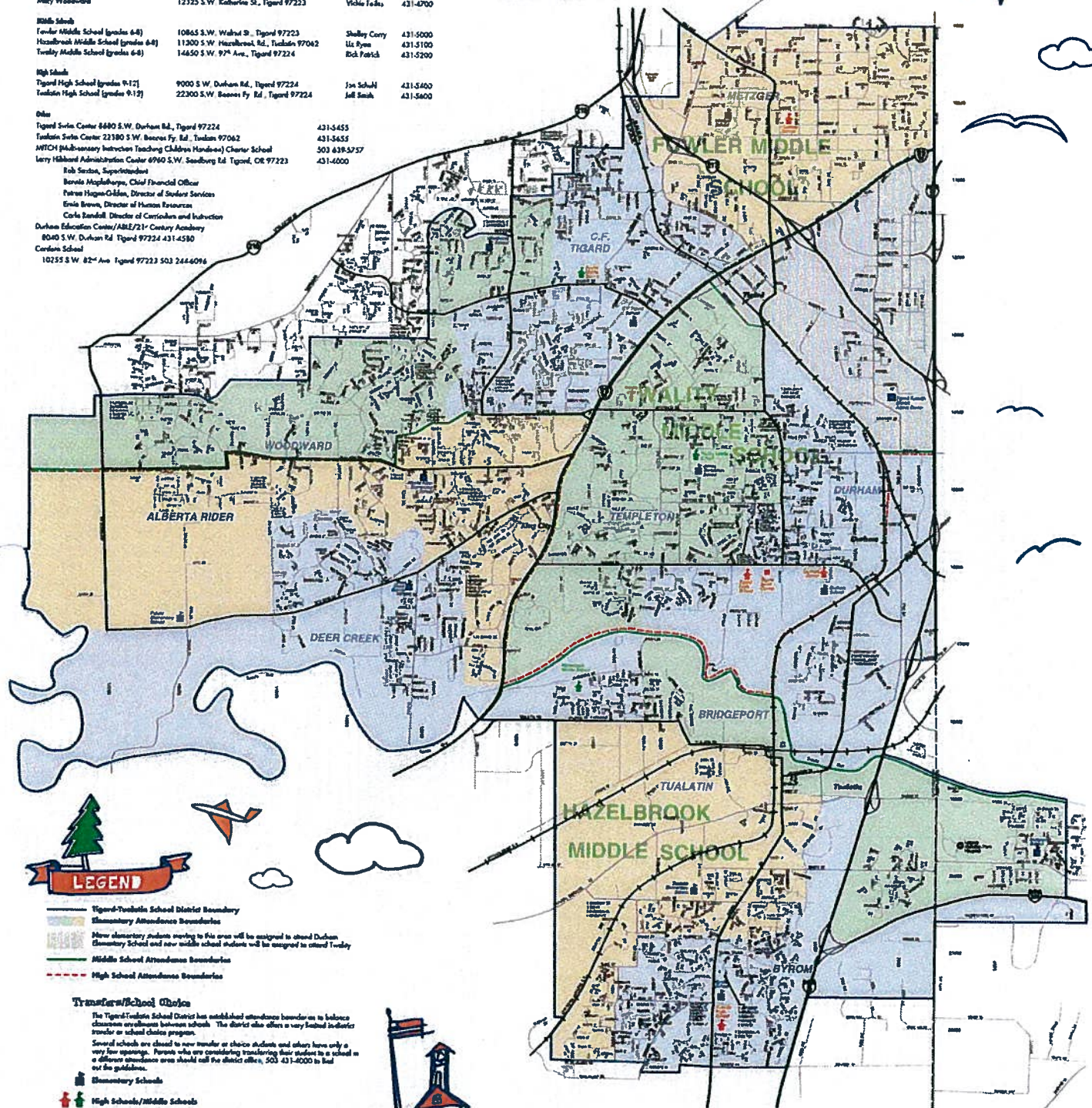
431-5400  
 431-5600

### Other

Tigard Senior Center 6680 S.W. Durham Rd., Tigard 97224  
 Tualatin Senior Center 22380 S.W. Boones Ferry Rd., Tualatin 97062  
 MTCH (Multi-Sensory Instruction Teaching Children's Handwriting) Charter School  
 Lerry Hilliard Administration Center 6960 S.W. Sandburg Rd. Tigard, OR 97223

431-5455  
 431-5655  
 503 438-5257  
 431-4000

Rob Saxon, Superintendent  
 Brenda Magliacane, Chief Financial Officer  
 Patricia Hayes-Gibson, Director of Student Services  
 Emily Brown, Director of Human Resources  
 Carla Randall, Director of Curriculum and Instruction  
 Durham Education Center/ABLE/21<sup>st</sup> Century Academy  
 8040 S.W. Durham Rd. Tigard 97224 431-4580  
 Corbin School  
 10255 S.W. 82<sup>nd</sup> Ave. Tigard 97223 503 244-6096



### LEGEND

- Tigard-Tualatin School District Boundary
- Elementary Attendance Boundaries
- New elementary students starting in this area will be assigned to attend Durham Elementary School and new middle school students will be assigned to attend Tualatin Middle School
- Middle School Attendance Boundaries
- High School Attendance Boundaries

### Transfer/School Choice

The Tigard-Tualatin School District has established attendance boundaries to balance classroom enrollment between schools. The district also offers a very limited student transfer or school choice program.

Several schools are closed to new transfer or choice students and others have only a very few openings. Parents who are considering transferring their student to a school in a different attendance area should call the district office, 503 431-4000 to find out the guidelines.

- Elementary Schools
- High Schools/Middle Schools
- Future School Sites

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

RESOLUTION APPROVING PROPOSED FORMATION OF SPECIAL  
AQUATIC DISTRICT (TIGARD-TUALATIN AQUATIC DISTRICT)

WHEREAS the Tigard-Tualatin School District ("TTSD") has determined that it is not economically feasible for TTSD to operate the aquatic centers at Tigard High School and Tualatin High School (the Aquatic Centers) on a long-term basis; and

WHEREAS the Aquatic Centers are a valuable resource to the communities of Tigard, Tualatin, King City, Durham, and surrounding unincorporated areas as well as to TTSD; and

WHEREAS concerned citizens seek the formation of Tigard-Tualatin Aquatic District (TTAD), a special parks and recreation district formed pursuant to Chapter 266 of the Oregon Revised Statutes to be managed by a five person board of directors elected at large by the registered voters within TTAD, for the purpose of operating the Aquatic Centers; and

WHEREAS TTSD supports the proposal to form TTAD and intends to allow such a district to operate the Aquatic Centers upon the execution of a mutually agreeable contract; and

WHEREAS the proposed funding for TTAD is a permanent tax levy which would provide a stable funding source for the ongoing operations of the Aquatic Centers if the formation of the special district and the permanent tax levy are approved by voters; and

WHEREAS TTAD will be formed if voters within TTAD approve a ballot measure in the May 2010 election; and

WHEREAS portions of TTAD are within the cities of Tigard, Tualatin, King City, and Durham and certified copies of resolutions of the governing bodies of those cities approving the petition to form TTAD must accompany the petition pursuant to ORS 198.720(1); and

WHEREAS the proposed TTAD appears to provide a viable mechanism for ensuring that the Aquatic Centers remain a valuable resource and that voters should have an opportunity to determine whether or not to form TTAD and consent to the tax levy.

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

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

Section 1. The City of Tualatin City Council approves the petition  
attached as Exhibit 1.

INTRODUCED AND ADOPTED this 27th day of July, 2009.


CITY OF TUALATIN, OREGON

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

ATTEST:

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

Approved as to legal form:

  
City Attorney

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

BOARD OF COUNTY COMMISSIONERS  
WASHINGTON COUNTY, OREGON

[DRAFT] PETITION FOR THE FORMATION OF A SPECIAL DISTRICT  
(Tigard-Tualatin Aquatic District)

Pursuant to ORS 198.705 to 198.755, the signators hereto petition the Washington County Board of Commissioners to initiate proceedings for the formation of a special district to be called the Tigard-Tualatin Aquatic District. The nature of the proposed special district is a parks and recreation district organized under ORS Chapter 266 with the limited purpose of managing and operating the aquatic centers owned by the Tigard-Tualatin School District (TTSD) at Tigard High School and Tualatin High School.

The counties affected by the proposed special district are Washington County and Clackamas County. Washington County is the Principal county as defined in ORS 198.705(17).

The affected districts and the principal Act of each affected district are as follows:

- City of Tigard, ORS Chapter 221
- City of Tualatin, ORS Chapter 221
- City of Durham, ORS Chapter 221
- City of King City, ORS Chapter 221
- Tigard-Tualatin School District, ORS Chapter 332

The boundary of the proposed special district is the boundary of TTSD as more particularly described in Exhibit A [to be attached in final version of petition]. The territory in the proposed special district is inhabited.

The proposed special district will be managed by a five person board of directors to be elected at large by the registered voters within the special district.

The proposed permanent tax rate to support the services and functions of the proposed special district in the manner described in the economic feasibility statement required by ORS 198.749 is 9 cents per thousand dollars of assessed value of real property within proposed special district.

The formation of the special district is subject to the following terms and conditions: The function of special district will be limited to managing and operating the aquatic centers at Tigard High School and Tualatin High School.



\_\_\_\_\_  
Date

\_\_\_\_\_  
[Typed Name], Chief Petitioner  
[Typed Address]  
Landowner and registered voter in the  
proposed special district

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Typed Name], Chief Petitioner  
[Typed Address]  
Landowner and registered voter in the  
proposed special district

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Typed Name], Chief Petitioner  
[Typed Address]  
Landowner and registered voter in the  
proposed special district