TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION
Monday, November 9, 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.

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, 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.

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.

OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL FOR NOVEMBER 9, 2009

A. CALL TO ORDER
Pledge of Allegiance

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Page No.

1. VFW Presentation – *Proclamation Tualatin's Lost "Vietnam Vet"* .....
2. Tualatin Youth Advisory Council Update
3. Presentation of Government Finance Officers Association (GFOA) Award – *Finance Director Don Hudson*
4. Commuter Rail Update
5. Presentation on "Flash Alert News" – *Assistant to City Manager Carina Christensen*

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 – 2)*

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. Approval of the Work Session and Meeting Minutes of October 12, 2009 and October 26,2009 .....
2. Approval of a New Liquor License Application for Blakeslee Vineyards Estate .....

E. PUBLIC HEARINGS – ***Legislative or Other***
None.

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

1. Continued Hearing – Appeal of the July 23, 2009 Interpretation Answering "What is the Status of the Nonconforming Use Rights of the Land and Structure Located at 8250 SW Tonka Street"? (Tax Map 2S124CB Tax Lot 1700) (INT-09-01) ***[CONTINUED from October 26, 2009]*** .....
2. Public Hearing to Consider an Ordinance Changing the Planning District Designation from Low-Density Residential (RL) to Medical Center (MC) of Parcels of Land Located on SW Borland Road (21E 19C 1700 & 2000) and Amending SW Borland the Community Plan Map 9-1 (PMA-09-03) .....

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

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

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION

K. ADJOURNMENT

CITY COUNCIL SIGN-UP SHEET

DATE: November 9, 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.	Linda Mohelly	18791 SW. Mountainair	linda@tualatinchamber.com	Chamber update	
2.	Bill Campbell	PO Box 843 Manzanita OR 97130	bcampbell@nehalemtel.net	Sposito Family Trust.	Neg.
3.	Greg Jenks	14223 S.E. Vista LN Milwaukie, OR 97267	gmjenks@gmail.com	Sposito Family Trust	✓
4.	GARY BISACCIO	19784 Bennington Ct. West Linn	gbisaccio@gmail.com	"	
5.					
6.					
7.					
8.					

Proclamation

Proclamation Proclaiming Veterans' Day November 11, 2009 as "Navy Airman Brian Bushnell Day" in the City of Tualatin

WHEREAS former Tualatin resident Brian Bushnell was declared *Missing in Action* on April 9, 1970 as a crewman aboard E2A Hawkeye, downed due to a plane malfunction shortly after being launched from Carrier USS Coral Sea in the Gulf of Tonkin; and

WHEREAS the National League of POW/MIA families contacted the City of Tualatin to obtain Brian's picture and information to complete their compilation of 1,777 missing in action/prisoners of war from the Vietnam War era, with Brian being among the final 68 needed; and

WHEREAS Tualatin Historical Society researcher Yvonne Addington found that Brian was raised in Tualatin, graduated in 1968 from Tigard High School, and located his only surviving family member, brother Scott Bushnell, in Washington, who provided pictures and background information to the League; and

WHEREAS although there was no known media coverage of Brian's death, a plaque with Brian's picture, POW-MIA logo and details of his death will be displayed in perpetuity at the Tualatin VFW so Brian's sacrifice will not be forgotten.

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

November 11, 2009 be proclaimed as *Navy Airman Brian Bushnell Day* in the City of Tualatin.

INTRODUCED AND ADOPTED this 9th day of November, 2009

CITY OF TUALATIN, OREGON

BY _____
Mayor

ATTEST:

BY _____
City Recorder

Council Update November 9, 2009

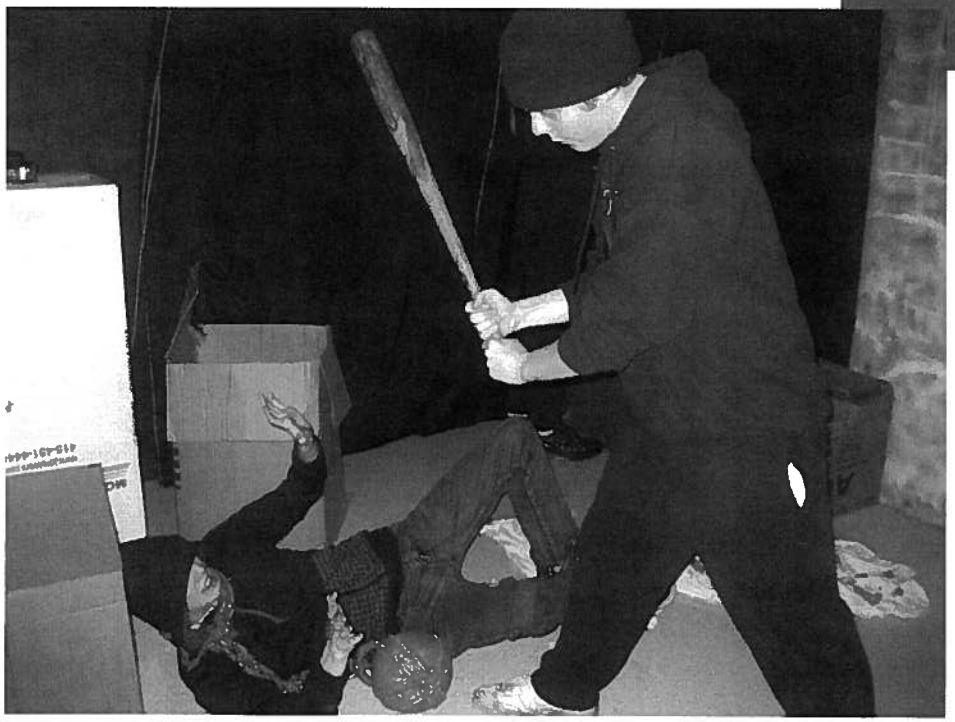
TUALATIN YOUTH ADVISORY COUNCIL

Haunted House 2009

- 200 people attended over four nights
- Spent $706, made $754
- A good time was had by all!

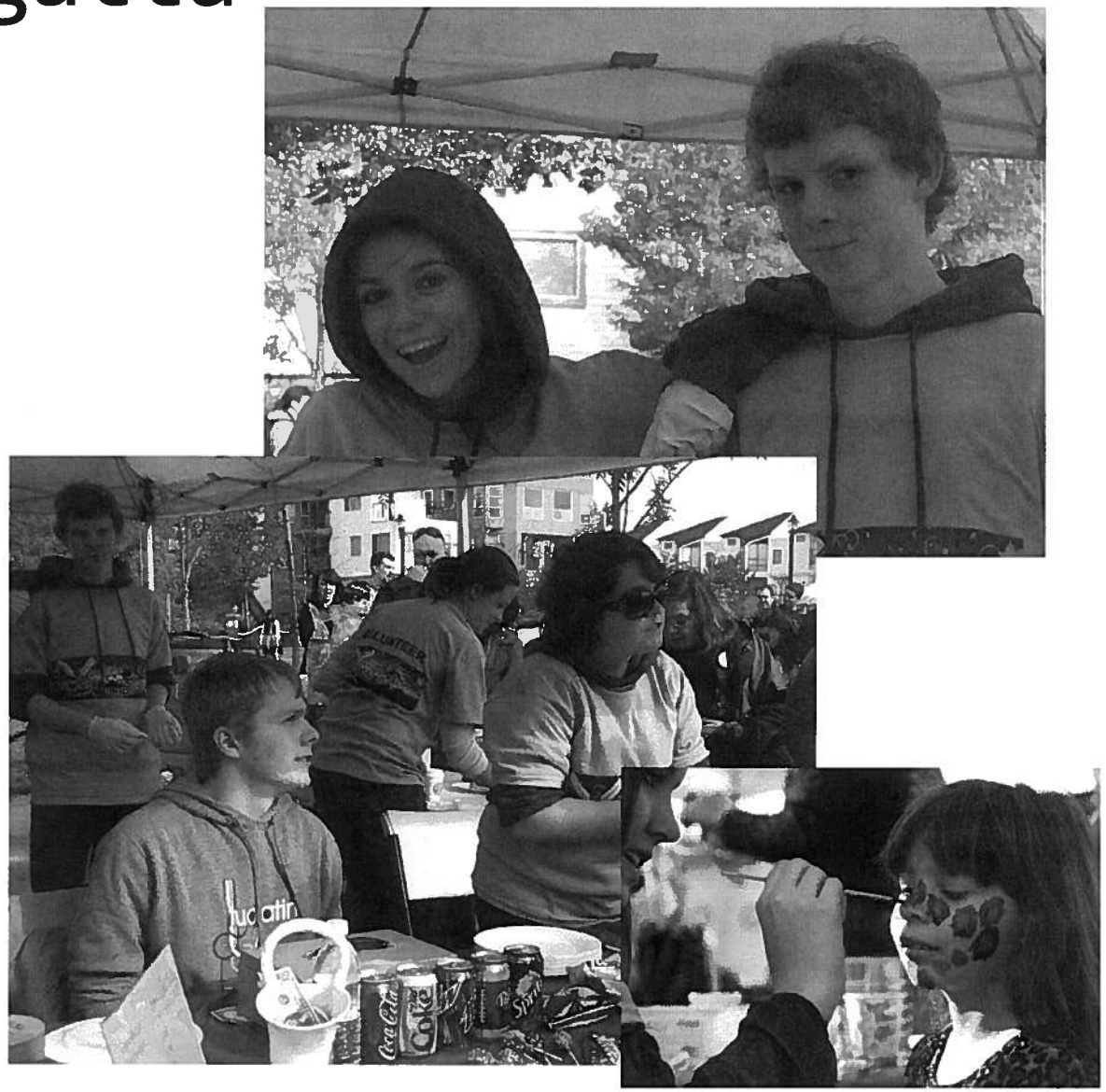
WARNING!!!!

- The images you are about to see contain scenes of simulated gore and violence.....view at your own risk!



2009 West Coast Giant Pumpkin Regatta

- YAC hosted the concessions booth, face painting, pumpkin crafts and dog costume contest
- We made $1,200!
- Thank you!



National League of Cities

- November 12-14
- San Antonio, TX
- Thank you Mayor Ogden for your fundraising efforts!
- Four YAC members attending

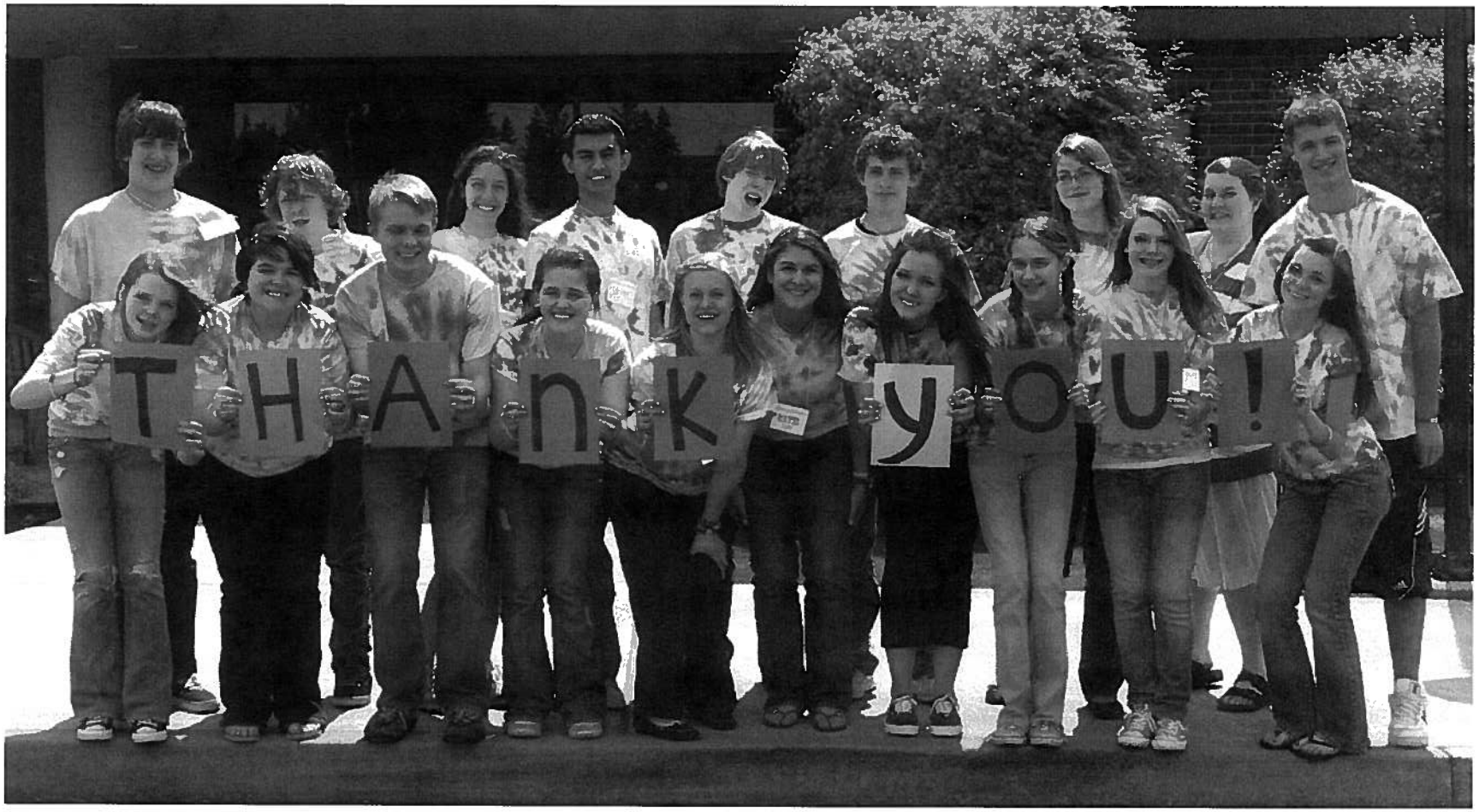
Washington County Commission on Children and Families- Grant Project

- Attended Youth Summit on Oct. 22
- Grant proposal is due November 14
- Planning on doing Project F.R.I.E.N.D.S. again this year!

Starry Nights, Holiday Lights

- Friday, December 4th
- 6:00pm – 9:00pm
- Tualatin Commons
- Tree lighting, local choirs, visit from Santa!
- YAC will be doing face painting, crafts, and "Santa's Helpers"

Thank you!



Flash Alert Newswire

CONNECTING YOU WITH YOUR CITY THROUGH INSTANT NEWS MESSAGES

What Is It?

- FREE Automatic News Release Program
- Receive Information On:
  - City sponsored citywide events (Pumpkin Regatta)
  - Public open houses
  - Road closures
  - Emergencies
  - Construction projects
  - Other pertinent city information
- Sent via e-mail or text message
- www.flashalert.net

Who Can Register For This Service?

- All Residents
- City Employees
- Media
- General Public

How Do I Sign Up?

- Go to the city's webpage www.ci.tualatin.or.us
- Click on the Flash Alert icon on the homepage
- Mark if you want e-mail and/or text messages

Questions?

CONTACT CARINA CHRISTENSEN

CCHRISTENSEN@CI.TUALATIN.OR.US

503.691.3065

Submitted for the record at 11/9/09 Council meeting Item F-2 (PMA-09-03)

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

MEMORANDUM

Date: November 9, 2009 Project #: 9760

To: Will Harper, City of Tualatin
CC: Seth Brumley, ODOT
Larry Hill, Legacy

From: Julia Kuhn, P.E. and Mark Vandehey, P.E.
Project: Legacy Meridian Park Plan Map Amendment
Subject: Transportation Planning Rule Supplemental Analysis

This memorandum responds to issues raised in ODOT's letter dated October 26, 2009 (from Seth Brumley) related to the Transportation Planning Rule (TPR) analysis for the Legacy Meridian Park Plan Map Amendment. Per that letter, ODOT maintains that a conditional use should not be considered as a reasonable worse case for the TPR findings. As a result, they have requested analysis of the I-5/Nyberg ramp terminals assuming the development of a medical office building in order to address the TPR. The memorandum below responds to each of these items.

Reasonable Worse Case Scenarios

The TPR requires a comparative analysis of the reasonable worse case development potential under both the existing and proposed zoning. Per our previous memorandum to you (dated October 1, 2009), the 20-acre subject site is currently zoned for low density residential (RL) which allows for hospitals and medical office uses integrated with a hospital as a conditional use.

ODOT's memorandum states that they do not consider a conditional use as a reasonable worse case. It is important to note that for TPR analyses, the local agency (in this case the City of Tualatin) is responsible for determining the "reasonable worst case" scenario for existing and proposed zoning. Further, we do not find any language in the TPR that indicates conditional uses cannot be considered in the "reasonable worst case" determination. As indicated in our October 1, 2009 memorandum, based on discussion with City staff and a review of the City's RL zoning code, it was concluded that in this instance, a medical office development represents the reasonable worst case trip generation scenario for the site under both the current RL classification or the proposed Medical Center (MC) for the following reasons:

- Medical office is a permitted use (conditionally under the RL zone designation and outright under the proposed MC zone designation).

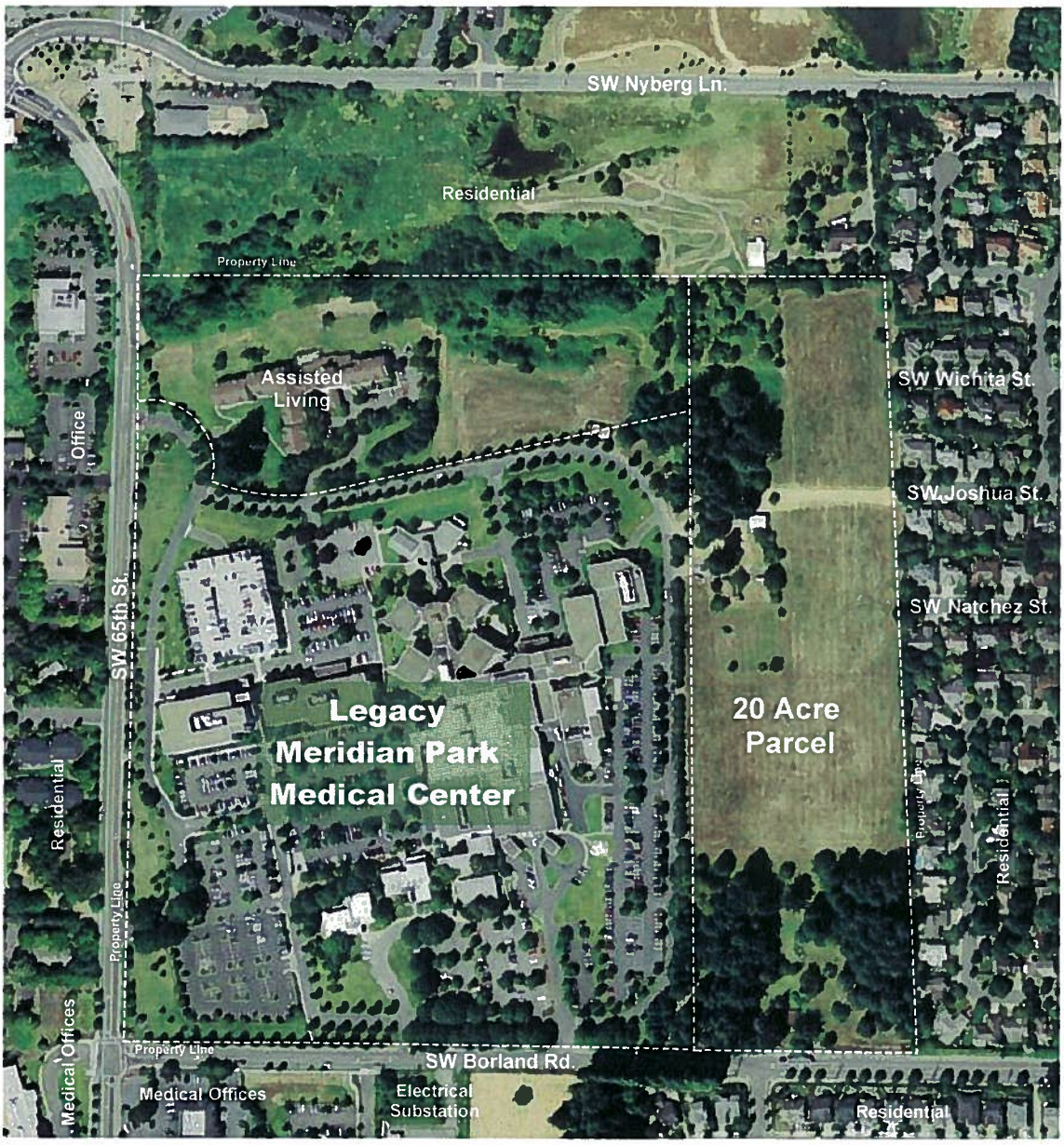
- The subject property is owned by Legacy Health System that is a non profit corporation with the purpose of providing health services by building and operating hospital campuses.
- The subject property is adjacent and contiguous to Legacy Health Systems' existing campus.
- Legacy purchased the property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

Finally, Conditional Use applications are not subject to TPR requirements, so it would be counterintuitive to assume they could not be considered as a possible "reasonable worst case" land use. In this situation, the "reasonable worst case" determination boils down to a simple question: Is it "reasonable" that 250,000 square feet of medical office could be developed with the existing zoning for the subject property? For the reasons stated above we believe the answer is clearly yes.

Please let us know if you need any additional information to prepare the TPR findings. We will be available at the November 9th hearing to answer any questions.

Light pollution
No thru St's
Fences
Berms
65th Ped Improv.
Cap max Ht 45'

Submitted for the record at 11/9/09 Council meeting Item F-2 (PMA-09-03)



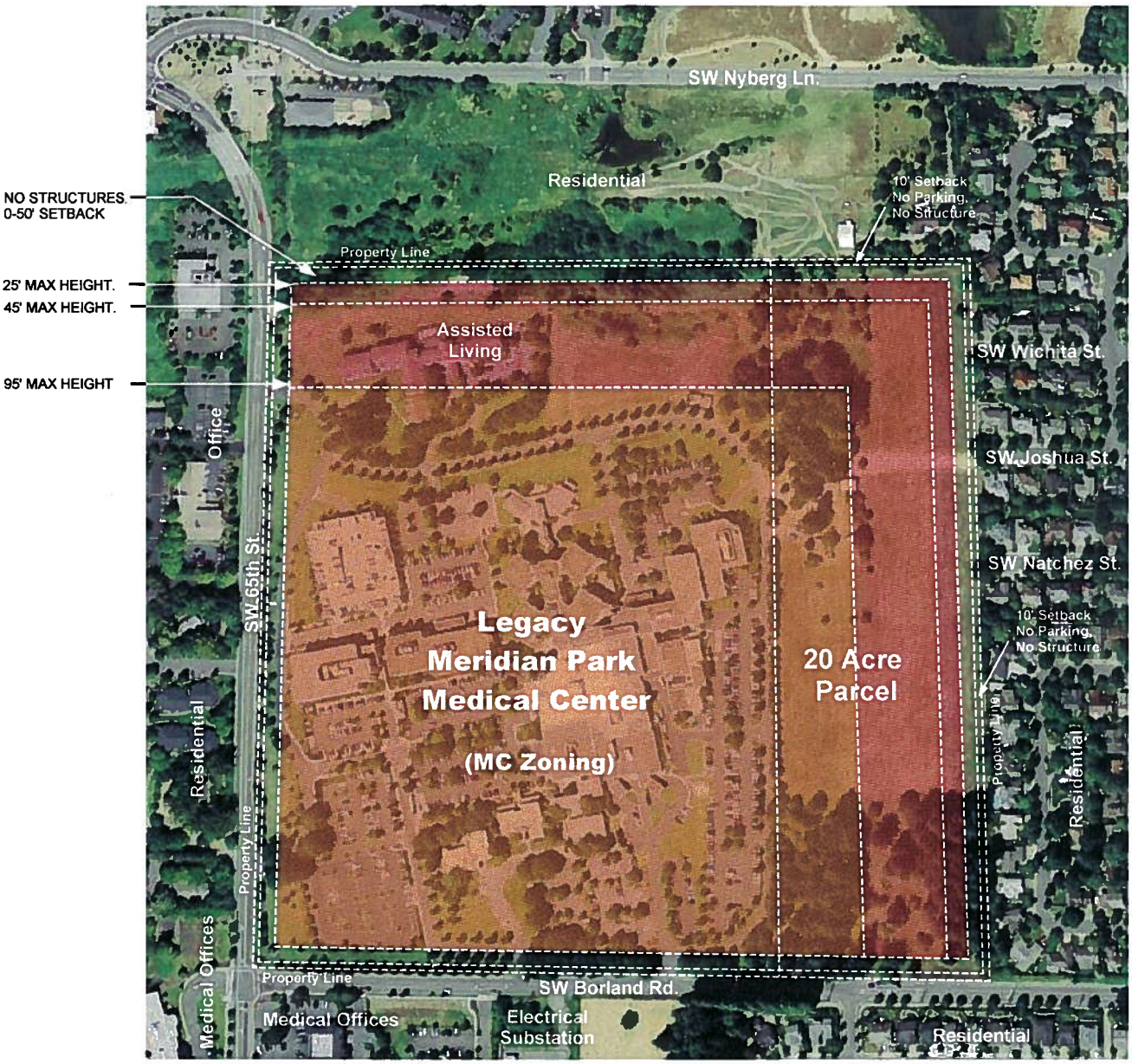
Site Plan

Scale 1" = 400'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER

Tualatin, OR

ZGF Architects, LLP
November 9, 2009



MC ZONING SETBACK / HEIGHT LIMITS:

- 0-50' SETBACK. NO STRUCTURES
- 50' TO 100' SETBACK. 25' MAX HEIGHT.
- 100' TO 300' SETBACK. 45' MAX HEIGHT.
- +300' SETBACK. 95' MAX HEIGHT.

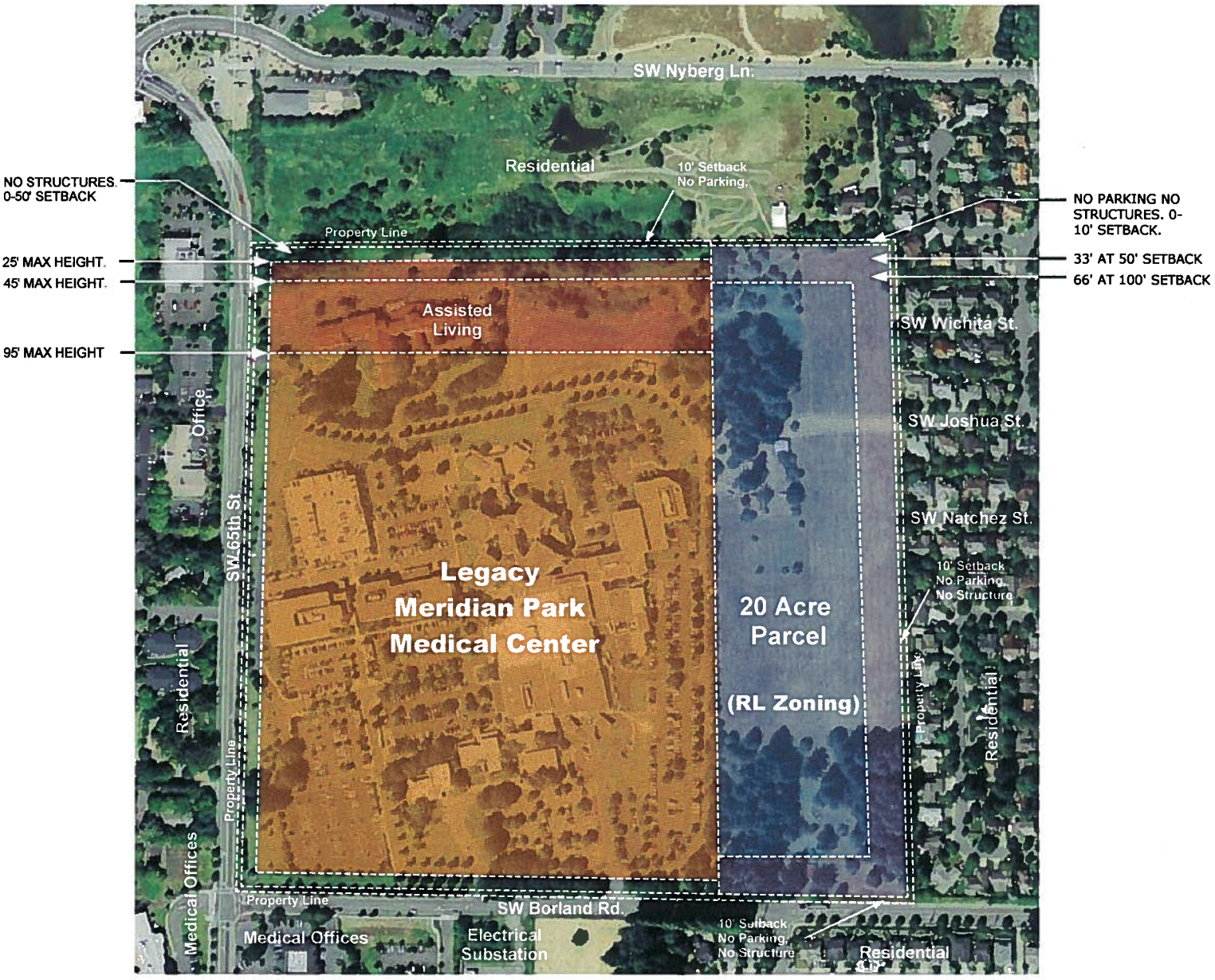
MC Zoning - Site Plan

Scale 1" = 400'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER

Tualatin, OR

ZGF Architects, LLP
November 9, 2009



MC ZONING SETBACK / HEIGHT LIMITS:

- 0-50' SETBACK. NO STRUCTURES
- 50' TO 100' SETBACK. 25' MAX HEIGHT.
- 100' TO 300' SETBACK. 45' MAX HEIGHT.
- +300' SETBACK. 95' MAX HEIGHT.

RL ZONING SETBACK / HEIGHT LIMITS:

- 0-10' SETBACK. NO STRUCTURES
- BASE HEIGHT 35' FOR CONDITIONAL USES. UP TO MAX. 75' AT SETBACK / 1.5 RATIO.
- + 112'-6" SETBACK 75' MAX HEIGHT. FOR CONDITIONAL USES

N

RL Zoning - Site Plan

Scale 1" = 400'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER

Tualatin, OR

ZGF Architects, LLP
November 9, 2009

Submitted for the record at 11/9/09 Council meeting. Item F-1 (INT-09-01)

G.J. SOLUTIONS LLC
STRATEGIC – SUSTAINABLE - SOLUTIONS

MEMORANDUM

November 9, 2009

TO: City Council
City of Tualatin

FROM: G.M. Jenks
G.J. Solutions LLC

RE: Testimony – 8250 SW Tonka7/16/09

Mr. Mayor and City Council Members:

Thank you for your time and consideration.

First, I would like to introduce specific exhibits for tonight's hearing.

Exhibit A – is the final version of the time line matrix which I will talk about in a minute.

Exhibit B – is 1984 aerial photo of 8250 SW Tonka obtained from I-Ten GIS Specialists

Exhibit C – is an affidavit from the Property Owner, Mr. Stan Spositio

(RESERVED FOR OTHER EXHIBITS)

MISREPRESENTATIONS & INACCURACIES

Next, I would like to point out that one side of the issues at hand has spent considerable time and money trying to ascertain the facts for your consideration. Unfortunately, city staff has not. The following is a summary of the inaccuracies or misrepresentations I have witnessed expressed by city staff in the course of these proceedings.

Definition of "Use" under the TDC

The Tualatin Development Code has always defined use as: *"The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied* ***or maintained*** (bold added for emphasis)." Staff would like you to believe that there is a period after "occupied," but the definition goes on ...."or maintained." First, "or" is alternative not conjunctive, meaning either actual occupancy or maintenance for that use. There is no dispute of fact that United Rental has maintained the site and currently maintains the site for the rental, sale, or storage of vehicles and large equipment."

GMJENKS@GMAIL.COM PHONE: 503.926.4046

Use of site did not terminated on 12/31/07

City staff has indicated that the use of the site terminated on 12/31/07. The facts clearly state otherwise. We have produced copies of actual invoices demonstrating that United Rental rented equipment and vehicles from this site after that date. Equally, we have produced evidence that United Rental has a current business license for the site that is in effect until the end of this year. Discussions with City Staff indicated that payment for this license was after 12/31/07. In fact, until just recently United Rental had large equipment/vehicle stored on site.

Under the City's Definition of "Use" use is on-going

As stated earlier, there is no dispute of fact that United Rental has maintained the site and currently maintains the site for the rental, sale, or storage of vehicles and large equipment." United Rental has a current business license on the site, pay for utility use on the site (including water), the property cannot be sublet without their permission, control the site use, etc....

No banner was place on a truck

At the last hearing on this matter it was represented that United Rental had place a banner on the truck trailer on the site. At the time I gave staff the benefit of the doubt and went back and checked the evidence submitted and the site. Incorrect, the message staff referred to was painted on the side of the large semi-trailer located on the site.

The lease is immaterial

Leases are by definition land use documents. They dictate the duration, scope or extent of uses allowed on the site. While lease may not always be determinative they are material. The current lease on the site is for rental vehicles and equipment. That lease expires February 28, 2010.

The site has recently been vacated because of recent truck removal

Since the last hearing United Rental has removed the semi-trailer that was on the site. I believe staff cited this removal in their staff report was evidence that United Rental has vacated the site. Quite the contrary is true. We will gladly stipulated that United Rental has recently rented that large semi-trailer that was located on the site and contend it is further evidence of United Rental current use or occupancy of the site.

THE TIME LINE MATRIX

Explain the matrix
Color Legend
Conclusions

GMJENKS@GMAIL.COM PHONE: 503.926.4046

THE FACTS

The facts are clear. The use of the site for the storage, rental, and sale of large vehicles has been continuous since 1974.

The actual use or occupancy of the site by United Rental went well beyond December 31, 2007.

The site has been maintained for and will be maintained this use until February 28, 2010

United Rentals has a current business license for this site issued by the City of Tualatin.

It not disputed that under the plain meaning of "use" as defined by city code, United Rental is currently using the site.

SUMMARY

GMJENKS@GMAIL.COM PHONE: 503.926.4046

Submitted for the record at 11/9/09 Council meeting Item F-1 (INT-09-01)

G.J. SOLUTIONS L.L.C.
STRATEGIC – SUSTAINABLE - SOLUTIONS

Time Line Summary Matrix

8250 SW Tonka St. Tualatin, Oregon

1969 to Present

Legend

Blue Text – Evidence submitted with application **Green Text – New Evidence at hearing (11/09)**

Yellow/Orange Text – Additional Information available in City Files but not yet requested.

Introduction:

The purpose of the following presentation is to provide an accurate summary of the land use history of 8250 SW Tonka St., Tualatin, Oregon from 1969 to the present. The key facts presented include ownership, actual site use including business occupancies, relevant code provisions and other events or actions by the City of Tualatin. The objective is to provide decision makers *"a sufficiency of facts or information to enable a reasonable person to conclude."*

Site History (Pre-1969)

The property was zoned residential (R-7500) in 1963 (7/31/63) by the City of Tualatin (see Ordinance 69-B). In 1968 local property owners made application to the City for re-zone of properties along S.W. Tonka St. On March 11, 1968 zone change application was submitted by property owner Mr. Richard Price to re-zone the property from residential (R-7500) to light manufacturing(M-3). The zone changes were approved May 13, 1968, (see Ordinance No. 112).

Year	Owner	On Site Use	Zoning Land Use	Business License	Vehicles on Site	Status of Vehicle Rental Use	City of Tualatin
1969	-----	-------	**M3** "Light Man'f" Zone	------	---	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental"	City of Tualatin Zoning Ordinance adopted 2/10/69, Section 900, Light Manufacturing M-3, Permitted uses Sec. 902.[1]
1970	-----	-------	**M3**	-----	---	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental"	
1971	-----	**OUTRIGHT USE** Industrial Manufacturing – Quality Plastics	**M3** "Light Man'f" Zone	-----	YES	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental" – Code Revised 12/17/71-72	**Code Revised 12/17/71**[2] **See also Tualatin Plan excerpts, 1971**[3] **(Exhibit #1) and attached map designating site as M-3 (Exhibit #2).**
1972	Quality Plastics-	**OUTRIGHT USE** Industrial Manufacturing – Quality Plastics Truck Storage	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	11/21/72 -- ORDINANCE NO. 214-72: 1971 Code Revisions & Tualatin Plan adopted as a Comprehensive Plan of Development approved by VAR-211-72 approved street frontage >50 ft
1973	SPOSITO	**OUTRIGHT USE** Industrial Manufacturing – Quality Plastics Truck Storage **Exhibit #3 – Sept. 17, 1973 - Property appraisal for Lee Dundas, Quality Plastics - photos - area description, property description, highest & best use: industrial.**	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	Unknown

1974	SPOSITO	**OUTRIGHT USE** Quality Plastics Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions **Exhibit #4 – City Photo, flood trucks on site in the background.**
1975	SPOSITO	**OUTRIGHT USE** Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions AR-75-27 approved for site improvements, CUP-301-75 for cabinet & contractors office on site **Exhibit #5 – City Photo – Blight Survey shows large trucks on site.**
1976	SPOSITO	**OUTRIGHT USE** Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions
1977	SPOSITO	**OUTRIGHT USE** Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions

		bailers, thrashers), storage impounded & wrecked vehicles, etc.					
1978	SPOSITO	**OUTRIGHT USE** Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.		NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions
1979	SPOSITO	**OUTRIGHT USE /*"grandfathered"*** Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.	General commercial	NOT AVAILABLE	YES	**OUTRIGHT USE UNTIL 10/22/79** NCU *"grandfathered"*	10/22/79 ORDINANCE NO 491-79 – Code revisions effective – rezone site to general commercial. No enforcement actions
1980	SPOSITO	***"grandfathered"*** Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks,	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No successful enforcement actions. **City alleged violation of "number of vehicles" restrictions on site. Later City admits to "mistake" due to the photography.** City Records concerning code enforcement.

		agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.					
1981	SPOSITO	***"grandfathered"*** Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1982	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1983	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1984	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions, City requested permit for electrical service. AR-84-05 – building remodel approved. **Exhibit B – Photos of site with large trucks on site** City records pertaining to the requested permit and building remodel approval.
1985	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions. **Exhibit 6 , site photos of U-Haul Rental and other large vehicles.**
1986	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions

1987	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions **City staff concedes nonconforming use rights,** see exhibit #7 -Jan 19, '87 - City of Tualatin letter to M. Gensman - requesting materials to placed in the property file to reflect the factual conditions of the property under the lease with Tom Wheeler, Rabbit Hutch (PM Mechanics sublease), and Exhibit #8 - Jan 19, '87 - City of Tualatin ltr to Stan Sposito - same issue as Gensman letter - essentially an apology - the city has it wrong . City records pertaining to exhibits #7 and #8.
1988	SPOSITO	***"grandfathered"*** Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions. INT-88-01 – J. Jacks **Young Letter/Jacks Opinion implicitly concedes grandfathered ncu rights. Young letter to G. Basaccio dated 5/11/88 (Exhibit page 249) and Jacks letter to S.H. Caplan (Exhibit page 258).**[4]
1989	SPOSITO	***"grandfathered"*** Lease: Anderson Oregon Rentals, equipment & Vehicle Rentals **Exhibit pg. 277-293**	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1990	SPOSITO	***"grandfathered"*** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1991	SPOSITO	***"grandfathered"*** Lease: Anderson Oregon Rentals Vehicle Rentals & Sales	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1992	SPOSITO	***"grandfathered"*** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1993	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions, **OA-913-93 Adopted changes to CG Zone to allow auto and vehicle rental with not more than 5 vehicles.**
1994	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	City enforced DEQ standards for all oil collection tank. City records pertaining to this enforcement.
1995	SPOSITO	***"grandfathered"***	General	NOT	YES	NCU	No enforcement actions, city mtg w/ Doug Johnson, "city wants barn

		(Outright Use No. Ltd.) Leased Anderson Oregon Rentals Equipment & Vehicle Rentals	commercial	AVAILABLE		*"grandfathered"* (Outright Use No. Ltd.)	torn down"
1996	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
1997	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement action Building Permit #9779-97 issued, Canopy & Washrack issued **(12/08 – exhibit pg. 266-275).** Other City records pertaining to the issuance of the permit.
1998	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE [5]	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions Site & Bldg. Improvements made **(12/08 – exhibit pg. 266-275).** Other City records pertaining to site & bldg. improvements
1999	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: Anderson Oregon Rentals, assumed 8/1/99 by United Rentals Equipment & Vehicle Rentals **(Exhibits pgs. 296 – 305)** **(Photo exhibit pg.311-310)**	General commercial	United Rentals **See Below - Exhibit #21 – Public Records Req.)** [6]	YES	NCU *"grandfathered"* (Outright Use No. Ltd.) *No break in the lease or site usage, allowed the uses established by AOR*	No enforcement actions, 4/8/99 City Letter re: use of site OK exclude: big dump trucks, large excavators, D5's & D6's, city Permits obtained for site and building upgrades = $396,225.00 not including building permit fees paid to the City. **Exhibits #9 to #13:** **Exhibit 9 - Feb 1, '99 Memo to Stan Sposito from Mike Crouch, United Rentals - I do not intend to bring in equipment any larger that has already been previously on the property . . .** **Exhibit 10 - Feb 26, '99 memo to Stan from M. Crouch, United Rentals outlining 7 objectives for property use with City of Tualatin** **Exhibit 11 - Mar 3, '99 ltr to G. Bisaccio . . . "after closing the purchase from Anderson Oregon Rental and assuming the lease . . . UR was advised that the City of Tualatin may take the position that the types of equipment rentals which have been made at the site for many years without objection are somehow not allowed under the city's interpretation . . . <u>also at issue is the right to continue certain nonconforming uses pursuant to appropriate grandfathering clauses.</u>** **Exhibit 12 - Mar 29, '99 United Rentals ltr to D. Rux . . . I am proposing that we keep the business as it has been (with the same equipment**

							base) under the existing grandfather clause . . . Exhibit 13 - Apr 8, '99 City of Tualatin ltr. to Mike Crouch - 5 pts for occupancy
2000	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & vehicles rentals **(Photo exhibits pg.312-316, 322-324)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2001	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibits pg.318-321)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2002	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibit pg.317)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions.
2003	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions Exhibit 14, 12/17/03 Letter to Robert Metz of United Rentals corroborating "grandfather rights."
2004	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2005	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2006	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Vehicle &	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No.	No enforcement actions Exhibit 15, extension of the lease 7/27/06 to 8/31/06 correspondence.

		Equipment rentals, **Lease extended by United Rentals through February 28, 2010**				Ltd.)	
2007	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions Exhibit 16, Real property tax statement, 2007-08
2008	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals (UR – continuing use of property Exhibit #17 eighteen rental invoices and Exhibit #18 fax rental offer to DF/United Rentals for consent to Xmas tree sales, 11/12/08) **(Photo exhibit pg.308-310)**	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Interdiction of Owners Rights by city's position stated to property owner & Enterprise Rent- a- Car.** Exhibit 19 W.Harper email to D.Rux dated 1/28 and mtg. notes dated 2/22, concerning Enterprise.
2009	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibit pg.306)**	General Commercial	**United Rentals Current until 12/31/09** (Exhibit 21 – Public Rec. Req.)	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Continuing Interdiction of Owners Rights INT-09-01 & Appeal.** Exhibit #20 City staff mtg. notes dated 1/20
2010	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)** Lease: United Rentals Equipment & Vehicle rentals, if not extended will expire on March 1, 2010	General Commercial	???	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2011	SPOSITO	***"grandfathered"*** **(Outright Use No. Ltd.)**			YES		

INFO							

[1] **City of Tualatin Zoning Ordinance adopted 2/10/69, Section 900, Light Manufacturing M-3,**
Permitted uses: Sec. 902 provides in relevant parts "*.....Group B...Truck Storage or rental.....Any other use held similar to the above uses, as approved by the City Council.*"
Purpose: Sec. 901 provides as follows: *"The purpose of this district is to provide sites for heavy commercial and light manufacturing activities requiring light machinery, under controls which will allow them to be located in close proximity to commercial and residential areas."*
Definitions: Sec. 105, No. 35 defines "use" as follows. *"The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied* ***or maintained (bold added for emphasis)"***

[2] **Tualatin Zoning ordinance revised 12/17/71, Section 900, Light Manufacturing M-3,**
Permitted uses: Sec. 902 provides in relevant parts "*.....Group B...Truck Storage or rental.....Any other use held similar to the above uses, as approved by the City Council.*"
Purpose: Sec. 901 provides as follows: *"The purpose of this district is to provide sites for heavy commercial and light manufacturing activities requiring light machinery, under controls which will allow them to be located in close proximity to commercial and residential areas.((NEED TO VERIFY – COPY NOT PROVIDED gmj))"*
Definitions: Sec. 105, No. 35 defines "use" as follows. *"The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied* ***or maintained (bold added for emphasis)"***

[3] **Tualatin Plan.** Oregon Project LGR-9, August 1971, U.S. Department of Housing and Urban Development Department, pg. 28 which in relevant parts states:
"Most of this industrial land is outside the city and lacks utilities, local street access and other things required for industrial development. Its use for industry will therefore probably take place gradually over an extended period of time.
Policies
1. *To preserve for industrial purposes level, buildable land which has good access to railroads and major arterials.....*
5. *To locate industrial areas so that they have good direct access to arterial streets. Industrial trucks and worker traffic should not filter through residential areas....*

INDUSTRIAL CATEGORIES
LIGHT INDUSTRIAL: *Suitable for warehousing, wholesaling and light manufacturing processes which are not hazardous and which do not create undue amounts of noise, dust, odor, vibration or smoke. Also suitable for retail sale of products not found in General Commercial areas. Rail access, open storage, loading, and truck traffic would be characteristic of such areas."*

[4] Ms. Young's letter in relevant portion states "*I have also enclosed the zoning map and the M-3 Zoning District from the 1971 Tualatin Plan. M-3 appears to be the zone which applied to Stan Sposito's property at that time* (M-3 zone includes truck storage and rental as an outright use). In the subsequent letter by Mr. Jacks it is clearly stated the following. "This request does not involve the rental of cars or trucks as their rental is specifically permitted in the Light Manufacturing (ML) District." Furthermore the same letter notes that that the U-Haul's 1986-87 catalog includes "trucks, trailers."

[6] City of Tualatin requires retention of businesses licenses for 3 years but payment history goes back 10 years. Beyond the 10 years records are not available.

Submitted for The record at
11/9/09 Council meeting.
Item F-1 (INT-09-01)

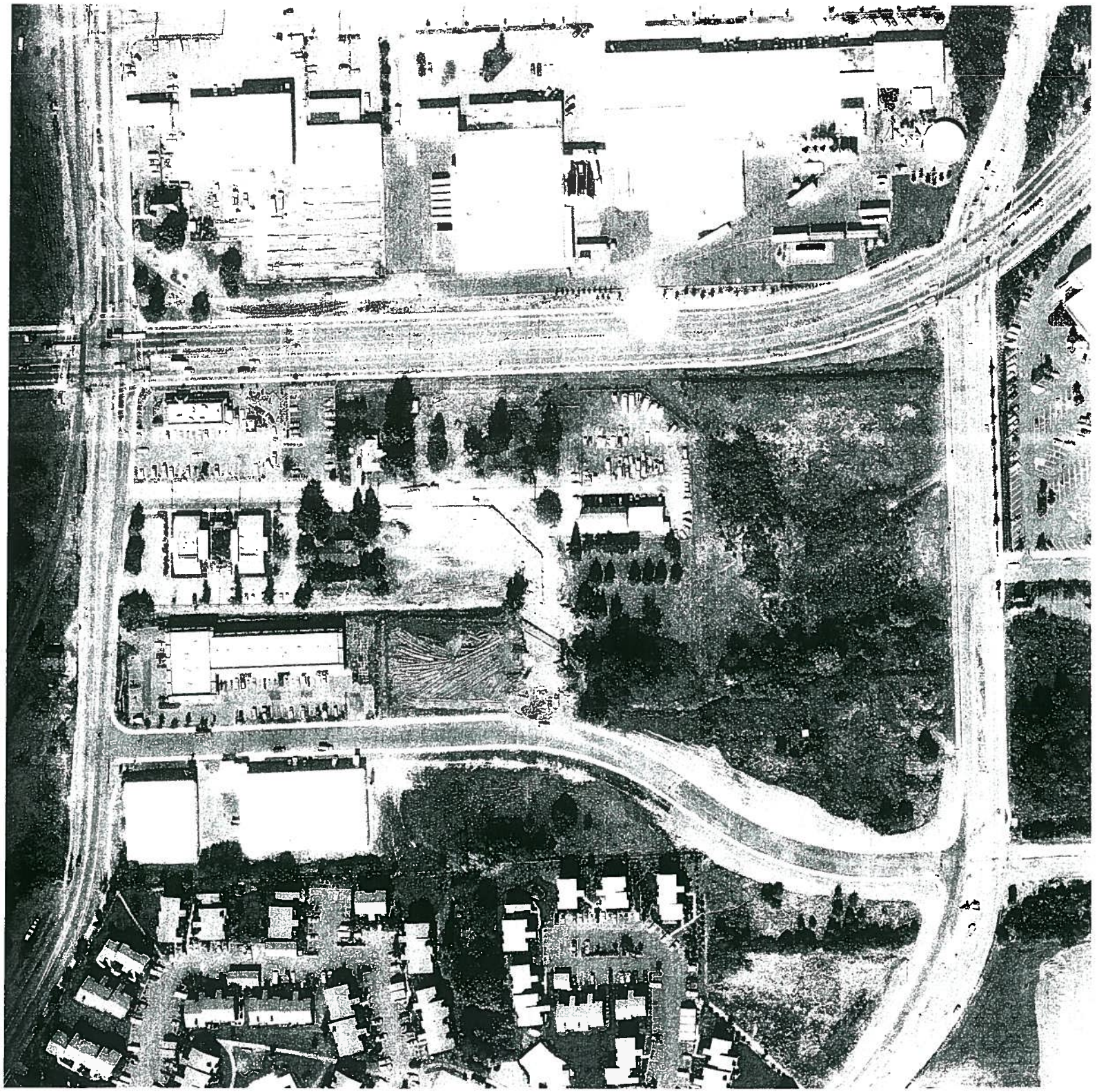


Exhibit B

1984 - 8250 SW. TONKA

Submitted for the record at 11/9/09 Council meeting. Item F-1 (INT-09-01)

I hereby certify, under penalty of perjury, to the best of my personal knowledge, understanding, and belief, that all the all the information in the Time-Line/Matrix, filed in the matter of Sposito – City of Tualatin, regarding 8250 S.W. Tonka, is true, correct, and complete.

9 November, 2009.

Stan Sposito: _____

Gary Bisaccio: _____

Witness: _____

Witness: _____

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary

STAFF REPORT
CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager

DATE: November 9, 2009

SUBJECT: APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETINGS OF OCTOBER 12, 2009 AND OCTOBER 26, 2009

ISSUE BEFORE THE COUNCIL:
The issue before the Council is to approve the minutes for the Work Session and Meetings of October 12, 2009, and October 26, 2009.

RECOMMENDATION:
Staff respectfully recommends that the Council adopt the attached minutes.

FINANCIAL IMPLICATIONS:
There are no financial impacts associated with this item.

Attachments: Minutes

City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF OCTOBER 12, 2009

PRESENT: Council President Chris Barhyte; Councilors Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager, Mike McKillip, City Engineer; Brenda Braden, City Attorney; Dan Boss, Operations Director; Kent Barker, Police Chief; Paul Hennon, Community Services Director; Eric Underwood, Development Coordinator; Maureen Smith, Recording Secretary

ABSENT: Mayor Ogden* *[* denotes excused]*

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

A. CALL TO ORDER

Mayor Pro tem Barhyte called the work session to order at 5:00 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Council reviewed the Consent Agenda with no changes.

1. *Conditional Use Permits in Residential Planning Districts*
   Associate Planner Will Harper presented information regarding what uses are allowed in residential planning districts and whether they are suitable or compatible with residential development, particularly given the differences in the process that a conditional use goes through versus a plan map/text amendment, and the level of discretion by Council in each. The list of conditional uses in the current Tualatin Development Code (TDC) is similar to the list of conditions in earlier versions, dating back to the 60s and 70s.

   The TDC allows various land uses as conditional uses in the Low Density Residential (RL) Planning District and also in the RML, RMH, RH and RH/HR Planning Districts. Council reviewed the list and discussion followed. The use of archaic terminology was mentioned, and staff said it is what the State uses. Among the list of uses, Council suggested cemeteries be taken out of the RL district and place in the Institutional (IN) district, or another appropriate district. Churches was also discussed and the problems with excluding a church in the RL, particularly with federal regulations. Council continued with the review of the list with suggested modifications.

   Staff will come back with more information for Council review, from this discussion.

2. *Public Hearing/Land Use Notification Requirements*
   The issue before Council is whether to amend sections of the TDC relating to public hearing/land use notification requirements, with regards to mailed notification of property owners within 300 feet of a property that is the subject of a land use application. Discussion

followed and a suggestion was to make land use posting signs larger for greater visibility. Notifying an entire subdivision was also mentioned, and it was suggested to increase the notification from 300 to 500 feet. Councilor Maddux asked about looking at costs associated with increasing to 500 feet.

Staff will check on costs and increasing the sign on site, and will return with more information at a future meeting.

3. *Comment Letter to Metro*
City Manager Sherilyn Lombos said the issue is Metro's recommendations for the "Making the Greatest Place" program. A letter has been prepared on Tualatin's response to Metro. Discussion followed on whether Metro's recommendations support Tualatin's Local Aspirations. Ms. Lombos said the comment period ends Thursday and a public hearing will be held at Metro, and it was suggested and affirmed that a councilor will attend the hearing.

4. *Allocations of Funds to Outside Agencies*
City Manager Lombos said $22,550 was received in requests from outside agencies and there is $15,000 allocated in the budget. Carina Christensen reviewed a spreadsheet indicating the past years requests and what is requested this year. Councilor Truax suggested the funding request from the Farmers Market come from another fund source, as it is not appropriate in this request. Discussion followed on the requests and the amount to be allocated to each agency, with a determination to allocate a reduced funding request amount of $4,000 to the Family Resource Center, and increase the funding request of the Schoolhouse Food Pantry to $4,000.

C. CITIZEN COMMENTS – N/A

D. CONSENT AGENDA
Council reviewed the Consent Agenda earlier in the work session with no changes.

E. PUBLIC HEARINGS – *Legislative or Other*
N/A

F. PUBLIC HEARINGS – *Quasi-Judicial*
N/A

G. GENERAL BUSINESS – N/A

H. ITEMS REMOVED FROM CONSENT AGENDA – N/A

I. COMMUNICATIONS FROM COUNCILORS
Councilor Maddux mentioned her observation of an 18-wheeler traveling on the Garden Corner road, and the dangerousness of the situation.

Councilor Beikman said last Wednesday she spent the morning walking her kids to school, for the "International Walk and Bike to School Day". There was a large group of parents that participated, with 230 kids from Byrom Elementary. Overall, including high school students, there were over 600+ kids that participated, and was a great success.

Councilor Harris said the Washington County Consolidated Communications Agency (WCCCA) is holding a retreat that he will be attending.

Council President Barhyte said the final urban/rural reserves steering committee meeting is coming up. Also the Metropolitan Area Communications Commission (MACC) has reviewed the proposed Verizon/Frontier merger.

Councilor Maddux noted an error to the Tualatin Development Commission (TDC) September 14, 2009 Work Session minutes. She was present at the work session, but the minutes did not reflect that.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The work session adjourned at 6:55 p.m.

Sherilyn Lombos, City Manager

Recording Secretary Maureen Smith

City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary

TUALATIN CITY COUNCIL MEETING MINUTES OF OCTOBER 12, 2009

PRESENT: Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Mike McKillip, City Engineer; Brenda Braden, City Attorney; Community Development Director Doug Rux; Kent Barker, Police Chief: Maureen Smith, Recording Secretary

ABSENT: Mayor Lou Ogden* *[* denotes excused]*

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

A. CALL TO ORDER

Mayor Pro tem Barhyte called the meeting to order at 7:00 p.m.

Councilor Beikman led the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Tualatin Youth Advisory Council Update*
   Members of the Youth Advisory Council (YAC) were present and gave an update on events and activities. They participated in the International Walk and the upcoming Giant Pumpkin Regatta. Also four YAC members will be attending the National League of Cities (NLC) conference in San Antonio, and last week three members attended the League of Oregon Cities conference in Portland.

   Councilor Beikman also took a moment to thank all the parents for the huge success of the "International Walk and Bike to School Day."

2. *Commuter Rail Update*
   City Manager Sherilyn Lombos gave a brief update. TriMet has received final approval to use stimulus dollars, clearing the way for the funding mechanism. She also mentioned on tonight's agenda is a staff report for approval of urban renewal funds for the crossings. The "quiet zones" should be in place in 2010.

C. CITIZEN COMMENTS

Linda Moholt, Tualatin Chamber of Commerce, 18791 SW Martinazzi Avenue, gave a brief update on the Chamber. Ms. Moholt said she has been on board for one year and the Chamber has experienced a lot of growth. The Chamber is taking a stronger stand on advocacy and supporting the city on transportation issues. They have also developed an economic development task force, to support the efforts of the city, helping businesses and welcoming new businesses. Ms. Moholt mentioned the commuter shuttle, which is a federal grant program, that picks up employees to their place of business, will be adding a second shuttle soon. Also tying in with the "fit city" concept, the Chamber has introduced their first "run" as part of the City's annual Pumpkin Regatta, which establishes a scholarship fund for Tualatin High School students. Ms. Moholt distributed a brochure that lists the sponsors of the "run". The cost is $25 and more information is available at www.tualatinchamber.com.

D. CONSENT CALENDAR

MOTION by Councilor Harris, SECONDED by Councilor Maddux to adopt the Consent Agenda as read:

1. Approval of the Work Session and Meeting Minutes of September 14, 2009 and the Special Council Meeting of September 21, 2009

2. Resolution No. 4934-09 Updating Core Area Parking District Maps in TMC Chapter 8-3 Schedule C, Regulation of Time Zones; Rescinding Resolution No. 4765-08

3. Resolution No. 4935-09 Updating Policies for the Core Area Parking District; Rescinding Resolution No. 4069-03

4. Resolution No. 4936-09 Approving a Quitclaim of a Public Sanitary Sewer Easement

MOTION CARRIED.

E. PUBLIC HEARINGS – *Legislative or Other*

1. Public Hearing to Consider an Ordinance Relating to Modifications of the Tualatin Central Urban Renewal Plan; Amending TDC 30.010 (PTA-09-05)

Mayor Pro tem Barhyte opened the public hearing.

Community Development Director Rux presented the staff report and entered the entire staff report into the record. This is a public hearing for a plan text amendment to consider modifications to the Central Urban Renewal Plan to include commuter rail train horn noise mitigation as a project.

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

PROPONENTS/OPPONENTS – None.

COUNCIL DISCUSSION

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to direct staff to prepare an ordinance granting PTA-09-05.

Ordinance No. 1290-09 Relating to Modifications of the Tualatin Central Urban Renewal Plan; Amending TDC 30.010 (PTA-09-05)

MOTION by Councilor Maddux, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Truax, SECONDED by Councilor Maddux for a second reading by title only. MOTION CARRIED. The poll was unanimous. *[Ogden absent.]* MOTION by Councilor Truax, SECONDED by Councilor Beikman to adopt the ordinance. MOTION CARRIED.

F. PUBLIC HEARINGS – *Quasi-Judicial*

1. Public Hearing to Consider a Sign Variance for Dick's Sporting Goods Store in the General Commercial (CG) Planning District at 17799 SW Lower Boones Ferry Road (Tax Map 21E 18BC, Tax Lot 1001) (SVAR-09-01)

Mayor Pro tem Barhyte read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.763(5) and (6)] and opened the public hearing. No bias or ex parte contact noted.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. Mr. Harper said this is for a variance for Dick's Sporting Goods store in the General Commercial (CG) Planning District at 17799 SW Lower Boones Ferry Road, at the Meridian Square Shopping Center. It is comprised of various businesses and dominated by the I-5 freeway interchange. Dick's Sporting Goods is in the process of renovating the former Joe's retail store site.

Mr. Harper reviewed the criteria, and said variances are based on hardship as noted in the Tualatin Development Code (TDC). He noted the shopping center development itself was built in the mid-80's. There are other tenants, and these properties all share access and share parking and sign space. The various criteria identified in the staff report was explained by Mr. Harper.

APPLICANT
Steve Pfeiffer, 1120 NW Couch Street, Portland, OR, representing the applicant, spoke on the current existing sign and what is allowed. They are only asking for a six foot square increase in the signage area, from 150 to 156 square feet, and Dick's Sporting will forego all other signage on the east, west, and north. On page 219 is an example of the proposed signage they are asking for, and by their measure is actually a *net* reduction of signage.

Mr. Pfeiffer said precedent is often a concern on variances, and said he'd be surprised to find other retailers in the area that are willing to forego other signage that is allowed, as in this case. Mr. Pfeiffer said as far as other retail centers, Dick's Sporting isn't really any different than other retailers, and even with the increased façade, it cannot be seen from the freeway. At the end of the day this site has a limited visibility, and is a relatively minor increase in signage. Dick's Sporting is making a commitment to the community and a $4 million redevelopment of the building site. Mr. Pfeiffer believes the applicant has a compelling argument.

Jim Nicola, ImageOne Industries, representing the applicant, said they are asking for a relationship with the City and work together, they just want to be successful. He mentioned in other Dick's Sporting Goods locations across the country the sign has been 8 to 9 feet. Mr. Nicola reiterated the goal for Dick's Sporting Goods is for them to be successful and they have put in a good faith effort. They have already employed 64 people and hope to go to 80. Mr. Nicola said they are only asking for an extra two feet on their lettering. Mr. Nicola said they are excited to be in Tualatin.

Linda Moholt, Tualatin Chamber of Commerce, 18791 SW Martinazzi Ave, Tualatin, OR, said she has she has been involved in meetings and talking with business owners, regarding the City's sign code regulations. She said there should be no doubt in her mind that Tualatin is interested in attracting businesses, and to work together and come to a collaborative decision. She supports the request of Dick's Sporting Goods.

COUNCIL DISCUSSION

Councilor Maddux asked if the staff report factored the reduction of signage for the increased lettering. Mr. Harper replied it did not. It was asked and answered that conditions are allowed in the sign variance. City Attorney Brenda Braden said precedence is always fact-specific, and does not necessarily set precedence, but rather on a case by case basis.

Councilor Harris asked if four foot high letters were located on Boones Ferry Road would be allowed, and Mr. Harper replied in the affirmative. Councilor Harris asked that there is no consideration for setback or distance from the roadway in the Development Code and Mr. Harper said there is not. Councilor Harris asked about the area of the green sign backboard, the width and height. Renderings were shown to Council of how the signage is proposed.

Brad Pope, District Manager for the Northwest Dick's Sporting Goods stores said they currently have six stores opening at the same time, less than thirty days away.

It was asked by Councilor Davis and Mr. Harper answered about the maximum signage allowed by the sign code and what the total square footage is being proposed by Dick's Sporting Goods.

Mayor Pro tem Barhyte asked if there could be any way the building owner could come back with a pole sign. Mr. Harper said Dick's is just a tenant, and the property owner would need to establish these conditions.

Mr. Pfeiffer said the applicant has the consent of the underlying property owner and they have applications for a four foot and six foot sign. Dick's wants to open by November 1, and Mr. Pfeiffer said if approved, they would also like to get the sign placed as soon as possible.

Mayor Pro tem Barhyte closed the public hearing.

COUNCIL DELIBERATIONS

Councilor Maddux said she is in support of this and the concept of "trading out" the other signs, and meeting criteria 1 through 6 she would be willing to move forward, except for No. 4, with respect to the sign variance being necessary for preservation of property right of the owner.

Councilor Harris said he is in favor of granting the variance with a setback from Boones Ferry Road, and said the actual increase in lettering is not extraordinary. He welcomed Dick's Sporting Goods to Tualatin.

MOTION to Councilor Maddux, SECONDED by Councilor Harris, to approve the criteria listed in the staff report Nos. 1 through 6, with the caveat of nonexistent property rights, and to attempt to get something in writing from the property owner.

Discussion on Motion

Councilor Truax said to include in the conditions a letter from the property owner, not just attempt, and that Dick's Sporting Goods foregoes the other exterior signage, to include as a condition of approval of granting the variance.

MOTION CARRIED. *[Vote: 6-0-1; YES – Barhyte, Beikman, Davis, Harris, Maddux, Truax; NO – None; Ogden absent]*

G. GENERAL BUSINESS
None.

H. ITEMS REMOVED FROM CONSENT AGENDA
Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. EXECUTIVE SESSION
None.

J. COMMUNICATIONS FROM COUNCILORS
None.

K. ADJOURNMENT
MOTION by Councilor Truax, SECONDED by Councilor Maddux to adjourn the meeting at 8:25 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary Maureen Smith

City of Tualatin
www.ci.tualatin.or.us

Approved by Tualatin City Council
Date 11-9-09
Recording Secretary M Smith

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF OCTOBER 26, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Don Hudson, Finance Director; Dan Boss, Operations Director; Cindy Hahn, Assistant Planner; Paul Hennon, Community Services Director; Colin Cortes, Assistant Planner; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Maureen Smith, Recording Secretary

ABSENT: Councilors Joelle Davis* and Donna Maddux* *[*denotes excused]*

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

A. CALL TO ORDER

Mayor Ogden called the work session to order at 5:04 p.m.

Council reviewed the Consent Agenda first with no questions or changes.

Mayor Ogden recessed the Council work session at 5:06 p.m. and reconvened the work session at 5:07 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Amendment of For Lease/Sale Sign Regulations*

Community Development Director Doug Rux and Assistant Planner Colin Cortes presented information on the consideration of amending the sign code regulations on For Lease/Sale signs. Discussions have been held with Tualatin Planning Advisory Committee (TPAC), the Chamber and various real estate brokers on this issue.

In discussions with the brokers their consensus is the City's sign ordinance is good as is, but could perhaps look at some type of enforcement. They believe any more restrictions would hamper their ability to lease property as they need signs to be able to lease or sell space. There was an acknowledgement that some of the signs are too large, but expressed concern that the signs wouldn't be seen as prominently.

Mr. Rux reviewed the Tualatin Planning Advisory Committee (TPAC) perspective on the sign issue, and their recommendations to Council. Discussion followed on the possibility of implementing a sign review process, such as regulating the size, location, and length of time they are left up.

Chamber of Commerce Director Linda Moholt, present in the audience, spoke on discussions she has had with brokers There is currently a high vacancy rate and signs are a tool of their business. She said the goal of the Chamber is to work with and promote businesses, and asked that Council wait to make any changes to the sign regulations until there is an economic turnaround.

It was suggested some sort of program be started. Mayor Ogden said he did not want to exacerbate the problem but perhaps give brokers a year for compliance. Mr. Rux said staff could do some sort of enforcement, and while that is happening, get a letter put together to the real estate community that an enforcement process is being done, and give brokers one year for compliance. After a year, then go through the process of applying for a permit. There was extended discussion of whether enforcement would work, and to adopt some sort of ordinance first, with implementation a year or more out, then if the sign has not been taken care of, begin the permit process.

After considerable discussion, Council suggested that the current sign regulations be enforced, contact brokers on what the City is and will be doing regarding signs, and after a given amount of time such as twelve months, prepare an ordinance addressing that after twelve months of displaying a "temporary" sign, it would become permanent and the broker would then need to go through the process of applying for a "permanent" sign.

2. *Sherwood's Concept Planning for the Tonquin Employment Area*
Community Development Director Rux and Assistant Planner Cindy Hahn presented information on the City of Sherwood currently going through concept planning for the Tonquin Employment Area. Ms. Hahn said she has been attending various meetings and there are a few issues that arose that may be of concern to Tualatin, such as retail, and access onto 124th. They are looking at areas that Tualatin has concerns with. Mr. Rux said Sherwood is moving fast and staff wanted to keep Council informed of what's happening with their planning efforts. Staff will continue to meet with Sherwood and keep Council apprised of the situation. Brief discussion followed.

3. *Dog Park Update*
Community Services Director Paul Hennon explained what has been happening to date. The contractor for the pump station is behind a bit, but there is an opportunity to give Tualatin a better park. Mr. Hennon reviewed a display of the area, and said trading some of the excavation may be more like what we want to end up with for a dog park. In addition to a fence it would be good to have a gravel path, and may be able to get Clean Water Services (CWS) to fund that part also. An issue for Council is whether to use SDCs for a certain portion of the proposed park. Ms. Lombos said Operations Director Dan Boss and Parks Maintenance Supervisor Bob Martin were present to discuss maintenance.

Parks Maintenance Supervisor Bob Martin said based on 45-50,000 square feet, maintenance estimate is about 290 hours a year, the bulk comes into litter and garbage during the months of March through October. Since the park would be irrigated there would be mowing, which is currently contracted out, but staff would like to keep it in-house for this park. Soil would be brought in and seeding to keep the park as level as possible, with the total at approximately $10,402 a year, including material. Operations Director Boss said they feel good with that the number, and being the dog park will be in Community Park, everything will be in one place and workloads would be distributed effectively.

Mr. Hennon said there is no water as yet, but it is stubbed out. There is irrigation and will be using reclaimed water. Councilor Harris said would like to see a way to get water there, such as a drinking fountain. Mr. Hennon said he has cost estimates, but it would need to be funded. Discussion followed on where funding could be obtained. Mr. Hennon said staff will come back with more information on costing and Mayor Ogden said if there is any reasonable way, to make it happen.

4. *Continuation of Bancroft Bonding Discussion*
Finance Director Don Hudson presented information from the previous discussion regarding whether the City should continue to offer Bancroft Bonding for private projects. Council asked staff to come back with administrative costs, etc., as well as ways to mitigate the risk to the City if continue to offer this form of financing.

Mayor Ogden said he was not comfortable with this process and said he does not want to be in the business of bancrofting, but did not want to penalize the developer that has asked for a reduction in the fee. Discussion on whether to change the ordinance to remove the fee, or an ordinance to repeal. Councilor Beikman wanted to go on record that she is not in favor of this and should not be allowed, and since the developer has requested a reduction in the fee he should pay the 15% as currently in the ordinance.

Discussion followed and conclusions by Council were to change the fee to a sliding scale, remove the commercial portion of the ordinance, repeal the commercial, although the residential cannot be repealed by State statutes. Council also concluded to reduce the 15% fee to 5% to the developer that requested the reduction.

C. CITIZEN COMMENTS – N/A

D. CONSENT AGENDA
Council reviewed the Consent Agenda with no changes.

E. PUBLIC HEARINGS – *Legislative or Other*
N/A

F. PUBLIC HEARINGS – *Quasi-Judicial*
N/A

G. GENERAL BUSINESS
None.

H. ITEMS REMOVED FROM CONSENT AGENDA – N/A

I. COMMUNICATIONS FROM COUNCILORS
None.

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

K. ADJOURNMENT

The work session recessed at 6:54 p.m. and reconvened at 7:47 p.m. to go into executive session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation.

The work session adjourned at 9:04 p.m.

Sherilyn Lombos, City Manager

Recording Secretary Maureen Smith

City of Tualatin

www.ci.tualatin.or.us

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary

TUALATIN CITY COUNCIL MEETING MINUTES OF OCTOBER 26, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: Councilors Joelle Davis* and Donna Maddux * *[* denotes excused]*

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

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:06 p.m.

The Pledge of Allegiance was led by Councilor Harris.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Friends of the Library / People for Libraries Presentation (added to the Agenda)*
Rob Drake, former mayor of Beaverton, Harry Bodine, longtime advocate for the Cedar Mill Library, and Marge Congress, Friends of the Tualatin Library, were present to discuss the Washington County libraries. The current county library levy is up in 2011, and it will be the County Commissioners decision whether to extend the levy. Harry Bodine said the truth in library campaigning is people will vote for libraries if asked to do it. A Political Action Committee (PAC) has been in place before 1996 to secure funding for libraries, and they expect the levy will be on the ballot for November, 2010. It would be a renewal of the current levy, with no increase proposed, which needs to be approved every five years to continue operations of libraries in Washington County. Marge Congress said there is a website for more information at www.peopleforlibraries.org. They hope for the City's support to help them help the community.

2 *Tualatin Tomorrow Presentation Key Focus Area* - Health, Safety & Social Services
Not present.

2. *2009 Tualatin West Coast Giant Pumpkin Regatta Announcement*
Parks and Recreation Coordinator Carl Switzer gave a presentation on the upcoming 2009 West Coast Giant Pumpkin Regatta. It has grown over the years and last year's attendance was upwards of 4,000 attendees. There are some new activities that have been added this year and they are looking forward to another great event this year

C. CITIZEN COMMENTS

Linda Moholt, Tualatin Chamber of Commerce, was present to promote the "Regatta Run", a 5K race at this year's Pumpkin Regatta. Ms. Moholt mentioned sponsors of the event, and there will be a scholarship fund established in memory of Tualatin resident, Corporal Matthew Lembke. They are looking to get 300 runners and walkers, and Ms. Moholt invited all to participate. More information can be obtained at www.tualatinchamber.org.

Stephen Ricker, representing Juanita Pohl Center, gave a monthly update on the center's activities. Mr. Ricker wanted to thank the Council and staff for the attention given to adult opportunities. Mayor Ogden thanked the Center for all the work they are doing and said it is a vibrant and busy place to be.

D. CONSENT CALENDAR

MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to adopt the Consent Agenda as read:

1. Approval of the Work Session and Meeting Minutes of September 28, 2009 and the Special Council Work Session of September 30, 2009

2. Change Order No. 2 to the Contract Documents for Construction of the Tualatin Interstate 5/Nyberg Interchange Landscape Improvements

3. Fiscal Year 2008/2009 Parks Systems Development Charge (SDC) Annual Report

4. Fiscal Year 2008/2009 Water System Development Charge (SDC) Annual Report

5. Resolution No. 4937-09 Accepting Public Improvements for Taco Bell

6. Resolution No. 4938-09 Granting the Request for a Sign Variance for Dick's Sporting Goods Store in the General Commercial (CG) Planning District at 17799 SW Lower Boones Ferry Road (Tax Map 21E18BC, Tax Lot 1001) (SVAR-09-01)

7. Community Involvement Committee Appointments
   - *Marge Congress – Library Advisory Committee, Full term ending 10/31/12*
   - *Mike Riley – Planning Advisory Committee, Partial term ending 08/31/12*

E. PUBLIC HEARINGS – *Legislative or Other*

1. Public Hearing to Consider an Ordinance Extending the Approval Periods of Certain Architectural Review Decisions, and Amending TDC 73.056 (PTA-09-06)

   Mayor Ogden opened the public hearing and noted it is a legislative hearing.

   Assistant Planner Colin Cortes presented the staff report and entered the entire staff report into the record. The purpose is to amend the Tualatin Development Code to extend approval period of all architectural reviews (AR) that the City issued on or after January 1, 2007 through June 20, 2009 to a date certain of December 31, 2012. This would allow for additional time with ARs, due to the economic recession.

   PROPONENTS/OPPONENTS – None.

COUNCIL DISCUSSION – None

Mayor Ogden closed the public hearing.

MOTION by Councilor Barhyte, SECONDED by Councilor Harris to accept the staff report and direct staff to prepare an ordinance granting PTA-09-06. MOTION CARRIED.

Ordinance No. 1291-09 Extending the Approval Periods of Certain Architectural Review Decisions, and Amending TDC 73.056 (PTA-09-06)

MOTION by Councilor Harris, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Harris, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. *[Davis, Maddux absent.]* MOTION by Councilor Harris, SECONDED by Councilor Beikman to adopt the ordinance granting PTA-09-06. MOTION CARRIED.

F. PUBLIC HEARINGS – *Quasi-Judicial*

1. Request for Continuance – Appeal of the July 23, 2009 Interpretation Answering "What is the Status of the Nonconforming Use Rights of the Land and Structure Located at 8250 SW Tonka Street"? (Tax Map 2S124CB Tax Lot 1700) (INT-09-01) *[**CONTINUED** from September 28, 2009]*

Mayor Ogden opened the public hearing, and noted it was continued from September 28, 2009, and noted a request to continue the hearing to November 9, 2009.

Councilor Harris asked and Community Development Director Rux said the 120-day rule has been extended by the applicant.

MOTION by Councilor Barhyte, SECONDED by Councilor Harris to continue the public hearing to November 9, 2009. MOTION CARRIED.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

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

I. EXECUTIVE SESSION

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

J. COMMUNICATIONS FROM COUNCILORS

None.

K. ADJOURNMENT

MOTION by Councilor Barhyte, SECONDED by Councilor Harris to adjourn the meeting at 7:45 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary Maureen Smith

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary

STAFF REPORT
CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager

DATE: November 9, 2009

SUBJECT: APPROVAL OF A NEW LIQUOR LICENSE FOR BLAKESLEE VINEYARD ESTATES

ISSUE BEFORE THE COUNCIL:
The issue before the Council is to approve a new liquor license application for Blakeslee Vineyard Estates.

RECOMMENDATION:
Staff respectfully recommends that the Council approve endorsement of the liquor license application for Blakeslee Vineyard Estates.

EXECUTIVE SUMMARY:
Blakeslee Vineyard Estates has submitted a new liquor license application for a Winery. The business is located at 19550 SW Cipole 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.

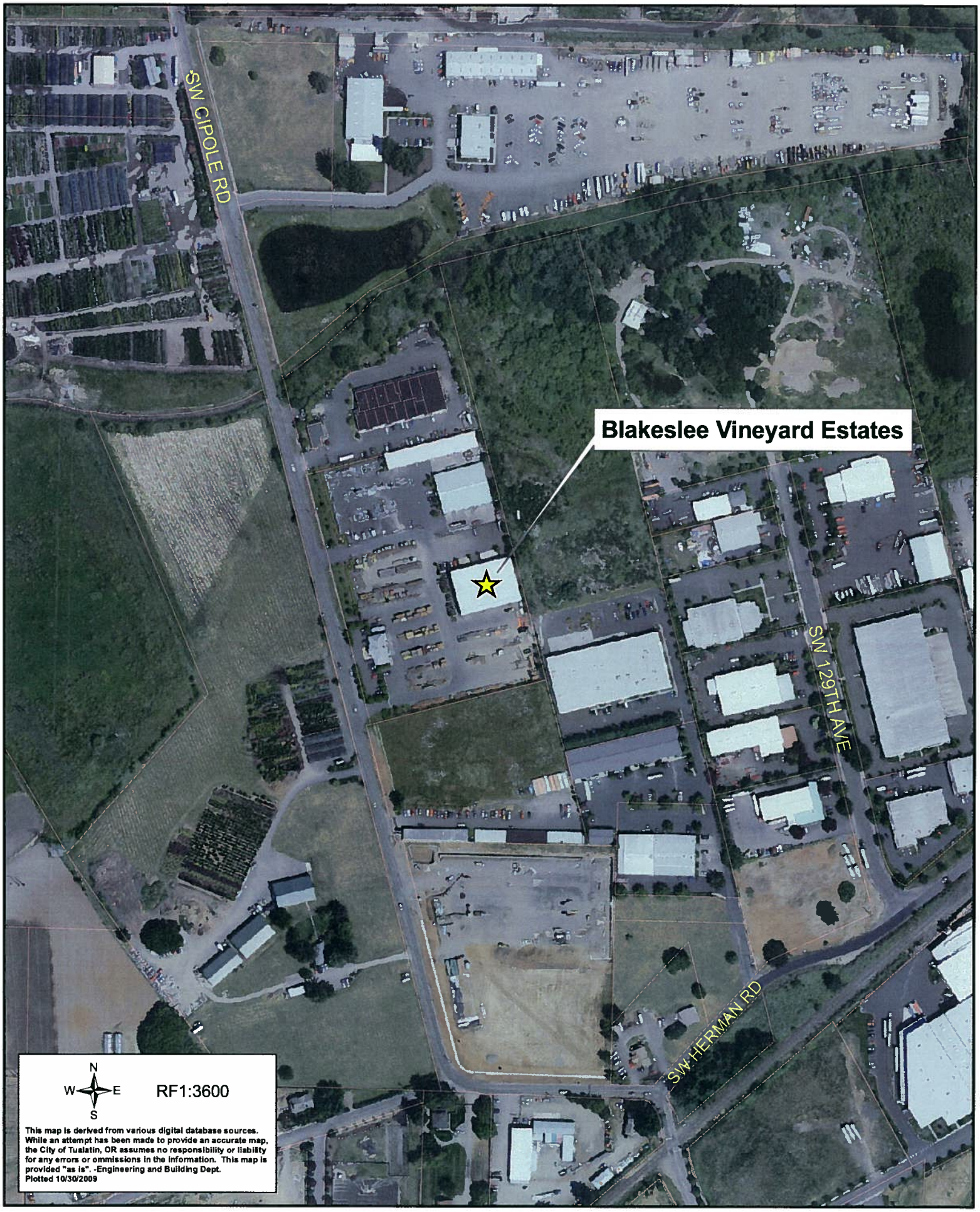
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for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

FINANCIAL IMPLICATIONS:
A fee has been paid by the applicant.

Attachments:
1. Vicinity Map
2. OLCC License Types
3. Liquor License Application

Blakeslee Vineyard Estates - 19550 SW Cipole Road

TUALGIS



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or ommissions in the information. This map is provided "as is". -Engineering and Building Dept.
Plotted 10/30/2009

OREGON LIQUOR CONTROL COMMISSION
LICENSE TYPES & PRIVILEGES

Brewery – public house
Allows the manufacture & sale of malt beverages to wholesalers, & the sale of malt beverages, wine & cider for consumption on or off the premises. [ORS 471.200]

Brewery
Allows the manufacture, importation, storage, transportation & wholesale sale of malt beverages to OLCC licensees. Malt beverages brewed on the premises may be sold for consumption on the premises & sold in kegs to the public. [ORS 471.220] designates a licensee that does not allow tastings or other on premises consumption.

Certificate of Approval
This certificate allows an out-of-state manufacturer, or an importer of foreign wine or malt beverages, to import wine & malt beverages to Oregon licensees. [ORS 471.289]

Distillery
Allows the holder to import, manufacture, distill, rectify, blend, denature & store distilled spirits. A distillery that produces distilled liquor may permit tastings by visitors. [ORS 471.230]

Direct Shipper Permit
Allows manufacturers & retailers to ship wine & cider directly to Oregon residents for their personal use. [ORS 471.282]

Full On Premises Sales
Allows the sale & service of distilled spirits, malt beverages & wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off of the licensed premises [ORS 471.175] license sub-type designates the type of business licensed: F-CAT- caterer; F-CLU- private club; F-COM - commercial establishment; F-PC - passenger carrier; F-PL - other public location.

Growers Sales Privilege
Allows the importation, storage, transportation, export, & wholesale & retail sales of wines made from fruit or grapes grown in Oregon [ORS 471.227]. Designates a licensee that does not allow tastings or other on premises consumption.

Limited On Premises Sales
Allows the sale of malt beverages, wine & cider for consumption on the licensed premises & the sale of kegs of malt beverages for off premises consumption. Also allows licensees who are pre-approved to cater events off of the licensed premises. [ORS 471.178]

Off Premises Sales
Allows the sale of malt beverages, wine & cider in factory sealed containers for consumption off the licensed premises & allows approved licensees to offer sample tasting of malt beverages, wine & cider. [ORS 471.186]

Warehouse
Allows the storage, importing, exporting, bottling, producing, blending & transporting of wine & malt beverages. [ORS 471.242]

Wholesale Malt Beverage & Wine
Allows the importation, storage, transportation & wholesale sale of malt beverages & wine to OLCC licensees & limited retail sales to the public (dock sales). [ORS 471.235]

Wine Self Distribution Permit
Allows manufacturers to sell & ship wine & cider produced by the manufacturer directly to Oregon retailers for resale to consumers. May ship to businesses which have an OLCC endorsement to receive the shipments. [ORS 471.274]

Winery
Allows the licensee to import, bottle, produce, blend, store, transport & export wines, & allows wholesale sales to OLCC & licensees, & retail sales of malt beverages & wine for consumption on or off the licensed premises.[ORS 471.223]

CITY OF TUALATIN

LIQUOR LICENSE APPLICATION

Date 10/9/09

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

- [x] *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)*: BLAKESLEE VINEYARD ESTATE Inc.

Business address 19550 SW Cipole Rd City Tualatin State Or Zip Code 97062

Mailing address 16004 SW Tualatin Sherwood Rd. City Sherwood State Or Zip Code 97140

Telephone # 503-625-6902 Fax # 503-625-7774

Name(s) of business manager(s) First Sheila Middle Kay Last Blakeslee

Date of birth [redacted] Social Security # [redacted] DL# [redacted] M (F)

Home address [redacted] City Sherwood State Or Zip Code 97140
(attach additional pages if necessary)

Type of business Winery

Type of food served N/A

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

Days and hours of operation 8 to 5

Food service hours: Breakfast N/A Lunch N/A Dinner N/A

Restaurant seating capacity N/A Outside or patio seating capacity N/A

How late will you have outside seating? N/A How late will you sell alcohol? N/A

How many full-time employees do you have? 3 Part-time employees? 0

SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of *Individual, Partnership, Corporation, LLC,* or *Other* applicants
Blakeslee Vineyard Estate, Inc.
Type of liquor license (refer to OLCC form) winery

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 Blakeslee Vineyard Estate, INC.
Business address 19550 SW Tipole Rd. Tualatin, Or. 97062

(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 N/A Date of birth _____
Residence address _____

(c) Are there more than 35 shareholders of this corporation? ____ *Yes* X *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: William Coulson Blakeslee Date of birth: [redacted]
Residence address: [redacted] Sherwood. Or 97140
Full name of treasurer: William Coulson Blakeslee Date of birth: [redacted]
Residence address: [redacted] Sherwood, Or 97140
Full name of secretary: Sheila Kay Blakeslee Date of birth: [redacted]
Residence address: [redacted] Sherwood. Or. 97140

☐ **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: _____ 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.

W C Blahuske — 10/9/09
Signature of Applicant — Date

Theresa K. Blahuske — 10-9-09

For City Use Only

Sources Checked:

☑ DMV by _____ ☑ LEDS by _____ ☑ TuPD Records by _____

☑ Public Records by _____

0 Number of alcohol-related incidents during past year for location.

0 Number of Tualatin arrest/suspect contacts for _____

It is recommended that this application be:

☒ Granted

☐ Denied
Cause of unfavorable recommendation:_____

Kent W. Barker — 10/20/09
Signature — Date

Kent W. Barker
Chief of Police
Tualatin Police Department

OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

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 2nd Loc.

Applying as:

☐ Limited Partnership ☑ Corporation ☐ Limited Liability Company ☐ Individuals

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

Tualatin, OR
(name of city or county)

recommends that this license be:

Granted ☒ Denied ☐

By: [signature] 11/9/09
(signature) (date)

Name: Chris Barhyte

Title: Mayor Pro Tem

OLCC USE ONLY

Application Rec'd by: OLCC

Date: 10/2/09 CW

90-day authority: ☐ Yes ☒ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]
   ① BLAKESLEE VINEYARD ESTATE Inc ③ _____
   ② _____ ④ _____
2. Trade Name (dba): BLAKESLEE VINEYARD ESTATE
3. Business Location: 19550 SW Cipole Rd. Tualatin Or. 97062
   (number, street, rural route) (city) (county) (state) (ZIP code)
4. Business Mailing Address: 16004 SW Tualatin Sherwood Rd #437 Sherwood, Or 97140
   (PO box, number, street, rural route) (city) (state) (ZIP code)
5. Business Numbers: 503-625-6902 503-625-7774
   (phone) (fax)
6. Is the business at this location currently licensed by OLCC? ☑ Yes ☐ No
7. If yes to whom: Union Wine Co Type of License: Winery
8. Former Business Name: N/A
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, Or.
    (name of city or county)
11. Contact person for this application: William & Sheila Blakeslee 503-625-6902
    (name) (phone number(s))
    16004 SW Tualatin Sherwood Rd #437 Sherwood, Or. 97140 blakeslee vineyard@hughes.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:

① [signature] Date 9-24-09 ③ _____ Date _____

② [signature] Date 9-24-09 ④ _____ Date _____

RECEIVED
OREGON LIQUOR CONTROL COMMISSION
OCT 02 2009
SALEM REGIONAL OFFICE

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

(rev. 12/07)

OREGON LIQUOR CONTROL COMMISSION

CORPORATION QUESTIONNAIRE

COPY

● See section 2 of Guide for help with this form

Please Print or Type

Corporation Name: BLAKESLEE VINEYARD ESTATE INC Year Incorporated: 2007

Trade Name (dba): BLAKESLEE VINEYARD ESTATE

Business Location Address: 19550 SW Cipole Rd

City: Tualatin ZIP Code: 97062

List Corporate Officers:

(name)	(title)
William C. Blakeslee	President
Sheila K. Blakeslee	Secretary

List Board of Directors:

(name) Same as officers

List Stockholders: (Note: If any stockholder is another legal entity, that entity may also need to complete another Corporation Questionnaire. See Liquor License Application Guide for more information.)

Stockholders:	Number of Shares Held:
Same as officers	50%
	50%

Number of Stock Shares:	
Issued:	
Unissued:	
Total Shares Authorized to Issue:	

Server Education Designee: Sheila Blakeslee **DOB:** 3-25-47

(See Liquor License Application Guide for more information)

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

Officer's Signature: W C Blakeslee President **Date:** 10/2/09

(name) (title)

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OREGON LIQUOR CONTROL COMMISSION

INDIVIDUAL HISTORY

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.): BLAKESLEE VINEYARD Estate **City:** Sherwood

1. Name: Blakeslee, William Coulson
   (last) (first) (middle)
2. Other names used (maiden, other): N/A
3. Residence Address: 20875 SW Chapman Rd Sherwood, Or 97140
   (number and street) (city) (state) (ZIP code)
4. Hor[redacted] 625-7773 Business Phone: (503) 625-6902
5. *SS[redacted] Place of Birth: Portland, Or USA DOB: 1 / 17 / 1946 Sex: M ✓ F ___
   (State/Country) (mm) (dd) (yyyy)
6. Driver License or State ID #: 157509 State: Or. Spouse's name: Sheila
7. List all states, other than Oregon, where you have lived during the past ten years:
   N/A
8. Do you currently hold, or have you ever held a liquor license in this or any other state? ___Yes _X_No
   If yes, when, where and name of premises? ___
9. In the past twelve years, have you been convicted of **any** violation, misdemeanor or felony? ___Yes _X_No
   If yes, what, when and where? ___
10. Have you ever entered into a diversion agreement? ___Yes _X_No
    If yes, when and where? ___
    OSP/DMV Search Completed MAR 30 2009
11. Do you have any arrests or citations that have not been resolved? ___Yes _X_No
    If yes, arrested/cited for: ___ Date ___ County/City/State/ ___
12. If you are applying for a retail liquor license:
    INITIALS:
    a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? ___Yes _X_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 _X_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 _X_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: W C Blakeslee **Date:** 4/2/09

***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: W C Blakeslee **Date:** 4/2/09

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OREGON LIQUOR CONTROL COMMISSION

INDIVIDUAL HISTORY

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.): BLAKESLEE VINEYARD Estate **City:** Sherwood

1. Name: BLAKESLEE (last) Sheila (first) Kay (middle)
2. Other names used (maiden, other): N/A
3. Residence Address: 20875 SW Chapman Rd (number and street) Sherwood (city) Or (state) 97140 (ZIP code)
4. Home Phone: (503) 625-7773 Business Phone: (503) 625-6902
5. *SSN: 540-56-1327 Place of Birth: Prineville, Or (State/Country) USA DOB: 3/25/1947 (mm) (dd) (yyyy) Sex: M ___ F ✓
6. Driver License or State ID #: 3351483 State: Or Spouse's name: William
7. List all states, other than Oregon, where you have lived during the past ten years: N/A
8. Do you currently hold, or have you ever held a liquor license in this or any other state? ___Yes X No
   If yes, when, where and name of premises? ___
9. In the past twelve years, have you been convicted of **any** violation, misdemeanor or felony? ___Yes X No
   If yes, what, when and where? ___
10. Have you ever entered into a diversion agreement? ___Yes X No
    If yes, when and where? ___
    OSP/DMV Search Completed MAR 30 2009
11. Do you have any arrests or citations that have not been resolved? ___Yes X 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 X 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 X 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 X No **If yes**, when: ___ where: ___

INITIALS:

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: Sheila K. Blakeslee **Date:** 2/24/09

***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: Sheila K. Blakeslee **Date:** 2/24/09

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OREGON LIQUOR CONTROL COMMISSION

BUSINESS INFORMATION

COPY

Please Print or Type

Applicant Name: BLAKESLEE VINEYARD ESTATE, INC Phone: 503-625-6902

Trade Name (dba): BLAKESLEE VINEYARD ESTATE

Business Location Address: 19550 SW Cipole RD

City: TUALATIN ZIP Code: 97062

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday	8	to	5
Monday	8	to	5
Tuesday	8	to	5
Wednesday	8	to	5
Thursday	8	to	5
Friday	8	to	5
Saturday	8	to	5

Outdoor Area Hours:

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday	N/A	to	
Thursday		to	
Friday		to	
Saturday		to	

The outdoor area is used for:

- ☐ Food service Hours: _____ to _____
- ☐ Alcohol service Hours: _____ to _____
- ☐ Enclosed (how?) N/A

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

_____ (Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

- ☐ Live Music
- ☐ Recorded Music
- ☐ DJ Music N/A
- ☐ Dancing
- ☐ Nude Entertainers
- ☐ Karaoke
- ☐ Coin-operated Games
- ☐ Video Lottery Machines
- ☐ Social Gaming
- ☐ Pool Tables
- ☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday	N/A	to	
Thursday		to	
Friday		to	
Saturday		to	

SEATING COUNT

Restaurant: _____ Outdoor: _____

Lounge: _____ Other (explain): _____

Banquet: _____ Total Seating: N/A

OLCC USE ONLY

Investigator Verified Seating: ____(Y) ✓(N)

Investigator Initials: CA

Date: 10/6/09

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

Applicant Signature: Deeda K. Blakeslee **Date:** 2/2/09

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Approved By Tualatin City Council
Date 11-9-09
Recording Secretary LMSmith

STAFF REPORT
CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

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

DATE: November 9, 2009

SUBJECT: CONTINUED HEARING—APPEAL OF THE JULY 23, 2009 INTERPRETATION ANSWERING "WHAT IS THE STATUS OF THE NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA STREET?" (TAX MAP 2S124CB TAX LOT 1700) (INT-09-01)

ISSUE BEFORE THE CITY COUNCIL:
Whether the City Council should affirm, modify, revise or reverse in all or in part, the Interpretation Decision of the Community Development Director in INT-09-01 determining that a "small equipment rental" non-conforming use on the 8250 SW Tonka Street property that was subject to the definitions and conclusions in Interpretation INT-88-01 was not retained after December 31, 2008; and determining that a light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not permitted uses nor previously established legal non-conforming uses and are not allowed uses on the property as permitted uses nor as non-conforming uses.

RECOMMENDATION:
Staff recommends that City Council consider the staff report, Attachments A-E, and materials submitted into the record and provide direction to staff. A resolution affirming the July 23, 2009 Interpretation in INT-09-01 is included as Attachment F.

EXECUTIVE SUMMARY:
- This is a Quasi-judicial action that follows the Evidentiary Hearing procedures set forth in TDC 31.077.
- The subject of appeal is INT-09-01 and the Community Development Director's Interpretation dated July 23, 2009 addressing the status of non-conforming uses and auto & truck rental uses on the applicant/appellant's property at 8250 SW Tonka Street (Attachment B).

- The subject property is in the City of Tualatin, General Commercial (CG) Planning District and Central Urban Renewal District (CURD) Block 11, upon real property described by the Washington County Department of Assessment & Taxation as Tax Account 2S1 23CB, Tax Lot 1700 (See Aerial Photo of Site & Vicinity-Attachment C). The property has frontage on both SW Tualatin-Sherwood Road (North) and SW Tonka Street (Southwest). The property was formerly the site of a United Rentals small equipment rental business and includes a 4,700 sq. ft. building and a paved and fenced outdoor storage yard. United Rentals operated the business on the property from 1999 to December 30, 2007 as a non-conforming use under the terms of Interpretation INT-88-01. United Rentals does not identify the property as a business location on its web site showing locations in the Tualatin area, but the applicant indicates United Rentals continues to hold a lease on the property.
- INT-09-01 is a Request for an Interpretation submitted by Stan Sposito and the Sposito Family Trust to identify the legal non-conforming uses on the 8250 SW Tonka Street property and to address his belief that a proposed light truck or auto rental/leasing use is allowed on the property as a permitted or non-conforming use. With the departure of United Rentals, Mr. Sposito seeks to obtain an interpretation of non-conforming uses on the property and CG Planning District standards that would allow a prospective light truck/auto leasing & rental business (identified by Mr. Sposito as Enterprise Rent-a Car) to conduct their operation on the property.
- TDC 35.040(1) provides "If a nonconforming structure or use of land is discontinued for more than 12 months, it shall not be re-established unless specifically approved by the City Council." United Rentals ceased all operations on the site on December 30, 2007 and the one year period for a non-conforming use ended on December 30, 2008.
- The Community Development Director's Decision INT-09-01 evaluated the application in accordance with the Interpretation Process of TDC 31.070. The Director's Decision found based on the application materials, TDC 35 Non-conforming Uses, TDC 54-General Commercial Planning District, information from case files including INT-88-01, and documented meetings with representatives of United Rentals, Enterprise Rent-a-Car and Mr. Sposito and his advisers: 1.) No legal non-conforming uses were retained on the property after December 30, 2008. 2.) A "Rental of various small equipment, tools, and devices" use is allowed as a permitted use in the CG Planning District and the subject property, subject to the definitions and conclusions in Interpretation INT-88-01. 3.) A light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not permitted uses nor previously established legal non-conforming uses and are not allowed uses on the property as permitted uses nor as non-conforming uses.
- A Request for Review of INT-09-01 (Attachment A1) was filed on August 5, 2009 by Bill Campbell & Stan Sposito (applicants). The issues (reasons) raised in the appeal that are relevant to the Interpretation of Code Provisions of TDC 31.070, Non-Conforming Use provisions of TDC 35.020-.040 and the CG Planning District standards of TDC Chapter 54 are (as categorized by Staff):
  Reason #1. "Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property." The on-site uses of

the leaseholder have been changed, but have not been discontinued, terminated or abandoned." [Reason #1 is relevant to TDC 35.040(1)]

Reason #2. "We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks, and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008." "Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the permitted auto leasing in the General Commercial Zone." " The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans, and light trucks. The City ordinance does not define auto leasing, although the activity in general includes vans, light trucks up to 14 feet in length and related equipment." [Reason #2 is relevant to TDC 35.040(1); TDC 54.020(2)]

Reason #3. "...business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions." "The property owner has the right to a continuity of use under the provisions of the city ordinance and state law." "The property owner has the right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions." [Reason #3 is relevant to TDC 35.020-35.030]

- Other issues that were raised (but not applicable to TDC 35.020-.040 and TDC Chapter 54 CG Planning District) include:

  Reason #4. The history of leases on the property, the presence of a current lease on the property and the terms of leases.

  Reason #5. The investment and expense value of various building, stormwater, landscaping and other site improvements to the property by the owners and lessees.

- The public hearing of the appeal of INT-09-01 was conducted before the City Council on September 28, 2009. In response to Council questions at the hearing, the applicants agreed to provide additional information regarding the establishment of legal non-conforming truck and auto leasing and rental activities on the subject property and evidence of the continuance of the uses in compliance with the Non-Conforming Use provisions of TDC Chapter 35. City staff was asked to research the City Ordinances and Resolutions for relevant actions and dates that apply to the Sposito property. The research was focused from the time Mr. Sposito first owned the property through 1983 when the current form of the Tualatin Development Code was adopted and changes or amendments to the CG Planning District Standards and Non-conforming Use provisions are listed and had been obtained. The Staff research was provided to the applicants. In response questions raised in the September 28 hearing regarding applicable Oregon Case Law concerning Interpretation, non-conforming use and continuing non-conforming use, the City Attorney provided a Memorandum, Attachment G.

- At the request of the applicants, the hearing for INT-09-01 was continued to October 26, 2009. On October 7, 2009, Mr. Stan Sposito (Applicant/Appellant) submitted a letter granting an extension of 60 days toward the 120 day rule for a quasi-judicial land use decision and requesting a 2nd Continuance of INT-09-01 to November 9, 2009. The Council granted the 2nd Continuance. The applicants/appellants submitted a packet of information on October 21, 2009 with Exhibits #4 & #5 on October 26 (Attachment A2).
- Staff prepared responses to the issues raised in the Request for Review of INT-09-01 and in the additional information submitted by the applicants on October 21, 2009 (see Attachments E1 & E2). In a summary of the Staff research of Tualatin Ordinances & Resolutions from the 1960's thru the present, the table below lists the key dates associated with the subject property and its history of uses:

5-13-1968	City approves amendment changing zoning on subject property from Residential R-7500 to M-3 (predecessor to Light Manufacturing) and grants a Conditional Use Permit for Plastic Molding business on the subject property.
2-10-1969	Tualatin Zoning Ordinance allows Auto, truck sales & rental (C-2 & M-3) and Truck storage or rental in M-3 Zone as permitted uses.
8-22-1977	Ordinance 401-77 changes M-3 designation to ML (Light Manufacturing. Tool & equipment rental, Truck sales & service are permitted uses in ML.
10-24-1977	Ordinance 410-77 Rezones Sposito property from ML to C-G.
10-22-1979	Ordinance 491-79 Adopts Tualatin Community Plan & Development Standards. Truck sales & rental/Auto Sales & rental not an allowed use in G-G.
4-11-1983	Ordinance 590-83 Adopts Tualatin Development Code. Truck sales & rental/Auto Sales & rental not an allowed use in CG.
2-13-1994	Ordinance 913-94 adds auto leasing/less than 5 vehicles as permitted use in CG.

Truck Sales & Rental were no longer an allowed use on the subject property after 10-22-1979. Prior to October 1979, the uses on the site were the Plastic Molding business, the cabinet shop and the Rabbit Hutch auto service shop. From October 1979 to January 2008, the primary uses on the site were the Rabbit Hutch, PM Mechanix (small engine repair), Anderson Oregon Rentals (small equipment rental) and United Rentals (small equipment rental). After January 10, 2008 (considering United Rentals equipment rental transaction receipts for the SW Tonka location submitted in Attachment A2), United Oregon Rentals no longer occupied or conducted business on the property and there was no longer business activity associated with United Rentals or other similar business on the property.

Staff again does not agree with the applicants' contention that truck leasing and rental activities exist as legal non-conforming use on the property. There is no substantial documentary evidence in the record or in the applicants' submittals that truck sales and rentals were established on the property prior to October

1979 and sustained on the property after that time as a legal non-conforming use during the Rabbit Hutch, PM Mechanix, Anderson Oregon Rental and United Rental operations. Also, there is no substantial documented evidence that any legal non-conforming use or activity associated with the United Rentals operation on the site was continued beyond the documented date of January 10, 2008 to the present. The Non-conforming use provision of TDC 35.040 specifies that if a non-conforming use is discontinued for a 12 month period, it cannot be re-established unless reinstated by the City Council. The 12-month period of discontinuance for any non-conforming use or activity held by United Rentals on the Sposito property would have elapsed on January 10, 2009.

- Staff finds that when considering the issues raised in the Request for Review of INT-09-01 (Attachment A1), in the information submitted on October 21 (Attachment A2) and the analysis and findings in the staff responses (Attachments E1 & E2), the Interpretation Decision is correct.
- Before deciding to affirm, modify, revise or reverse the July 23, 2009 Interpretation Decision with regard to the issues raised by Mr. Campbell and Mr. Sposito, the City Council must find that the requirements of the Tualatin Development Code (TDC) 35.020-040 relating to Non-Conforming Uses are met and interpret the allowed uses for the General Commercial (CG) Planning District in TDC Chapter 54.

OUTCOMES OF DECISION:

Affirmation of the Interpretation Decision INT-09-01 will result in the following:

- Approves the July 23, 2009 Community Development Director's Decision on the Applicants' questions in INT-09-01.
- Confirms that the requirements of TDC 31.071, TDC 35.020-040, & TDC Chapter 54 have been met.
- Determines that the non-conforming uses identified in INT-09-01 were discontinued on the 8250 SW Tonka property after December 30, 2008 and may not be continued.
- Determines that a light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not allowed uses on the 8250 SW Tonka Street property as permitted uses, nor as non-conforming uses.

Reversal of the INT-09-01 Interpretation Decision INT-09-01 will result in the following:

- Concurs with the Applicants' challenge of the Community Development Director's INT-09-01 Decision.
- Determines that the legal non-conforming uses associated with the United Rentals operation included truck rental.
- Determines that legal non-conforming uses associated with the United Rentals operation continue on the 8250 SW Tonka Street property in compliance with TDC 35.020 and remain as legal non-conforming uses.
- Determines that light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are allowed on the SW Tonka Street property as non-conforming uses.

ALTERNATIVES:

The alternatives for the City Council are:

- Affirm the INT-09-01 Decision and adopt the attached Resolution.
- Revise or modify the INT-09-01 Decision and adopt a written order that clearly states the basis for the Council's decision.
- Reverse the INT-09-01 Decision and adopt a written order that clearly states the basis for the Council's decision.

FINANCIAL IMPLICATIONS:
The appellant submitted the required $128.00 fee with the Request for Review of INT-09-01.

PUBLIC INVOLVEMENT:
On September 9, 2009, a Notice of Hearing was mailed and posted as required in TDC 31.077(5). The purpose of this Quasi-judicial Evidentiary Hearing is to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the City Council.

Attachments:

A1. Request for Review submitted by Bill Campbell and Stan Sposito; submitted on August 5, 2009
A2. Materials submitted (on October 21, 2009) for November 9, 2009 Continued Hearing
B. July 23, 2008 Interpretation Decision for INT-09-01
C. June 2008 Aerial Photo of Site & Vicinity/Tax Map
D. Background
E1. Staff Response to issues raised in Request for Review of INT-09-01
E2. Staff Response to Appellant's Materials submitted on October 21, 2009
F. Resolution Affirming July 23, 2009 Interpretation Decision INT-09-01
G. City Attorney Memorandum

COPY

CITY OF TUALATIN

18880 SW MARTINAZZI AVENUE
TUALATIN, OREGON 97062-7092
(503) 692-2000
TDD 692-0574

REQUEST FOR REVIEW OF AN INTERPRETATION DECISION

A Request for Review must be received by the Community Development Department - Planning Division by 5:00 p.m. of the 14th calendar day after the Notice of Decision on an Interpretation is given. You must provide all of the information requested on this form. This form must be signed and submitted in writing. You will be notified of the hearing date.

Name of Party requesting review Bill Campbell & Stan Sposito

Address 5283 SW 201st Ave., Aloha, OR 97007
POB 843 MANZANITA, OR 97130

Date 8.5.09 Telephone 503-368-3134
cell. 503-812-5668

You represent, or you are:

- ___ the applicant
- ___ City Councilor
- ___ Government agency
- ___ City Manager
- ✓ Other consultants
- ___ City-recognized neighborhood association

I request a review of Case No. INT-09-01:

Project: 8250 SW TONKA ST. Non Conforming use interpretation
(Give description of the interpretation subject)

Explain clearly which portions of the decision you are asking to be reviewed (attach separate sheet if needed). This should specify how you are adversely affected by the decision and how the decision is allegedly not in conformance with applicable Tualatin Development Code requirements:

- See Attached -

CITY OF TUALATIN
RECEIVED
AUG 05 2009
COMMUNITY DEVELOPMENT
PLANNING DIVISION

Your signature

Fee for review: $128.00.

FOR OFFICE USE ONLY:
Date received: 8-5-09
Fee received $128.00 Receipt No. 739050
Date of hearing: 9-28-09
Check # 504

rev 3/03

Attachment A1
Request for Review;
submitted on 8/5/2009

CITY OF TUALATIN
RECEIVED

AUG 05 2009

COMMUNITY DEVELOPMENT
PLANNING DIVISION

City of Tualatin
Interpretation – 09 – 01

Request for Review – August 5, 2009

The question, **What is the Status of the non-conforming use rights of the land and structure located at 8250 SW Tonka St., Tax Lot 2S1 24CB 01700** was posed resulting in **INT-09-01**

This Appeal is based upon the staff interpretation of the materials presented and Chapter 35 – Nonconforming Uses, Structures and Signs and Chapter 54 – General Commercial Planning District (CG).

The staff interpretation appears based upon its predisposed bias towards the property rather than the material facts of the present use. Staff contends that the use of the property was "abandoned" in December 2007; however, they allude to a meeting in February 2008 with the property owner and leaseholder that pertained to the use and status of the property. **Fact:** The lease, assumed by United Rentals in 1999, with consent of the city for the activities conducted thereon, is in full force and effect until February 2010. **Fact:** Following execution and assumption of the lease by United Rentals they prepared the documents for an Architectural Review by the city, AR-99-20; which was predicated upon the items or terms, enumerated in the City of Tualatin letter to United Rentals dated. April 8, 1999. As a result of the letter and the conclusions of AR-99-20 United Rentals entered into the lease agreement and in concert with the property owner invested over $350,000 in on-site physical improvements to the primary structure and the grounds.

Staff bases its interpretation on one aspect of a circumstance that has three elements, and in our estimation dismisses those material elements with bias:

- Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property;
- United Rentals, by its action and letter of October 3, 2006, affirmed the first of five (5) three (3) year lease renewal terms under the lease. The renewed lease was extended from March 1, 2007 through February 28, 2010 and is in full force and effect; and
- The property owner and lessee, or successors by assignment or sub-lease, has a right to the use and enjoyment of the property improvements and substantive investment over the life of the improvements, which are typically amortized over a period of twenty-eight (28) years.

Section 35.020 Continuation of Nonconforming Uses or Structures authorizes pre-existing uses to continue in accordance with the provisions of the chapter; Section 35.040 provides that a "discontinued use" shall not be re-established unless specifically approved by the City Council. Underlying Chapter 35 are the provisions

of ORS.215.130 (5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. **Fact:** The on-site uses of the leaseholder have been changed, but have not been discontinued, terminated or abandoned.

The property owner has a right, under statutory law of the state and ordinance provisions of the city to lease, sub-lease and to enjoy the business use of the property, which is the underlying business activity. The Sposito Family Trust has responsibly managed and maintained the property and contributed to the overall business climate of the city and adhered, while continuing its legitimate activities, to conform to city codes and requirements. **Fact:** Anderson-Oregon Rentals entered into the lease agreement in 1989 with the consent of the city; United Rentals assumed the lease in 1999, also with city consent. The property owner has the right to continue those activities within one-year of the discontinuance or abandonment of such use by city ordinance and state law.

In assuming the lease from Anderson Oregon Rentals, United Rentals relied upon the terms stated by the city in its letter of April 8, 1999 that "the equipment to be available at this site would not include the large equipment such as big dump trucks, large excavators, D5's and D6's . . . the Tualatin location would have equipment such as bobcats and equipment smaller than the large equipment mentioned above". We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008. **Fact:** In 2008 city officials in different meetings and discussions advised the property owner and Enterprise Rent-a-Car that they would not allow light truck rentals to occur from the property, adhering to a restrictive application of the zoning code. It appears that the city staff would like to see the ongoing uses of the property, automotive oriented activities, discontinued and have the property fall into disuse and disrepair. This is difficult to understand as the property has contributed viable and vital business activity into the Tualatin Town Center over the past thirty-six (36) years. If the staff position that the use was discontinued in December 2007 is upheld, then it is apparent that city officials have interdicted the rights of both the property owner and United Rentals to sub-lease the property and continue the nonconforming use activities, although a sublease to Enterprise may have resulted in the further reduction of nonconforming uses on the property and in the General commercial zone.

Staff suggests that the site activities, both those allowed by the city and those proposed as future uses are not consistent with the North American Industry Classification System (NAICS) as a means of demonstrating inconsistency with INT-88-01; however, neither the city zoning ordinance nor its development code introduces or relies upon the NAICS to describe or define industrial uses. Section 54.020 allows auto leasing as a Permitted Use in the General commercial Zone; perhaps staff is trying to introduce a definition of auto leasing (which typically includes vans and light trucks) because the city zoning ordinance and development

code do not provide any definition of the activity. United Rentals stored vans and trucks on site as part of their rental fleet and did so in accordance with its lease provisions, which are still in effect. Had the city officials not interdicted the negotiations with Enterprise the city could have allowed the continuation of the non-conforming use and realized a substantive reduction in the array and variety of nonconforming uses on the site. The property owner has a right to a continuation of lawful activity and uses at the same scale or density of prior uses. In addition, business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions. Perhaps city staff will now inform us that we are not in the midst of a substantial business downturn or recession, and that the business vacancy rate in Tualatin is not approaching 70%. The actions of the city officials in interdicting the interests of Enterprise Rent-a-Car in subleasing the subject property may have denied the property owner the right of continuation of the pre-existing uses at a similar scale and an adjustment and response to changing market conditions.

Staff 'disagrees' that the site is well suited for the rental or leasing of equipment, light trucks, vans and autos; citing visibility from the Tualatin Sherwood Hotel and from the Century Hotel. The frontage on Tualatin-Sherwood Road has been fully screened from view by a brick pillar and wrought iron fence prescribed by the standards adopted by the city within the CURD (Central Urban Renewal District). We are not aware of, nor have we been informed by staff of any concerns expressed over site visibility except those made by staff in its interpretation.

Staff asserts that auto rental or sales are not listed or allowed uses, but states that Auto leasing is restricted. This assertion is interesting in that it assumes an activity that is not part of past or present uses proposed for the property. Auto leasing is a "permitted" use. The use is limited to not more than five (5) autos stored on site; which may be why there are no auto leasing businesses located within the General Commercial Zoning district. The limitation defeats the economic viability of the use and places a restriction on the activity that is not consistent with the other permitted auto oriented uses in the zone; auto glass shop, auto service shop, for installation and repair of air conditioners, electrical services, brakes, washing, mufflers, oil or lubrication, sound, transmissions, tune-up, upholstery and a tire shop. It is curious why the city would elect to restrict auto leasing to not more than 5 on-site vehicles, when it is the only auto use so restricted. Although listed as a 'permitted use' the limitation renders economically infeasible, which is why the use has never been established in the Tualatin general commercial zone.

Staff stated that United Rentals in the February 2008 meeting stated that they "had closed their operation . . . and vacated the site". Further indicating that the operation and uses on the property were conducted in compliance with the April 8, 1999 letter and AR-99-20. Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the

permitted auto leasing in the General commercial Zone. Staff endeavors to hold the property owner to an earlier interpretation pertaining to the understanding of small issued in 1988. The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans and light trucks. The city ordinance does not define 'auto leasing', although the activity in general includes vans, light trucks up to 14 feet in length, and related equipment.

Summary:

- The property owner has a right to a continuity of use under provisions of the city ordinance and state law;
- The property owner has a right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions;
- United Rentals has been changed its use of the property, but it has not vacated or abandoned its use or its right to use the property under the lease;
- The site has been under a continuous lease for lawful operations, allowed by the city, since 1989;
- The property owner and the tenant invested in property improvements of substantive value and have the right to enjoy and realize the use of those investments over a period of 28 years, as a commonly held principal of real estate law;
- The physical improvements included screening the site from adjacent occupancies and refuse collection behind Martinazzi Square; installing a DEQ approved wash rack for equipment, repainting the barn to colors acceptable to the city, fencing the property in accordance with the CURD design principles to fit its inclusion in the district, paving the equipment area to meet the use standards, installing a storm-water runoff and retention swale in accordance with DEQ standards, modifying the entry and windows in the primary structure in accordance with city requirements, and excluding large equipment from storage on-site;
- The city approved of the proposed improvements under AR-99-20 and allowed the ongoing uses established by United Rentals at 8250 SW Tonka, which included the rental of vans and light trucks;
- The lease with United Rentals is in full force and effect, uses have been adjusted in response to changing market conditions; and
- The Sposito Family Trust has the right to continue the use of the property in the same or reduced genre of use.

We, the Appellants, reserve the right to submit both evidence and additional argument prior to the hearing before the City Council based upon fact-finding currently being conducted. Thank you for your consideration.

Bill Campbell, Bill Campbell & Associates, LLC
Greg Jenks, G.J. Solutions LLC
Stan Sposito, The Sposito Family Trust

Time Line Summary Matrix

8250 SW Tonka St. Tualatin, Oregon

1969 to Present

DRAFT

Legend

Blue Text – Evidence submitted with application **Green Text – New Evidence at hearing (11/09)**

Yellow/Orange Text – Additional Information available in City Files but not yet requested.

Introduction:

The purpose of the following presentation is to provide an accurate summary of the land use history of 8250 SW Tonka St., Tualatin, Oregon from 1969 to the present. The key facts presented include ownership, actual site use including business occupancies, relevant code provisions and other events or actions by the City of Tualatin. The objective is to provide decision makers *"a sufficiency of facts or information to enable a reasonable person to conclude."*

Site History (Pre-1969)

The property was zoned residential (R-7500) in 1963 (7/31/63) by the City of Tualatin (see Ordinance 69-B). In 1968 local property owners made application to the City for re-zone of properties along S.W. Tonka St. On March 11, 1968 zone change application was submitted by property owner Mr. Richard Price to re-zone the property from residential (R-7500) to light manufacturing(M-3). The zone changes were approved May 13, 1968, (see Ordinance No. 112).

Attachment
Materials submitted (on October 21, 200
for November 9, 2009 Continued Heari

Year	Owner	On Site Use	Zoning Land Use	Business License	Vehicles on Site	Status of Vehicle Rental Use	City of Tualatin
1969	-----	------	**M3** "Light Man'f" Zone	------	---	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental"	City of Tualatin Zoning Ordinance adopted 2/10/69, Section 900, Light Manufacturing M-3, Permitted uses Sec. 902.[1]
1970	-----	------	**M3**	-----	---	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental"	
1971	-----	Industrial Manufacturing – Quality Plastics	**M3** "Light Man'f" Zone	-----	YES	**OUTRIGHT USE** – Sec. 902 Permitted Uses, Group B "Truck storage or rental" – Code Revised 12/17/71-72	**Code Revised 12/17/71**[2] **See also Tualatin Plan excerpts, 1971**[3] **(Exhibit #1) and attached map designating site as M-3 (Exhibit #2).**
1972	Quality Plastics-	Industrial Manufacturing – Quality Plastics Truck Storage	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	11/21/72 -- ORDINANCE NO. 214-72: 1971 Code Revisions & Tualatin Plan adopted as a Comprehensive Plan of Development approved by VAR-211-72 approved street frontage >50 ft
1973	SPOSITO	Industrial Manufacturing – Quality Plastics Truck Storage **Exhibit #3 – Sept. 17, 1973 - Property appraisal for Lee Dundas, Quality Plastics - photos - area description, property description, highest & best use: industrial.**	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	Unknown
1974	SPOSITO	Quality Plastics	**M3**	NOT	YES	**OUTRIGHT USE**	No enforcement actions

		Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	"Light Man'f" Zone	AVAILABLE		Sec. 902 Permitted Uses, Group B "Truck storage or rental"	**Exhibit #4 – City Photo, flood trucks on site in the background.**
1975	SPOSITO	Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions AR-75-27 approved for site improvements, CUP-301-75 for cabinet & contractors office on site **Exhibit #5 – City Photo – Blight Survey shows large trucks on site.**
1976	SPOSITO	Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.)	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions
1977	SPOSITO	Leased: Molder Shop Co - variety of uses including cabinet & stage manuf., large truck rentals, sales Leased: Tow Truck Co., (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc.	**M3** "Light Man'f" Zone	NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902 Permitted Uses, Group B "Truck storage or rental"	No enforcement actions
1978	SPOSITO	Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle		NOT AVAILABLE	YES	**OUTRIGHT USE** Sec. 902	No enforcement actions

		repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.				Permitted Uses, Group B "Truck storage or rental"	
1979	SPOSITO	Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.	General commercial	NOT AVAILABLE	YES	**OUTRIGHT USE UNTIL 10/22/79** NCU *"grandfathered"*	10/22/79 ORDINANCE NO 491-79 – Code revisions effective – rezone site to general commercial. No enforcement actions
1980	SPOSITO	Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) & Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No successful enforcement actions. **City alleged violation of "number of vehicles" restrictions on site. Later City admits to "mistake" due to the photography.** City Records concerning code enforcement.
1981	SPOSITO	Master lease to Tom Wheeler, operated Rabbit Hutch (vehicle repair, storage, sales, rental) &	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions

		Cobra Business Phones. Also sublet to: Jeep Catalog Parts; Tow Truck Company , (flatbed trucks, agriculture equipment bailers, thrashers), storage impounded & wrecked vehicles, etc. ; U-Haul Rentals (truck & equipment); and P.M. Mechanical.					
1982	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1983	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1984	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions, City requested permit for electrical service. AR-84-05 – building remodel approved. City records pertaining to the requested permit and building remodel approval.
1985	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions. Exhibit 6 , site photos of U-Haul Rental and other large vehicles.
1986	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1987	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions City staff concedes nonconforming use rights, see exhibit #7 -Jan 19, '87 - City of Tualatin letter to M. Gensman - requesting materials to placed in the property file to reflect the factual conditions of the property under the lease with Tom Wheeler, Rabbit Hutch (PM Mechanics sublease), and Exhibit #8 - Jan 19, '87 - City of Tualatin ltr to Stan Sposito - same issue as Gensman letter - essentially an apology - the city has it wrong . City records pertaining to exhibits #7 and #8.
1988	SPOSITO	Wheeler Master Lease See above uses	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions. INT-88-01 – J. Jacks Young Letter/Jacks Opinion implicitly concedes grandfathered ncu rights. Young letter to G. Basaccio dated 5/11/88 (Exhibit page 249) and Jacks letter to S.H. Caplan (Exhibit page 258).[4]
1989	SPOSITO	Lease: Anderson Oregon Rentals, equipment & Vehicle Rentals Exhibit pg. 277-293	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions

1990	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1991	SPOSITO	Lease: Anderson Oregon Rentals Vehicle Rentals & Sales	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1992	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"*	No enforcement actions
1993	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions, **OA-913-93 Adopted changes to CG Zone to allow auto and vehicle rental with not more than 5 vehicles.**
1994	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	City enforced DEQ standards for all oil collection tank. City records pertaining to this enforcement
1995	SPOSITO	Leased Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions, city mtg w/ Doug Johnson, "city wants barn torn down"
1996	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
1997	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement action Building Permit #9779-97 issued, Canopy & Washrack issued **(12/08 – exhibit pg. 266-275).** Other City records pertaining to the issuance of the permit.
1998	SPOSITO	Lease: Anderson Oregon Rentals Equipment & Vehicle Rentals	General commercial	NOT AVAILABLE [5]	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions Site & Bldg. Improvements made **(12/08 – exhibit pg. 266-275).** Other City records pertaining to site & bldg. improvements
1999	SPOSITO	Lease: Anderson Oregon Rentals, assumed 8/1/99 by United Rentals Equipment & Vehicle Rentals **(Exhibits pgs. 296 – 305)**	General commercial	United Rentals **See Below - Exhibit**	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions, 4/8/99 City Letter re: use of site OK exclude: big dump trucks, large excavators, D5's & D6's, city Permits obtained for site and building upgrades = $396,225.00 not including building permit fees paid to the City.

		(Photo exhibit pg.311-310)		**#21 – Public Records Req.)[6]**		*No break in the lease or site usage, allowed the uses established by AOR*	**Exhibits #9 to #13:** **Exhibit 9 - Feb 1, '99 Memo to Stan Sposito from Mike Crouch, United Rentals - I do not intend to bring in equipment any larger that has already been previously on the property . . .** **Exhibit 10 - Feb 26, '99 memo to Stan from M. Crouch, United Rentals outlining 7 objectives for property use with City of Tualatin** **Exhibit 11 - Mar 3, '99 ltr to G. Bisaccio . . . "after closing the purchase from Anderson Oregon Rental and assuming the lease . . . UR was advised that the City of Tualatin may take the position that the types of equipment rentals which have been made at the site for many years without objection are somehow not allowed under the city's interpretation . . . also at issue is the right to continue certain nonconforming uses pursuant to appropriate grandfathering clauses.** **Exhibit 12 - Mar 29, '99 United Rentals ltr to D. Rux . . . I am proposing that we keep the business as it has been (with the same equipment base) under the existing grandfather clause . . .** **Exhibit 13 - Apr 8, '99 City of Tualatin ltr. to Mike Crouch - 5 pts for occupancy**
2000	SPOSITO	Lease: United Rentals Equipment & vehicles rentals **(Photo exhibits pg.312-316, 322-324)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2001	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibits pg.318-321)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2002	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibit pg.317)**	General commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions.
2003	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Exhibit 14, 12/17/03 Letter to Robert Metz of United Rentals corroborating "grandfather rights."**

2004	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2005	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2006	SPOSITO	Lease: United Rentals Vehicle & Equipment rentals, **Lease extended by United Rentals through February 28, 2010**	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Exhibit 15, extension of the lease 7/27/06 to 8/31/06 correspondence.**
2007	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Exhibit 16, Real property tax statement, 2007-08**
2008	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals **(UR – continuing use of property Exhibit #17 eighteen rental invoices and Exhibit #18 fax rental offer to DF/United Rentals for consent to Xmas tree sales, 11/12/08)** **(Photo exhibit pg.308-310)**	General Commercial	United Rentals	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Interdiction of Owners Rights by city's position stated to property owner & Enterprise Rent- a- Car.** **Exhibit 19 W.Harper email to D.Rux dated 1/28 and mtg. notes dated 2/22, concerning Enterprise.**
2009	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals **(Photo exhibit pg.306)**	General Commercial	**United Rentals Current until 12/31/09 (Exhibit 21 – Public Rec. Req.)**	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions **Continuing Interdiction of Owners Rights INT-09-01 & Appeal.** **Exhibit #20 City staff mtg. notes dated 1/20**

2010	SPOSITO	Lease: United Rentals Equipment & Vehicle rentals, if not extended will expire on March 1, 2010	General Commercial	???	YES	NCU *"grandfathered"* (Outright Use No. Ltd.)	No enforcement actions
2011	SPOSITO				YES		
INFO							

[1] **City of Tualatin Zoning Ordinance adopted 2/10/69, Section 900, Light Manufacturing M-3,**
Permitted uses: Sec. 902 provides in relevant parts *".....Group B...Truck Storage or rental.....Any other use held similar to the above uses, as approved by the City Council."*
Purpose: Sec. 901 provides as follows: *"The purpose of this district is to provide sites for heavy commercial and light manufacturing activities requiring light machinery, under controls which will allow them to be located in close proximity to commercial and residential areas."*
Definitions: Sec. 105, No. 35 defines "use" as follows. *"The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied* ***or maintained (bold added for emphasis)"***

[2] **Tualatin Zoning ordinance revised 12/17/71, Section 900, Light Manufacturing M-3,**
Permitted uses: Sec. 902 provides in relevant parts *".....Group B...Truck Storage or rental.....Any other use held similar to the above uses, as approved by the City Council."*
Purpose: Sec. 901 provides as follows: *"The purpose of this district is to provide sites for heavy commercial and light manufacturing activities requiring light machinery, under controls which will allow them to be located in close proximity to commercial and residential areas.((NEED TO VERIFY – COPY NOT PROVIDED gmj))"*
Definitions: Sec. 105, No. 35 defines "use" as follows. *"The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied* ***or maintained (bold added for emphasis)"***

[3] **Tualatin Plan.** Oregon Project LGR-9, August 1971, **U.S. Department** of Housing and Urban **Development** Department, **pg.** 28 **which** in relevant parts **states**:
"Most of this industrial land is outside the city and lacks utilities, local street access and other things required for industrial development. Its use for industry will therefore probably take place gradually over an extended period of time.
Policies
1. *To preserve for industrial purposes level, buildable land which has good access to railroads and major arterials.....*
5. *To locate industrial areas so that they have good direct access to arterial streets. Industrial trucks and worker traffic should not filter through residential areas....*

INDUSTRIAL CATEGORIES
LIGHT INDUSTRIAL: *Suitable for warehousing, wholesaling and light manufacturing processes which are not hazardous and which do not create undue amounts of noise, dust, odor, vibration or smoke. Also suitable for retail sale of products not found in General Commercial areas. Rail access, open storage, loading, and truck traffic would be characteristic of such areas."*

[4] Ms. Young's letter in relevant portion states *"I have also enclosed the zoning map and the M-3 Zoning District from the 1971 Tualatin Plan. M-3 appears to be the zone which applied to Stan Sposito's property at that time* (M-3 zone includes truck storage and rental as an outright use). In the subsequent letter by Mr. Jacks it is clearly stated the following. "This request does not involve the rental of cars or trucks as their rental is specifically permitted in the Light Manufacturing (ML) District." Furthermore the same letter notes that that the U-Haul's 1986-87 catalog includes "trucks, trailers."

[6] City of Tualatin requires retention of businesses licenses for 3 years but payment history goes back 10 years. Beyond the 10 years records are not available.

SPOSITO FAMILY TRUST
TIMELINE NARRATIVE
October 21, 2009

The following is our narrative summary of the property timeline and activities from 1969 to the present, to be used in conjunction with the Time Line Summary Matrix. Appellant reserves the right to present additional evidence and information as it becomes available.

ACQUISITION & INITIAL BUSINESS OCCUPANCY:

The 8250 SW Tonka Property was purchased by Stan Sposito in the Fall of 1973, the previous owner, Lee Dundas, had established and continued to operate Quality Plastics from the site and the building under a rental agreement with Mr. Sposito. The property was zoned M-3 under the city re-zoning from R-7500 to M-3 Light Manufacturing adopted in 1968, Ordinance #112. The code provided for industrial uses and truck rental and storage as Permitted Use's. Truck operations were a significant part of the Quality Plastics operation from the site.

Quality Plastics continued to rent a portion of the building through 1974-75 while it completed construction of its new manufacturing facilities in Newberg, Oregon. In 1974 a second company, Molder Shop Co. rented part of the building space, establishing the second Business Occupancy under the Property Management of Mr. Sposito. Molder Shop Co. manufactured cabinets and stage sets. In late 1974 areas within the building were unused, and exterior space that could be engaged in business use was vacant. Mr. Sposito arranged rental of the remaining space with a Tow Truck Company who used the building for office space and the exterior lot area to store towed vehicles. The Tow Truck Co. rented and leased farm trucks and other farm equipment, bailers, tractors etc. to local farm operators. The farm trucks, generally 2 ½ Ton stake-bed trucks that could be adapted for hauling hay, grain, and other farm products and became an important part of the Tow Truck Co. on-site operations, establishing the 3rd Business Occupancy under Mr. Sposito's management. The truck storage, rental and leasing was an outright permitted use within the M-3 zoning district, the use that has been part of the operational fabric of the site from 1974 to the present.

MASTER LEASE & BUSINESS OCCUPANCY EXPANSIONS:

In 1978 Mr. Sposito entered into a lease agreement with the Rabbit Hutch, Tom Wheeler, for the use and control of the property. The Rabbit Hutch retained the Molder Shop Co and The Tow Truck Co. and their Business Occupancies, which continued unabated on the premises. The Rabbit Hutch expanded the use of the property to include Volkswagen Repair services, no doubt using some older VW's as parts vehicles. They also brought U-Haul Truck and Trailer Rentals and operations on-site further augmenting truck storage and rental activities upon the property. The Rabbit Hutch established Cobra Phone Services, a business phone network

system, on the property together with Jeep Parts Sales & Service (one of the largest Jeep Parts supply operations in the United States at the time). These uses were all allowed as 'Permitted Uses' within the city M-3 Zoning District.

The City of Tualatin on October 22, 1979 enacted Ordinance # 491-79, changing the zoning on the property to CG, General Commercial. However, the change in zoning did not materially affect the uses established on the property as they pre-existed and were either allowed by the new zone or were lawfully created non-conforming uses or Grandfathered rights of use, under the auspices and authority of the newly adopted city zoning code.

The Rabbit Hutch continued its lease of the property and on-site operations from 1978 through 1988. In 1989, the lease and on-site Business Occupancy was transitioned from the Rabbit Hutch to Anderson Oregon Rentals, under the continuing property management of Mr. Sposito. It is important to note that the on-site uses from 1973-1989 had never decreased, but expanded bringing in other business interests and activities. During this period the city did not have cause to engage in land use enforcement actions as the uses of the property were within the scope of authority allowed by the zoning ordinance or were deemed lawfully created non-conforming uses allowed to continue. Unfortunately, city staff never provided a letter or document memorializing these activities, the closest document we have to an acknowledgement by the city is a letter of apology to Mark Gensman and Stan Sposito, dated January 19, 1987, that addressed a letter and meeting where the city had raised issues pertaining to a sublease with P.M. Mechanix for on-site operations. The matter was resolved amicably, but we have not been able to obtain copies of the documents requested by Mr. Jacks from Mr. Gensman from the city files. The on-site uses and activities, although diverse, continued in a lawful manner recognized by the city.

MASTER LEASE ASSUMPTION & CONSOLIDATION OF ON-SITE BUSINESS OCCUPANCY:

Anderson Oregon Rentals initiated a new operational use of the property combining uses that were allowed as outright permitted uses within the CG-General Commercial zoning district, together with uses that had been 'grandfathered' as outright permitted uses under the previous M-3 zoning. Anderson Oregon Rentals continued to store, rent and lease trucks, large and small, on the property as an integral element of its Business Occupancy. It also engaged in the rental of 'small' equipment from the property consistent with the provisions of INT-88-01 as issued by Mr. Jacks, Planning Director.

During the lease period between Mr. Sposito and Anderson Oregon Rentals the lease was modified to ensure that Business Occupancies authorized to use the site were required to protect and ensure the continuing right of use of the 'Grandfathered Rights' established on the property through time and prior permitted uses. Anderson Oregon Rentals continued its on-site operations for a period of ten (10)

years, without incident, and concluded its operations with the acquisition by United Rentals in August 1999.

MASTER LEASE ASSUMPTION & CONTINUING USE OF ALL ON-SITE OPERATIONS:

United Rentals, following it's purchase of Anderson Oregon Rentals and successful assumption of the lease from Sposito Family Trust began and in-depth negotiation with the city regarding its planned use of the property. A use predicated by a continuation of both allowed business activities under the zoning code and previously allowed uses established under prior zoning and 'grandfathered rights' of use as defined in the Non-Conforming Use provisions of the Tualatin Development Code. Substantial upgrades and improvements were made to the property as a result of the agreements reached between United Rentals, The Sposito Family Trust, and the City of Tualatin. United Rentals clearly stated its land use objectives in writing to the city, advising that they would keep the business as it had been (with the same equipment base) under the existing Grandfather rights of use. Without exception this speaks to the continuing rights to store, rent and lease trucks from the property.

United Rentals suggested modifications to the underlying lease, but they have never altered or modified the provisions established in the lease with Anderson Oregon Rentals to protect and ensure the continuing right of use of the 'Grandfathered Rights' established under the auspices of the M-3 zoning district. United Rentals exercised its right to extend its lease of the property, which is active and in force through February 28, 2010. United Rentals is presently one of two Business Occupancies engaged in the property. The Tualatin Development Code defines Business occupancy as: "A non-residential use of real property by an owner or lessee. Each user shall be considered a separate business occupant if the user has an independent or distinct property right in the real property." United Rentals and the Sposito Family Trust both hold distinct property rights in the real property and the continuing lawful uses established upon the property under the auspices of the evolving Tualatin Development Code.

INTERDICTION OF GRANDFATHERED RIGHTS OF CONTINUITY OF USE:

Following United Rentals notification to the city in December of 2007, that it would be phasing out its on-site operations, city representatives, on multiple occasions, advised Mr Sposito and Enterprise Rent-a-Car that they would not allow truck storage or rentals to be conducted on the subject property. Public records indicate that the position taken by the city, in contravention of its own code and the rights of the property owner and business occupant have been maintained from January to the present. United Rentals, a business occupancy with an interest in the real property, and The Sposito Family Trust, the underlying property owner, possessed the rights to sublease the property and to continue all previously permitted uses and business activities, including 'Grandfathered Rights' in continuous existence and operations from 1974 to the present.

The staff position stated in the Interpretation and Staff Report of the appeal is that the use activities of United Rentals were terminated in December 2007; however, billing invoices obtained from United Rentals (Exhibit 17) reflects on-going rental of equipment through January 2008 from the 8250 SW Tonka site.

71 plan

TUALATIN PLAN

This Plan has been recommended to the Tualatin City Council by a citizens committee. Until acted upon, it does not represent official city policy.

The preparation of this material was financed in part through an urban planning grant from the Department of Housing and Urban Development under the provisions of Section 701 of the Housing Act of 1954, as amended. Oregon Project LGR-9
August 1971 P6010.0

Exhibit 1

pg 1 of 3

6. That the vacant area east of the civic center should ideally be developed for retail shopping which is conveniently related to the downtown area to the west. Together, these areas would make up the central area shopping complex. The central area should also provide for professional offices and service activities required by Tualatin residents.

7. That bypasses should be built to relieve the central area of through traffic. These should link Lower Boones Ferry Road at the Tualatin Bridge with Nyberg Road and with Sherwood Road west of the Oregon Electric line. Unless this is done, business and other community functions will suffer from steadily increasing traffic flow and congestion.

8. That all new developments in the central area should be provided with ample off-street parking. Large, joint-use parking lots to serve many uses will be encouraged.

9. That no new industry should be permitted in the central area.

10. That no new dwelling units should be constructed in the central area so that its limited area may be preserved for commercial and public uses.

11. That landscaped buffers should be developed around industry which is in and adjacent to the central area so that an attractive shopping environment may be maintained.

INDUSTRIAL LAND USE

An objective of the plan is that employment be available within the community for local residents. Fortunately, there are large areas which have rail access possibilities and other characteristics which make industry their most probable and appropriate use.

The plan map shows more than 1,000 acres of vacant land for industry north of Morgan and Day roads. At an average of 10 workers per acre, this land could provide employment for some 10,000 workers. One industrial worker provides an economic base for approximately six persons. Planned industrial areas could therefore support a population of some 60,000 persons.

Exhibit 1

P9 2 96 3

Most of this industrial land is outside the city and lacks utilities, local street access and other things required for industrial development. Its use for industry will therefore probably take place gradually over an extended period of time.

Policies

1. To preserve for industrial purposes level, buildable land which has good access to railroads and major arterials.

2. To limit heavy industrial activities to areas west of a line which extends north from Tualatin Elementary School.

3. To establish a special buffer and control area along the boundary of all industrial areas which are adjacent to a residential area. Building setback, landscaping, limitations upon industrial uses, and other measures may be required within a 200-foot boundary strip to protect residences, as part of a review process covering all such buffer areas.

4. To preserve suitable vacant land for industry by preventing dwellings from being constructed. This will also avoid having families living in an inappropriate industrial setting.

5. To locate industrial areas so that they have good direct access to arterial streets. Industrial trucks and worker traffic should not filter through residential areas.

INDUSTRIAL CATEGORIES

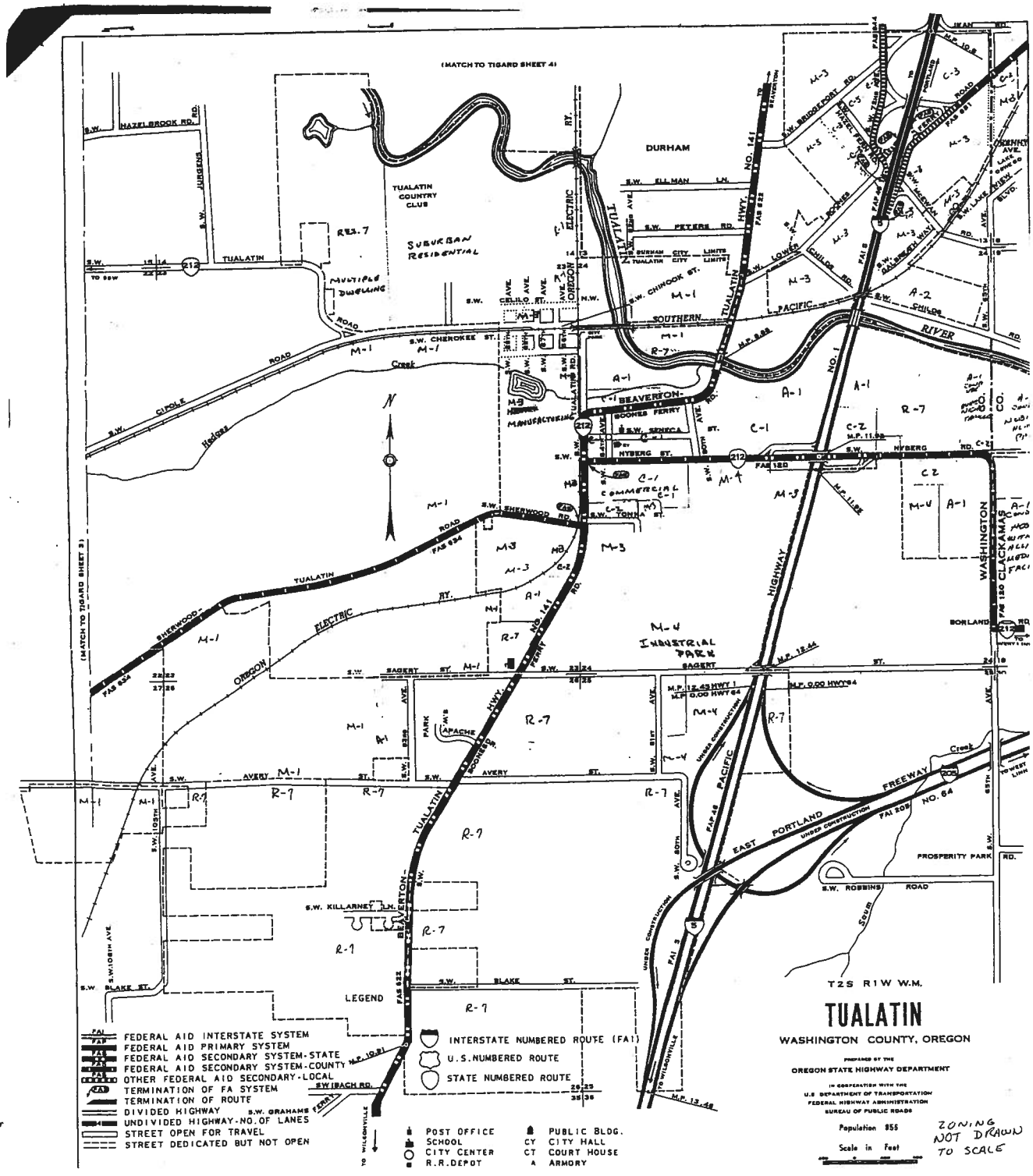
INDUSTRIAL PARK: Suitable for light industrial uses. Special setbacks, landscaping, fences, and other restrictions upon noise, odors, vibrations, lighting, signs, smoke and heat, may be imposed to maintain a higher level of environmental amenity than is found in the usual industrial area.

LIGHT INDUSTRIAL: Suitable for warehousing, wholesaling and light manufacturing processes which are not hazardous and which do not create undue amounts of noise, dust, odor, vibration or smoke. Also suitable for retail sale of products not found in General Commercial areas. Rail access, open storage, loading, and truck traffic would be characteristic of such areas.

HEAVY INDUSTRIAL: Suitable for light industrial uses and also for a wide range of industrial, manufacturing, processing, wrecking and storage activities. Such areas could be expected to be unsightly and to have some adverse effect upon surrounding areas, particularly for residential purposes.

Exhibit 1

pg 3 of 3


(MATCH TO TIGARD SHEET 4)
(MATCH TO TIGARD SHEET 3)
DURHAM
TUALATIN COUNTRY CLUB
SUBURBAN RESIDENTIAL
MULTIPLE DWELLING
RES. 7
M-1 MANUFACTURING
M-4 INDUSTRIAL PARK
COMMERCIAL
BEAVERTON
TUALATIN
SHERWOOD
TONQUIN
SAGERT
AVERY
BLAKE
SW KILLARNEY LN.
SW IBACH RD.
SW 108TH AVE.
SW 105TH AVE.
SW 85TH AVE.
SW 80TH AVE.
SW 65TH AVE.
SW 72ND AVE.
SW 124TH AVE.
SW 121ST AVE.
SW 115TH AVE.
SW 112TH AVE.
SW 92ND AVE.
SW 90TH AVE.
SW 88TH AVE.
SW 87TH AVE.
SW 82ND AVE.
SW 76TH AVE.
SW 74TH AVE.
SW 72ND AVE.
SW 70TH AVE.
SW 68TH AVE.
SW 65TH AVE.
SW 63RD AVE.
SW 62ND AVE.
SW 60TH AVE.
SW 58TH AVE.
SW 56TH AVE.
SW 54TH AVE.
SW 52ND AVE.
SW 50TH AVE.
SW 48TH AVE.
SW 46TH AVE.
SW 44TH AVE.
SW 42ND AVE.
SW 40TH AVE.
SW 38TH AVE.
SW 36TH AVE.
SW 34TH AVE.
SW 32ND AVE.
SW 30TH AVE.
SW 28TH AVE.
SW 26TH AVE.
SW 24TH AVE.
SW 22ND AVE.
SW 20TH AVE.
SW 18TH AVE.
SW 16TH AVE.
SW 14TH AVE.
SW 12TH AVE.
SW 10TH AVE.
SW 8TH AVE.
SW 6TH AVE.
SW 4TH AVE.
SW 2ND AVE.
SW 1ST AVE.
SW HAZELBROOK RD.
SW JURGENS
SW CIPOLE ROAD
SW CHEROKEE ST.
SW SENECA
SW NYBERG
SW TONKA ST.
SW CHINOOK ST.
SW PETERS RD.
SW ELLMAN LN.
SW BRIDGEPORT RD.
SW LOWER BOONES FERRY RD.
SW SCHOLLS FERRY RD.
SW ALLEN BLVD.
SW LANCASTER
SW WALKER
SW 85TH
SW 72ND
SW 65TH
SW 63RD
SW 62ND
SW 60TH
SW 58TH
SW 56TH
SW 54TH
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SW 4TH
SW 2ND
SW 1ST

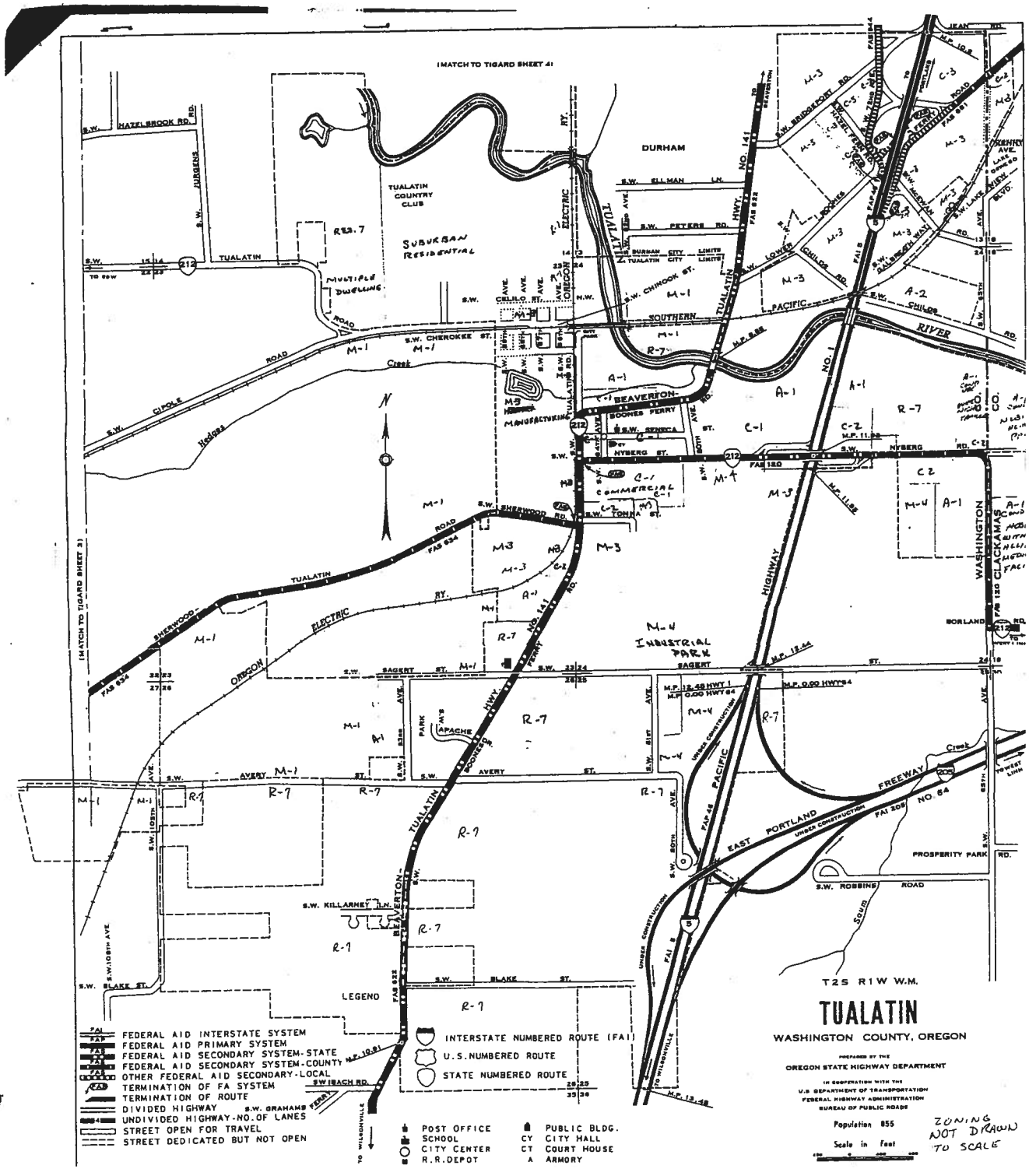


Exhibit 2
pg 2 of 2

MAI
AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS

Harold F. Meyer & Associates, Inc.

Real Estate Appraisals and Consultations

HAROLD F. MEYER, M.A.I.
SREA, ARA

Edwin F. Frengle

131 S. 1st Ave.
P. O. Box 196
Hillsboro, Oregon 97123

Phone (503) 648-8906
Res. (503) 357-3439

September 17, 1973

Mr. Lee Dundas
Quality Plastics
P. O. Box 365
Tualatin, Oregon 97062

Re: Quality Plastics Co., Inc.
Our File No. 5164 B-1
(update 3836 B-1)

Dear Mr. Dundas:

In response to your request, I have examined the property owned by Quality Plastics described herein for the purpose of estimating the Fair Market Value.

As a result of an inspection of the property, consideration of the improvements, consideration of the highest and best use, and particularly the sales of industrial land in the area within the last two or three years, trends in the area, and all the other factors which I thought were pertinent, it is my opinion and I estimate the Fair Market Value to be as of September 8th, 1973,

FORTY-EIGHT THOUSAND AND NO/100 ($48,000.00) DOLLARS

This is subject to the sewer assessment being paid so that sewer connection can be made.

Enclosed you will find my appraisal report setting out the details and facts upon which I operated and my reasoning.

I assume title in fee simple but I assume no responsibility for conditions of title nor matters of a legal nature, nor matters which a competent land survey might show; nor do I assume responsibility for purported facts or data furnished to me by others but I believe the same to be true and accurate.

This appraisal has been made in accordance with the Standards of Practice and the Rules of Ethics of the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers.

SREA

Exhibit 3

Pg 1 & 12

Thank you very much for the opportunity of being of service to you. If there are any questions, please do not hesitate to ask. Also enclosed herewith you will find a statement for my services.

Yours very truly,

Harold F. Meyer,
M.A.I., SREA, ARA

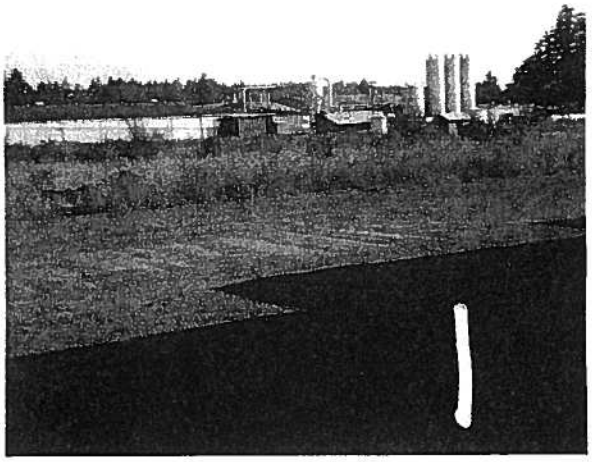
HFM:k

Enclosures

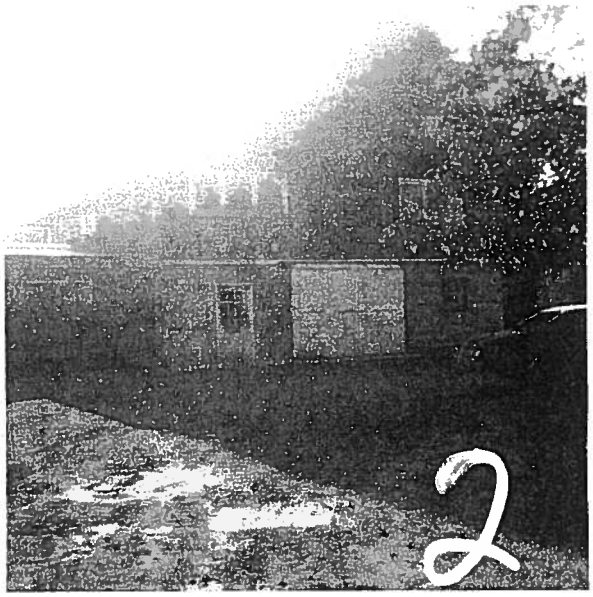
Exhibit B

P9 2 6 12

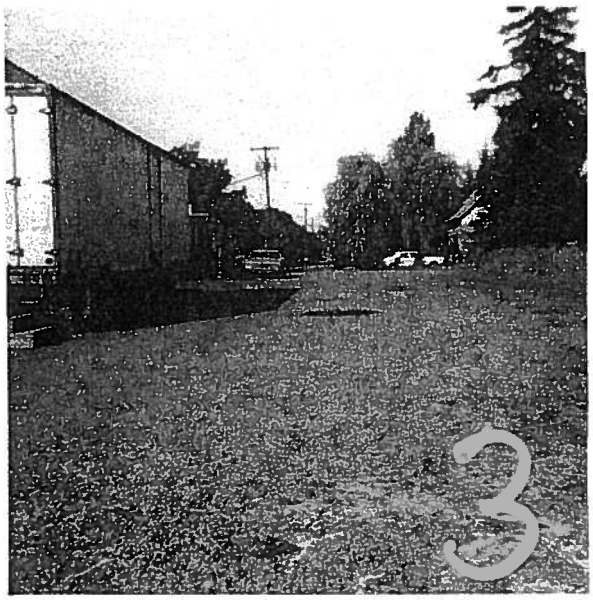
PHOTOGRAPHS OF SUBJECT PROPERTY



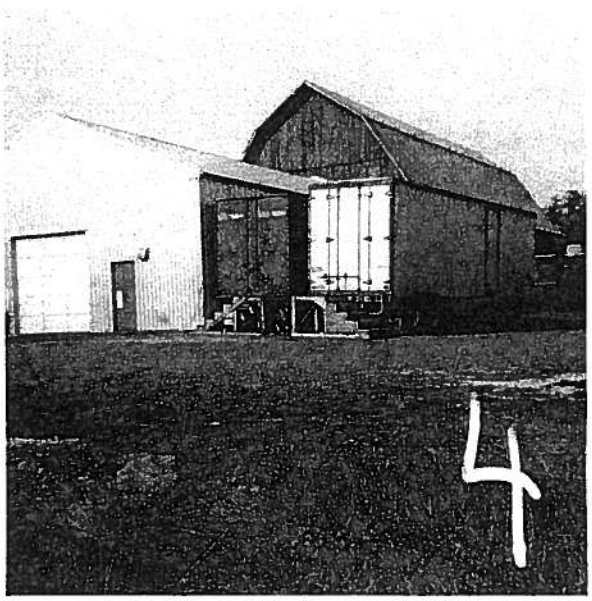
Looking NE over Subject Vacant Land



Subject Barn - Factory



Subject Access



Subject Buildings Rear

APPRAISAL OF THE DUN-KOR - QUALITY PLASTICS CO. INC. PROPERTY

OUR FILE NO. 5164-B-1
(update of 3836-B-1)

Legal Description

Tax Lot 1900 2S 1 24C, Assessor's Maps, Washington County, Oregon.

Area Description

Tualatin is a small agricultural trading center which is undergoing tremendous expansion. It grew 108% between 1960 and 1970 and the environs probably have doubled in population since 1970. It is on Interstate 5. A new Fred Meyer shopping center is contemplated; a K-Mart Discount Center has gone in; a new large furniture store is going in; a medical hospital is going in on the easterly side of the freeway; the Ramada Inn has become a successful concern; and considerable amounts of industrial building has taken place, especially out the road toward Sherwood. I look for this growth to continue. The town is reasonably close both to the center of the Willamette Valley, and to the Portland Metropolitan area and this gives it a trading nucleus from either end.

There is a mixture of uses juxtaposed among one another because of the rapid growth from a small agricultural town. As growth continues, however, planning will become more precise; certain areas will be related to particular uses. Within the immediate area of the subject property I look for the use to become predominantly commercial-industrial.

Subject Property

Land

The property has access to Tonka Street, apparently an approximately 22 foot oiled strip that runs back about 660 feet from Highway 217 and deadends into the subject property. It is a level piece of land sloping somewhat to the north, perhaps needing some fill in the northerly and northeasterly corner where it is undeveloped.

The dimensions appear to be 245' north and south and 214.5' east and west. There is public water to the site, sewer is available, no connection has been made. There is a sewer assessment that needs to be paid and there has been some discussion about this according to the city recorder. This appraisal is made under the assumption that the cost of sewer connection will be deducted from the value found or be paid by the seller.

Conversation with the City Recorder in the City of Tualatin indicates that there is some reasonable probability of a direct freeway connection bordering the northerly property line of the subject. Some of the right-of-way has been donated for the proposed connection;

other is said to be available when and if the State decides to construct the same. There is no priority date. It is my conclusion that this connection is a reasonable possibility but perhaps is 4-5 years off. This connection will be of benefit to the subject property. Reliance for present value depends on subject's present road access.

There is a small gravel parking area around the buildings.

Improvements

Barn and Metal Industrial Building - This consists of a 36 x 70, gambrel roof barn with an attached 56 x 36 industrial steel building. The barn portion has heavy 8 or 10 inch masonry walls to the loft ceiling level, and has a concrete floor which has been levelled and straightened off. Heavy wiring has been put into the building since purchase to make possible the operation of the industrial plastics and injection type equipment.

A small office has been paneled and walled off in the northwesterly corner. The building is heated by a gas fired forced air furnace. Lighting is by minimum fluorescent tubes. Ceiling height is approximately 9 feet. There is one little restroom with a lavatory, stool; and one small coffee room. The loft of this portion is used for storage and is open because of the trussed roof. There is a stairway up and down and also a sort of freight elevator arrangement.

The attached metal building is ceiled with plywood and has insulation material under the exterior walls. The metal is treated and of good quality. There is apparently a 14 foot ceiling height. There is another small coffee room in one corner. This addition is used for storage. One 12 foot overhead garage-type door is in the easterly end and one service door.

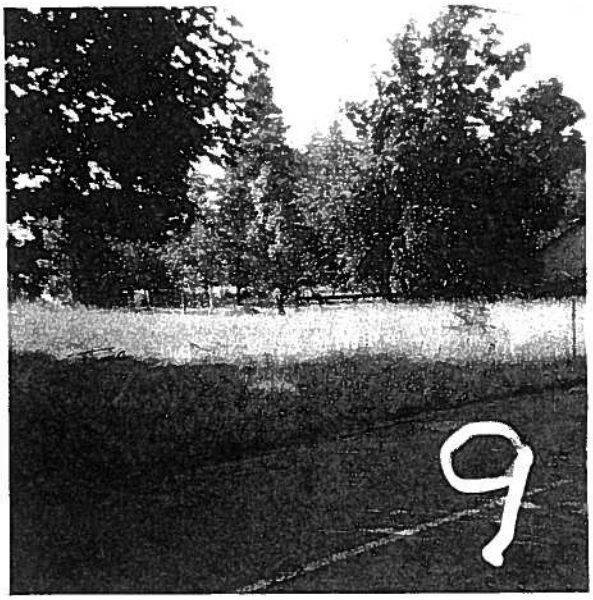
Both the barn and the metal building have a metal roof, gutters and downspouts. Both appear in good physical shape. The barn, because of low ceilings, suffers some functional obsolescence.

House Trailer - There is a used house trailer on the premises, revamped and utilized for an office. It has paneling, carpet, restroom facilities, heat and air-conditioning. It was said to have been purchased for $2,000.00 some years ago. It appears to have essentially the same value at the present time.

I examined these improvements two years ago and they appear essentially the same.

PHOTOGRAPHS OF COMPARABLE SALES

Sale No. 1



Sale No. 2

Highest and Best Use

Highest and Best use in my opinion is for an industrial purpose of the type being carried on, or a similar purpose. There are various service shops, such as plumbing or electrical shops, sheet metal fabricating, or welding shops, that might utilize the building.

Evaluation

I have essentially used the Cost Approach to Value and the Income Approach to Value. Market Data Approach I have not attempted to utilize because of the scarcity of sales of this type of property, land and buildings together, although some are available and if I were to take time to search them out, I think they would substantiate the values I am finding by the other two approaches.

Land Value

I have made several appraisals in the Tualatin area since my appraisal in 1971 and I am aware that industrial land in the area has been accelerating rapidly in value. For purposes of this appraisal I have gathered several sales out Boones Ferry Road toward Sherwood together with sales in the immediate area. Ones that I thought were of substance in relating to the subject property are as follows:

Sale No. 1 Sale from Isom to Sorenson, zoned Industrial. This is the sale of the abutting property to the south. Sale occurred in October, 1972, 6.08 acres, $75,000 or $11,513.00 per acre. This has a drainage course running through it, has some old buildings that have negligible value. Relating this to the subject, it has not nearly the usability that the subject has because of the drainage course and the fact that it would need fill. I have adjusted substantially upward for that reason and have adjusted somewhat upward for time.

Sale No. 2 I have the sale of Tax Lot 600 2S1 13D, at 7460 S.W. Bridgeport Road by Earl McKnight to Lane and Kathleen Robertson. 1.44 acres sold in November, 1972 for $32,000. This is level land, fronting on Bridgeport Road which is a narrow paved road running from the Boones Ferry Interchange to the Tigard-Tualatin Road. This was a $22,220.00 per acre price. Public water is to the property, sewer eventually is scheduled to come in. An old house is on the property which has some carrying value. Zoning is Industrial, M-3; has perhaps a little superior access to the freeway system over the subject and is a smaller unit. I would adjust upward somewhat for time, downward somewhat for location and size.

Sale No. 3 Sale of Tax Lot 1601 T2SR 1W Section 13A at the intersection of Durham Road and Boones Ferry. Sold by Hemphill Oil Company to Russell Burdsall and Ward Nut and Bolt Company in October, 1969 for $35,750, 2.24 acres or the sale is a $15,950 an acre. This is industrially zoned in the City of Durham at the intersection of the two roads, near the upper Boones Ferry interchange. Location would be somewhat superior to the subject; there would be an upward adjustment for time. There is no sewer to it and sewage will have to await the construction of the Metzger plant by Washington County.

Sale No. 4 Western Reneline to Schnitzer Realty, although there are other parties that appear on the deed because there were some trade involved for tax purposes, of Tax Lot 1800 2S1 24C; 2401 2S1 24C; 2400 2S1 24C; 2300 2S1 24C; and 1300 2S1 23D, total of 80.32 acres, sold for $13,695 per acre. Tax Lot 1800 abutts the subject property on the easterly side and has a drainage course going through it. The main parcel abutts the Baldock Freeway, has excellent freeway visability, has in the area of 500 feet, plus or minus, of frontage on Boones Ferry Road, and better than 3000 feet of frontage on the southerly side of Sagert Road. It will make a good industrial park. Sale was made in May, 1973 so it is current. Substantial adjustment would have to be made upward for the size of the subject since small parcels sell much more readily than larger parcels.

Taking these sales all into consideration, together with the trend of values in the area, I find Sale No. 2 to be the most persuasive and indicates to me $20,000 an acre for the subject property. The other sales I think support this when adjusted for size, time, location, and other factors. My land value together with site improvements then follows:

1.21 acres @ $20,000 per acre	=	$24,200	
Site Improvements	+	1,000	
			$25,200.00

Improvements

In the following I have costed out the improvements relative to recent cost indices and my own knowledge of contractors' costs at the present time.

Improvements:		
Barn 2520 @ $7.50	=	18,900
Less 30% depreciation	-	5,670
		$13,230

			$13,230 (Improvements)
Addition 2016 ft @ $6.00 =	12,096		
Less 10% depreciation	- 1,209	10,887	
Total Building Value		24,117.00	
Add Trailer		+ 2,000	
		26,117 rounded	$26,000.00
Total Value by Cost			$51,200.00

Income Approach to Value

Under the Income Approach to Value one takes an indicated economic rent for the real estate, excluding business, to arrive at a stabilized gross annual rental from which one deducts indicated vacancy and collection loss and reasonable operating expenses, to arrive at a net income for the property. This is then capitalized at a capitalization rate commensurate with what the market indicates. I have done this below.

Knowing what industrial properties are leasing for in the Portland Metropolitan area (I have a number of them in my file) and knowing what the past history has been on the subject in 1971, it is my opinion that the indicated rental for the subject is 12¢ per ft for the building space together with $100 per month for the trailer. Total rental is $644.00, rounded $650.00 per month.

I have then below taken this and in my opinion, because of the growing nature of the area, 5% vacancy and collection loss is adequate and I have stabilized expenses based on judgment and past history, then I have capitalized this at an overall rate of 12% which I find from my market analysis to be a reasonable expectation of purchasers of property. At the present time, interest rates are high enough that a higher rate might be warranted but it is the general feeling of lenders and buyers that these interest rates will fall more into line or will be somewhat compensated by increased rentals made possible by inflation and increased price levels within the next year. My Income Approach analysis then follows:

$650 x 12 =	$7,800	annual potential gross		
Less 5% vacancy	- 390			
	$7,410.00	Adjusted Gross		
Less Expenses:				
Taxes stabilized		1,000		
Insurance				
30,000 @ 1.60		480		
Liability		50		
Maintenance		600	2,130.00	
				$5,280.00

$5,280.00 capitalized @ 12% = $44,000.00

Correlation of Estimates and
Final Conclusion of Value

We have then from the Cost Approach an indicated value of $51,200.00; from the Income Approach an indicated value of $44,000.00. In the Cost Approach it is always difficult to properly analyze depreciation. This is particularly true in cases of structures which have been converted, such as the barn on the subject property. However, it is serving the purpose and can be utilized by other businesses, so I think there is merit in the Cost Approach. Income Approach I believe would be low because generally rentals do not go up as fast as cost--in due time they will come forward. I thus adopt a midway point between these two approaches.

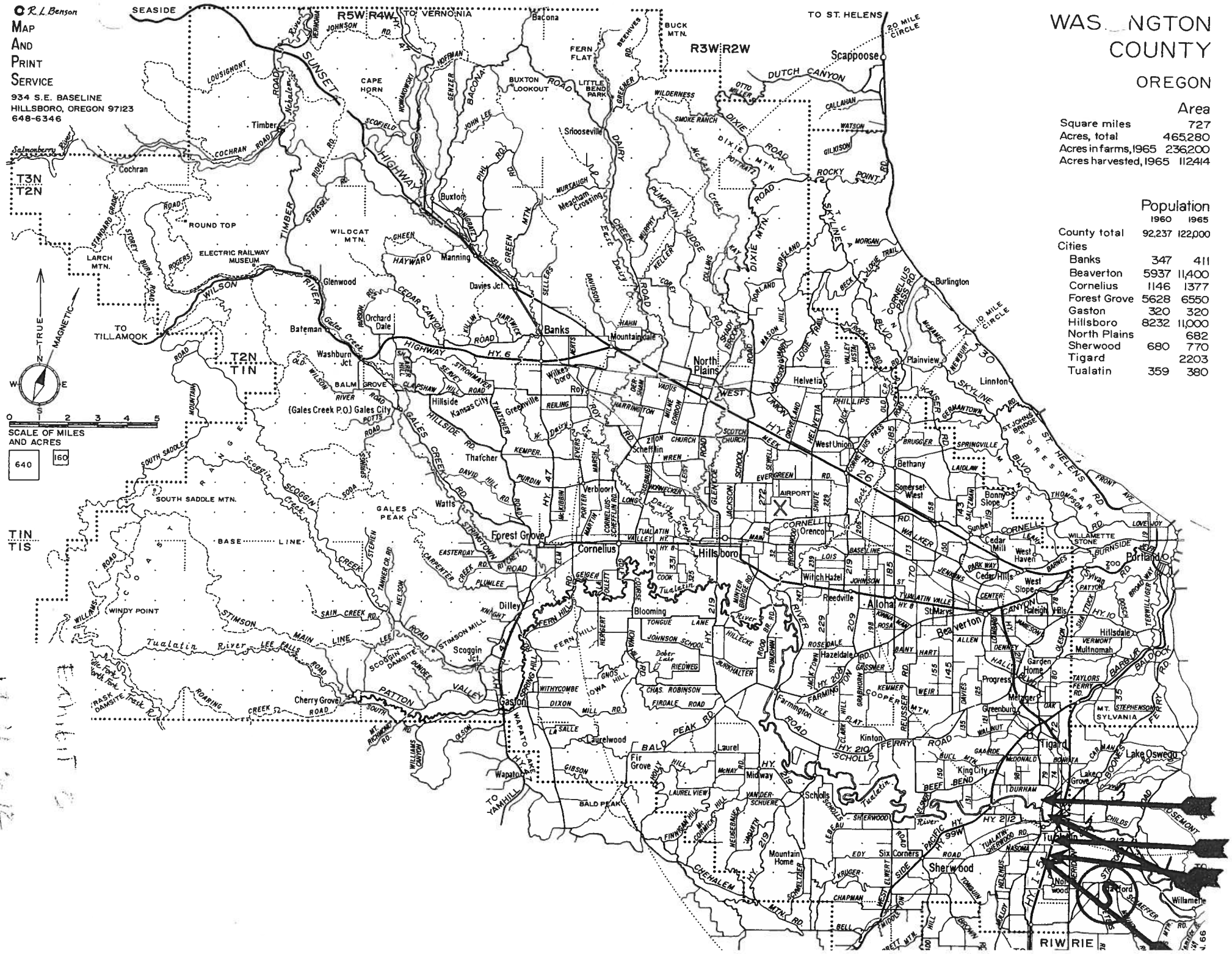
Therefore, it is my opinion and I estimate the Fair Market Value of the subject property to be as of September 8, 1973,

FORTY-EIGHT THOUSAND AND NO/100 ($48,000.00) DOLLARS

This would be divided:

Land	$24,200.00
Site Improvements	1,000.00
Buildings	22,800.00

NOTE: The above assumes that the sewer assessment will be paid so that sewer connection will be made.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MAP AND PRINT SERVICE
934 S.E. BASELINE
HILLSBORO, OREGON 97123
648-6346
WASHINGTON COUNTY
OREGON
Area
Square miles 727
Acres, total 465,280
Acres in farms, 1965 236,200
Acres harvested, 1965 112,414
Population
1960 1965
County total 92,237 122,000
Cities
Banks 347 411
Beaverton 5937 11,400
Cornelius 1146 1377
Forest Grove 5628 6550
Gaston 320 320
Hillsboro 8232 11,000
North Plains 682
Sherwood 680 770
Tigard 2203
Tualatin 359 380
SCALE OF MILES AND ACRES
640
160
SEASIDE
TO VERNONIA
TO ST. HELENS
R5W R4W
R3W R2W
T3N T2N
T2N T1N
T1N T1S
Scappoose
Banks
Hillsboro
Forest Grove
Cornelius
North Plains
Beaverton
Tigard
Tualatin
Sherwood
Portland
Lake Oswego
Gaston
Cochran
Timber
Buxton
Manning
Glenwood
Bateman
Orchard Dale
Washburn Jct.
Gales City
Thatcher
Watts
Dilley
Scoggin Jct.
Cherry Grove
Wapato
Laurelwood
Fir Grove
Laurel
Midway
Scholls
Kinton
King City
Lake Grove
Tualatin River
Scoggin Creek
Gales Creek
Dairy Creek
Rock Creek
Burlington
Linnton
Helvetia
Bethany
West Union
Schefflin
Greenville
Roy
Kansas City
Hillside
Verboort
Orenco
Cedar Mill
Bonny Slope
Sunset
West Haven
Cedar Hills
West Slope
Raleigh Hills
Aloha
Reedville
Blooming
Farmington
Progress
Metzger
Garden Home
Multnomah
Hillsdale
Greenburg
Mt. Stephenson
Sylvania
Tigard
Six Corners
Mountain Home
Chehalem
Wapato Lake
Round Top
Larch Mtn.
Wildcat Mtn.
Cape Horn
Fern Flat
Buck Mtn.
Bald Peak
Gales Peak
South Saddle Mtn.
Windy Point
Electric Railway Museum
Buxton Lookout
Little Bend Park
Meacham Crossing
Dutch Canyon
Rocky Point
Skyline
Cornelius Pass
St. Johns Bridge
Forest Park
Highway 30
Highway 26
Highway 6
Highway 47
Highway 219
Highway 99W
Highway 210
Highway 212
Pacific Highway
Sunset Highway
West Union Hy.
Tualatin Valley Hy.
Baseline
Main Line
Lee Falls Road
Stimson Mill Road
Patton Valley
Bald Peak Road
Ferry Road
Scholls Ferry Road
Farmington Road
Tualatin-Sherwood Road
Boones Ferry
Barbur Blvd.
Burnside
Cornell
Walker
Murray
Scholls
Sherwood
Willamette
Tualatin River
Clackamas River
Salmonberry River
Nehalem River
Wilson River
Trask River
Middle Fork
North Fork
Dairy Creek
Gales Creek
Rock Creek
Scoggin Creek
Tualatin River
Clackamas River
Willamette River
20 Mile Circle
TRUE
MAGNETIC
N
S
E
W

Professional Qualifications
Harold F. Meyer, MAI, SREA, ARA.
Real Estate Appraiser and Consultant
Hillsboro, Oregon 97123
Phone (503) 648-8906

Training:

Born Nov. 18, 1918, Washington County, Ore.
Educated: Pacific University, Forest Grove, Ore.
Attended Appraisal I, II, VI, American Institute of Real Estate Appraisers
Attended Seminars & Conferences, Professional Appraisal Organizations

Experience:

Member firm Harold F. Meyer & Associates Inc.

25 Years Experience Sales, Appraisal, Development of Real Estate – Bump & Meyer, Forest Grove, Ore. Primarily Appraisal 18 years, Seattle, Wash. to Fresno, Calif.

Appraised homes, farms, acreages, timberlands, recreational, commercial, industrial, institutional properties for private individuals, attorneys, corporations and government agencies.

Government agencies include Federal "VA", State "G.I.", FHA, Highway Departments-Oregon, Washington, Bonneville Power Admin., Bureau of Land Management, U.S. Forest Service, Ore. State Game Commission, Ore. State Board of Control, various Counties, Cities & School Districts.

Private corporations such as Portland General Electric, Crown Zellerbach, International Paper, Getty Oil Co., Reynolds Aluminum, Deluxe Check Printers, Harvey Aluminum and Continental Can Co.

Taught Appraisal courses: Oregon State Tax Commission, Ore. State Univ., Corvallis, Multnomah County, Ore. College of Education, Monmouth, Idaho State Tax Commission, Montana State Tax Commission. Lectured American Right of Way Seminars. Lectured Graduate Realtors Institute, Oregon.

Articles Published:

Appraisal Journal of American Institute of Real Estate Appraisors; Journal of American Society Farm Managers & Rural Appraisers; Text of International Association of Assessing Officers, American Right-of-Way Magazine, Rural Realtor.

Testified:

Federal Court, Portland, Circuit Courts of Washington, Marion, Yamhill, Columbia, Clatsop, Lincoln, Polk, Clackamas, Tillamook Counties, Oregon; Superior Courts of Clark, Cowlitz, Skamania Counties, Washington

Membership:

Real Estate Broker, State of Oregon
NAREB, Washington County Board of Realtors, Past President
American Institute of Real Estate Appraisers (MAI), Past President, Oregon Chapter
Society of Real Estate Appraisers (SREA)
American Society of Farm Managers & Rural Appraisers (ARA), Past President, Oregon Society.
National Institute of Farm and Land Brokers.
American Right-of-Way Association.

EXHIBIT 3

P9 12 of 12

Exhibit

4

City Photo of Flood

Trucks on site
(background)

Looking South from Hervin Co. toward City sewer plant + Lab and "Ed Blank Barn" on Tonka St.

Picture taken by David Bryan, Tualatin Public Works Dir. on 1-18-74 Approx. 1-2:00 PM (Documenting 1974 Flood)

Exhibit 4

Exhibit

5

City Photo - Blight Survey

Image Trucks on Site

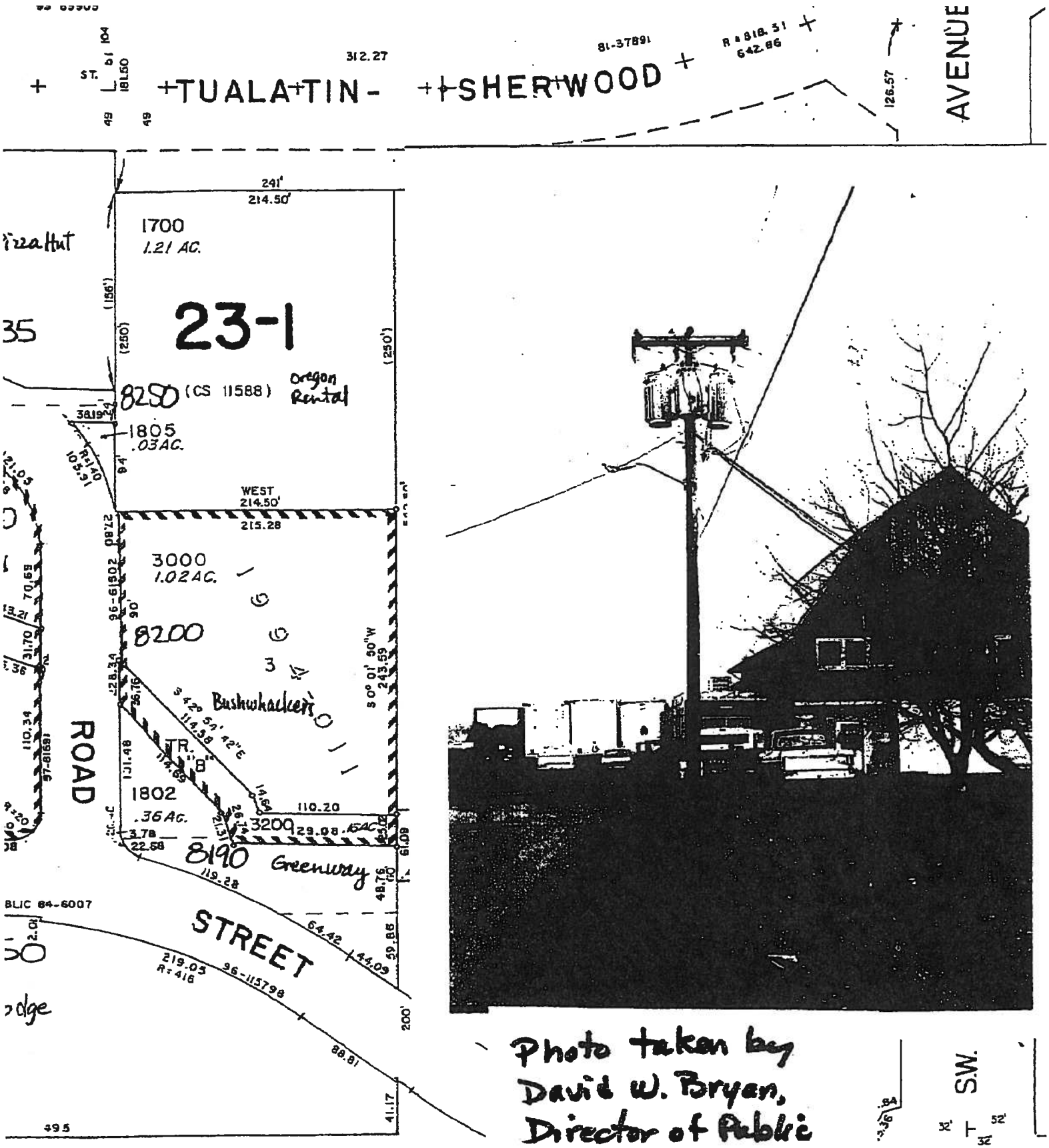
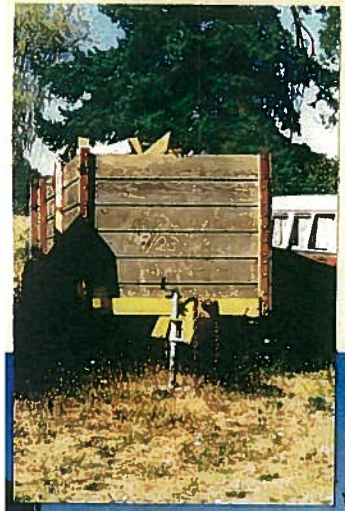


Photo taken by David W. Bryan, Director of Public Works, Tualatin, Or on January 22, 1975
Location:
8250 SW Tonka St.

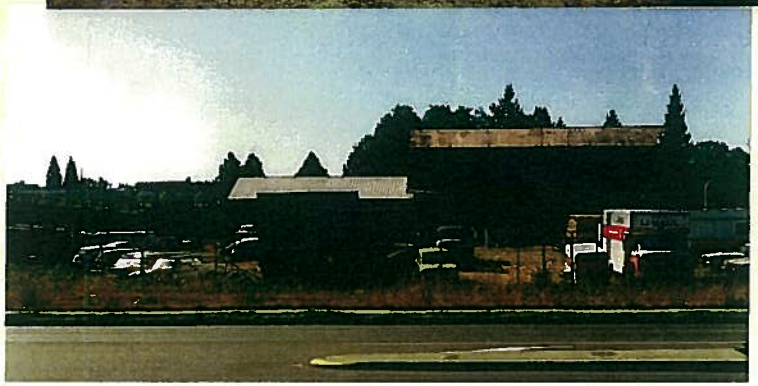
Exhibit 5

EXHIBIT 7

Rental Truck



Rental Truck



When Expressions

CITY OF TUALATIN

18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

January 19, 1987

Mr. Mark Gensman
Metro-West Realty
8265 SW Nyberg Street
Tualatin, OR 97062

RE: STAN SPOSITO PROPERTY, 8250 SW TONKA ROAD (2S1 24CB, 1700)

Dear Mr. Gensman,

Thank you for attending the meeting on January 16 with Steve Rhodes, Stan Sposito, Tom Wheeler (The Rabbit Hutch) and me and for your thoughtful comments. The purpose of this letter is to ask for materials that can be placed in the Planning Department's files to show the factual conditions on Mr. Sposito's property. They would be available in the future to answer staff concerns.

During the meeting you offered to provide the City with the lease agreement between Mr. Sposito and Mr. Wheeler. Would you forward a copy so that our files can reflect the fact that Mr. Wheeler continues to lease the entire property.

In terms of creating a written record of the salient points of the meeting, you stated that Mr. Wheeler's Rabbit Hutch continues to use about 5,600 square feet of the building, has control of all of the fenced yard area and that P.M. Mechanix leases only about 3,500 square feet of the building (on a sublease from Mr. Wheeler). If this is erroneous, please correct me.

Should you have any questions please call me at 692-2000.

Sincerely,

James F. Jacks, AICP
Planning Director

jb
cc: Mr. Sposito
Mr. Wheeler
City Manager
Economic Development Coordinator
City Engineer
Urban Renewal Manager
file: 8250 SW Tonka Road

Exhibit 7

Pg 1 of 1

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

January 19, 1987

Mr. Stan Sposito
1243 SW Cheltenham
Portland, OR 97201

RE: 8250 SW TONKA ROAD (2S1 24CB, 1700)

Dear Mr. Sposito,

Thank you for attending the meeting on January 16 with Steve Rhodes, Tom Wheeler, Mark Gensman and me. I accept your comments regarding the tone of my letter of January 8, 1987, and apologize for its brusk approach. I appreciate your statement regarding your having worked with City staff in years past and your availability. In the future I shall not hesitate to contact you in a timely manner should the need occur.

As a follow-up to Mr. Gensman's offer to provide information to the City, I have asked him to forward to me a copy of the lease showing that Mr. Wheeler still leases the entire property and subleases to P.M. Mechanix. I shall place the information in the Planning Department's files to ensure that, if the issue of the use of the property is raised again, the City will have accurate information readily available.

Again, thank you for attending last Friday's meeting. Should you have any questions regarding planning issues in the City of Tualatin, please call me at 692-2000, extension 37.

Sincerely,

J Jacks

James F. Jacks, AICP
Planning Director

jb
cc: Mr. Gensman
Mr. Wheeler
City Manager
Economic Development Coordinator
City Engineer
Urban Renewal Manager
file: 8250 SW Tonka Road

Exhibit 8

Pg 1 of 1

United Rentals, Inc.
8205 SW Hunziker Rd
Tigard, OR 97223
Tel: 503 802-1235
Fax: 503 620-2029
www.unitedrentals.com

February 1, 1999

To: Stan Sposito
From: Mike Crouch, District Manager
Re: Equipment in Tualatin site

Stan,

I want to make clear my intentions for the Tualatin branch of United Rentals. I do not intend to bring in any equipment larger than has already been in the location previously.

My Tigard branch is and has been the location for the bigger equipment. When United Rentals purchased Andersen Oregon (and hence Tualatin) we assumed the equipment available to be consistent with the type of organization we provide.

I was shocked to learn of the 20-hp requirement established for this location. This makes the facility totally unworkable for our situation as its inconsistent with our existing business and our 428 other locations nationally in similar commercial zones. United Rentals has made a significant investment in this location that is presently at serious risk.

Please resolve this situation immediately. I look forward to hearing from you directly.

R. Michael Crouch
District Manager

Exhibit 9

pg 161

February 26, 1999

To: Stan Sposito
From: Mike Crouch
Re: Use of the Tualatin site

Stan,

It is time we worked out an agreement with the City of Tualatin that will allow me to continue with business as normal, as we have discussed at length. We need to eliminate the existing restrictions on "small equipment" and work with the bigger picture to make everyone comfortable. My proposal is this:

1. I will not have any equipment in the yard larger than historically has been at the site over the past years. Horsepower restrictions are no longer viable with the development of the new equipment over the past years. Instead, let's focus on a size requirement to say no equipment larger than 24' moving truck (or dump truck or?)
2. I will keep the equipment in the "down" position, to better hide the appearance of the equipment.
3. I will continue to purchase only new, state-of-the-art equipment that features noise and pollution controls. (As you know, I don't run the equipment very much in the yard anyway, just for testing and loading & unloading).
4. I will develop the yard in such a way that features a front wall of block and wrought iron construction, together with landscape features that serve to please the eye as well as screen the contents of the yard.
5. I will remodel the building to show off a professional presence, much like the locations I built in Bend, OR and Renton, WA. This will include paint, new doorways, etc. I will incorporate the existing look of the building and enhance it to be a source of pride for the City of Tualatin. This project is much like the one I accomplished at Carmichael, CA where I took a run-down looking facility and turned it into what the City of Carmichael calls a "showcase" and a "beautiful" facility.

Exhibit 10

pg 1 of 2

6. I have had artist renderings prepared to show you the envisioned final look of the project.
7. I will endeavor at every turn to work with the City of Tualatin, the Chamber of Commerce and local business and residences to further my "good neighbor" approach to the locations I am in.

I will do a great job for the City of Tualatin, in that it is my desire to have great-looking, professionally run equipment rental facilities. I do not share the philosophy of the rental yards of years past, but seek to upgrade my business to top notch facilities.

EXHIBIT 10

PG 2 OF 2

DRAFT

March 3, 1999

VIA TELECOPY

Gary Bisaccio, Esq.
Attorney At Law
4112 S.W. Condor Avenue
Portland, OR 97201

Re: United Rentals/Tualatin
Our File No. 1736-006

Dear Gary:

As you know, United Rentals recently purchased from Anderson Oregon Rental, Inc. ("AOR") a certain equipment rental business located at 8250 S.W. Tonka in Tualatin, Oregon (the "Site"). I understand that you represent Stan C. Sposito, the landowner and landlord for the Site pursuant to a Commercial Lease dated January 11, 1989 (the "Lease").

After closing its purchase from AOR and assuming the Lease of the Site, United Rentals was advised that the City of Tualatin may take the position that the types of equipment rentals which have been made at the Site for many years without objection are somehow not allowed under the City's interpretation of applicable Development Code sections.

Specifically, the issue appears to concern the uses allowable in the General Commercial (CG) Planning District and the interpretation of certain provisions of Section 54.020 of the code, including provisions regarding the "rental of various small equipment, tools and devices." Also at issue is the right to continue certain nonconforming uses pursuant to appropriate grandfathering clauses.

Needless to say, United Rentals expended a substantial amount of money to purchase the equipment rental business from AOR, and did so in reliance on AOR's representations and warranties, the permitted use provisions of the Lease, and the fact that the equipment rental business has been operating at the Site for years without objection by the City. United Rentals was not aware of any interpretations of the Development Code which would prohibit the types of equipment rentals which have occurred at the Site for years.

In addition, United Rentals has proffered plans to substantially improve the aesthetics of the site with rod iron fencing, landscaping and other items. These improvements will make the Site far more visually attractive than it has been for the past several years while equipment rentals occurred.

Exhibit 11

pg 1 of 4

Given the foregoing, please be advised that United Rentals intends to enforce all rights available to it in order to continue the equipment rental business at the Site which it purchased. That inevitably may include actions involving AOR, Mr. Sposito and/or the City of Tualatin.

Please call me at your earliest convenience to discuss these matters.

Very truly yours,

THE DIEPENBROCK LAW FIRM

By
BRADLEY J. ELKIN

cc: Mr. Michael Crouch (United Rentals) VIA TELECOPY

210\1739-006\Bisaccio.101

Exhibit 11

pg 2 of 4

THE DIEPENBROCK LAW FIRM

A PROFESSIONAL CORPORATION

JOHN V. "JACK" DIEPENBROCK
R. JAMES DIEPENBROCK
KAREN L. DIEPENBROCK
KEITH W. McBRIDE
JOHN R. HALUCK
BRADLEY J. ELKIN
EILEEN M. DIEPENBROCK
MARK D. HARRISON
GENE K. CHEEVER
MICHAEL V. BRADY

400 CAPITOL MALL, SUITE 1800
SACRAMENTO, CA 95814
(916) 446-4469
FACSIMILE
(916) 446-4535
E-MAIL
BELKIN@DIEPENBROCK.COM

SUSAN E. KIRKGAARD
MERRIANN C. REYER
LAURA J. O'KANE
THOMAS A. HENRY

Of Counsel
JOSE AGUIRRE

March 3, 1999

VIA TELECOPY

Gary Bisaccio, Esq.
Attorney At Law
4112 S.W. Condor Avenue
Portland, OR 97201

Re: United Rentals/Tualatin
Our File No. 1736-006

Dear Gary:

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Specifically, the issue appears to concern the uses allowable in the General Commercial (CG) Planning District and the interpretation of certain provisions of Section 54.020 of the code, including provisions regarding the "rental of various small equipment, tools and devices." Also at issue is the right to continue certain nonconforming uses pursuant to appropriate grandfathering clauses.

Needless to say, United Rentals expended a substantial amount of money to purchase the equipment rental business from AOR, and did so in reliance on AOR's representations and warranties, the permitted use provisions of the Lease, and the fact that the equipment rental business has been operating at the Site for years without objection by the City. United Rentals was not aware of any interpretations of the Development Code which would prohibit the types of equipment rentals which have occurred at the Site for years.

In addition, United Rentals has proffered plans to substantially improve the aesthetics of the site with rod iron fencing, landscaping and other items. These improvements will make the Site far more visually attractive than it has been for the past several years while equipment rentals occurred.

Exhibit 11

pg 3 of 4

Given the foregoing, please be advised that United Rentals intends to enforce all rights available to it in order to continue the equipment rental business at the Site which it purchased. That inevitably may include actions involving AOR, Mr. Sposito and/or the City of Tualatin.

Please call me at your earliest convenience to discuss these matters.

Very truly yours,

THE DIEPENBROCK LAW FIRM

By
BRADLEY J. ELKIN

cc: Mr. Michael Crouch (United Rentals) VIA TELECOPY

Exhibit 11

Pg 4 of 4

United Rentals

Tigard, OR 97223
Tel: 503 802-1235
Fax: 503 620-2029
www.unitedrentals.com

March 29, 1999

Mr. Doug Rux
Mr. Jim Jacks
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062

CC: Brenda Braden, City Attorney
Bradley Elkin, Attorney for United Rentals
Catherine Shaw, Attorney for Paul Moody
Gary Bisaccio, Attorney for Stan Sposito

Sirs:

We are in agreement that we both want the United Rentals location in Tualatin, OR to look like a first class facility that accentuates the uniqueness of the existing building.

I am proposing that we keep the business as it has been (with the same equipment base) under the existing grandfather clause. I will step up the plate by concentrating on the appearance of the building and grounds. I have had an artist's rendering prepared to show the rough ideas I have. The building will be brought up with paint and windows and construction to show the appearance of a rural "barn".

I will also construct a fence of block and wrought iron, together with landscaping that will block the view of the equipment in the yard.

The complaint really has been that the equipment and building are not attractive. My proposal will screen the view of the equipment (making what's inside a moot point) and improve the building to a true landmark status.

I am therefore requesting approval of the impending plans and permits.

Sincerely,

R. Michael Crouch
District Manager

Exhibit 12

Pg 1 of 1

CITY OF TUALATIN

PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000
TDD 692-0574

April 8, 1999

Mr. Michael Crouch, District Manager
United Rentals
8205 SW Hunziker Rd.
Tigard, OR 97223

RE: United Rentals Tualatin Facility (8250 SW Tonka)

Mr. Crouch:

This informational letter is to follow-up the April 7 meeting with myself and Doug Rux so that you know what we understand the conclusions to be. If I misrepresent what you understand was concluded, please call me at 692-2000 ext 510. Generally, you proposed upgrading the site's appearance by repainting the barn, constructing a new fence and paving the equipment area as well as improving the interior of the barn.

We appreciate your desire to upgrade the site as it is a highly visible location in downtown Tualatin where many nicely designed and landscaped properties have been developed in the last few years. Your desires are consistent with our desires and we look forward to working with you and your development team.

Based on the color rendition you showed us, we discussed and concluded:

1. The barn is proposed to be repainted with white walls and a blue roof. We advised that earth tone colors would be acceptable. The blue roof was too bright and did not match other roof colors in the area. We noted the red roof at Pizza Hut and explained it was due to a City Council decision that was not consistent with what staff recommended. The white walls would be too bright and do not match other brick wall colors in the area. We suggested Cocina del Sol at SW 84th and SW Boones Ferry Road as an example of a remodeled building with earth tone, or muted, colors.

2. The fence is proposed to be black wrought iron with brick posts with caps and evergreen shrubs between the posts on the north. We advised a six foot high fence with those materials would be acceptable. We advised extending the fence along the east side as far south as the north wall of the Martinazzi Square Building and extending the fence along the west property line. The grass area between the existing fence and the sidewalk along SW Tualatin-Sherwood Road would be retained.

3. The equipment area is proposed to be paved. We advised that would be acceptable and a water quality swale is needed for the runoff. The City's Engineering Department should be contacted regarding the swale's design and location (Rich Spofford or Kaaren Hofmann 692-2000).

Exhibit 13

4. The barn is proposed to have a new window and two new overhead doors on the north elevation; the overhead door on the west elevation would be replaced with a smaller entryway. We advised these changes would be acceptable.

5. You indicated the equipment to be available at this site would not include the large equipment such as big dumptrucks, large excavators, D5s and D6s. They would be available at the Tigard facility at I-5 and Highway 217. You indicated the Tualatin location would have equipment such as bobcats and equipment smaller than the large equipment mentioned above. You indicated mobile platforms, cherry pickers and scissor scaffolding would be available. We asked if the extendable equipment could be stored in a nonextended position and you agreed they would not be extended.

One item that we did not discuss, but that I was made aware of after our meeting is complaints have been filed with the Planning Department regarding the washing station on the east side. There is a rapid succession of pressure waves generated from the pressure washer that penetrate the Martinazzi Square Building and disrupt the tenants. I would suggest addressing this issue and reducing or eliminating the problem. A physical barrier such as a masonry wall or another type of washer may solve the problem.

We commented that the barn's exterior and interior changes would need building permits and that the barn's exterior changes and the site improvements would need Architectural Review approval. Please contact Jerry Wade in the Building Division (692-2000 extension 145) for building permit issues and Will Harper in the Planning Department (692-2000 extension 530) for architectural review issues.

We did not discuss trees, but Tualatin is a Tree City USA and I would ask that you consider including a small number of deciduous shade trees in your plans.

Again, we appreciate your efforts and look forward to an expeditious project.

Sincerely,

James F. Jacks, AICP
Planning Director

file: INT 88-01
address file: 8250 SW Tonka

c: D. Rux, Jerry Wade, Rich Spofford, Will Harper, Kaaren Hofmann

wdocs\Cases\Int 88-01Ltr 2 Crouch United Rental 4-8-99

EXHIBIT 13

PG 2 of 3

[redacted]

Grab Tensile Strength	ASTM D-4632	801	N	180	lbs
Grab Elongation	ASTM D-4632	15	%	15	%
Trapezoid Tear	ASTM D-4533	312	N	70	lbs
Mullen Burst	ASTM D-3786	2068	kPa	300	psi
Puncture	ASTM D-4833	356	N	80	lbs
Permittivity	ASTM D-4491	.07	sec-1	.07	sec-1
Permeability	ASTM D-4491	.005	cm/sec	.005	cm/sec
A.O.S.	ASTM D-4751	.300	mm	50	U.S. Sieve
UV Resistance (500 hrs)	ASTM D-4355	90	%	90	%

Sincerely

Warren Sickler
Technical Services Engineer

EXHIBIT 13

PG 3 of 3

GARY A. BISACCIO
Attorney at Law

2125 S.W. Fourth Ave., Suite 600
Portland, Oregon 97201
Phone: 503-222-2600
Facs.: 503-222-5405

17 December, 2003

Mr. Robert Metz
United Rentals, Inc.
6221 Chappell Road, N.E.
Albuquerque, New Mexico 87113

Re: Tualatin, Oregon - Tonka St. Property

Dear Mr. Metz:

It is important to understand Mr. Sposito's position. Stan is a participating landlord. His attitude about his property is, and always has been, clear and consistent. He is responsible for managing his properties.

Mr. Sposito conceived and implemented a change in use for his property in 1988 as an equipment rental site. He overcame the active opposition of the City of Tualatin. Stan was pro-active in preserving that use and the grand-fathered rights which had accrued to the property. He assumed responsibility to encourage improvements to the property which were and are more compatible with the new development across the street from the property. Mr. Sposito decided that the tenant would assume full financial responsibility for the property, and the contract with Mr. Moody was compatible with that decision. Stan's diligence, initiative, and responsibility must be maintained for him to continue to be successful.

Mr. Sposito was instrumental in overseeing the use and improvement in the Tonka property over the past 14 years. In the recent years in which United has been leasing the property Mr. Sposito has:

1. entered upon the property, from time to time, with the manager's knowledge and consent, to inspect and address matters of its maintenance, repair, and improvement;

2. negotiated with the manager of the Pizza restaurant for the use of three parking spaces by United employees;

3. suggested straightening, prepped, and painted the damaged ballustrades which protected the brick columns, after consulting with the manager in advance;

4. trimmed, seeded, and fertilized, with the manager, the dying grass to improve the attractiveness of the property and United's business;

5. walked the property from time to time picking up litter and trash, thereby making the property and United's business more appealing;

6. suggested cutting foliage for best visibility of building, equipment, and United's sign;

7. noticed that several front panels on the building were weathered, informed the manager, then prepped, primed, and painted the panels for a more appealing building;

8. removed fir tree limbs from the parking lot;

9. patched, prepped, and painted tdhe caps on all the brick columns to match the building color, resulting in more attractive, eye catching, colors;

10. uncovered unauthorized use of stairwell after business hours by trespassers;

11. repaired and painted cracked stucco on building;

12. obtained permission from the fire department to cut the tall grass in the detention pond to reduce the fire hazard; and

13. despite United's failure to notify comply with the renewal option procedure, Mr. Sposito initiated discussions with United, and twice reached agreement on a rent reduction on the following basis: reduction in rent by $650 per month to $5,000 per month, with 5% annual increases thereafter.

Enclosed are Mr. Sposito's changes to the new lease. These changes were made on the basis that several provisions included by the legal department were inconsistent with those of the first lease or were inconsistent with the agreement reached.

Now that Hertz is out of business on Taualatin-Sherwood Rd., Stan expects an opportunity for United to pick up additional business. With the rent reduction, it is hoped that United will become more profitable soon at that location. Considering United's capital investment in the property, Mr. Sposito hopes that future profits for United will vindicate the decision to upgrade the property. We wish the best of luck to United and Mr. Rule in that regard.

Yours truly,

EXHIBIT 14

PG 2 of 2

United Rentals
Two N. Cascade Avenue, Suite 420
Colorado Springs, CO 80903
Tel: (719) 577-0010
Fax: (719) 577-0080
www.unitedrentals.com

Valerie L. Cox, JD
Manager, Real Estate Administration
vcox@ur.com

July 27, 2006

VIA OVERNIGHT MAIL
Stan C. Sposito
5283 S.W. 201st Avenue
Aloha, Oregon 97007
Attention: Stan C. Sposito

Re: Lease for 8250 S.W. Tonka Street, Tualatin, Oregon 97062 [368]
Renewal Notice

Dear Mr. Sposito:

United Rentals Northwest, Inc. ("Tenant") hereby notifies Landlord that it is exercising its option to extend the term of the Lease through 11:59 p.m. on February 28, 2010 (the "Renewal Term"). Such Renewal Term shall be on the terms and conditions set forth in the Lease.

Please contact Andrew Lamothe at 949-809-0184 if you have any questions.

Very truly yours,

Valerie L. Cox

CS:
cc: **via email**
Todd Carlson
Joli Lyn Gross, Esq.
Bob Krause
Andrew Lamothe
Steve Nadelman - wendy
Tim Rule
Chris Staley
John Zweigart

via overnight mail
Gary Bisaccio, Esq.
4112 S.W. Condor Ave.
Portland Oregon 97201

Exhibit 15

P9 1 26 3

United Rentals, Inc.
Five Greenwich Office Park
Greenwich, CT 06830
Tel: 203 622-3131
Fax: 203 622-6080
www.unitedrentals.com

Allen J. Roberts III, Esq.
Real Estate Counsel
203-618-7331 (ph)
203-622-4325 (fax)
aroberts@ur.com

August 31, 2006

VIA FACSIMILE (503-649-2685)
& OVERNIGHT MAIL
Mr. Stan C. Sposito
5283 S.W. 201st Avenue
Aloha, Oregon 97007

Re: Lease Agreement dated January 11, 1989 between Stan C. Sposito ("Landlord") and United Rentals Northwest, Inc., successor in interest to Andersen Oregon Rental, Inc. ("Tenant"), as amended by Amendment No. 1 to Commercial Lease dated August 1, 1999, as further amended by Letter Agreement dated January 30, 2004 (collectively, the "Lease") for real property and improvements thereon located at 8250 S.W.Tonka Street, Tualatin, Oregon [#368]

Dear Mr. Sposito:

This is a follow up to Tenant's letter dated July 27, 2006 whereby it exercised the first of five (5) three (3) year Renewal Terms under the Lease. This will also confirm the mutual agreement by the parties that Basic Rent for this Renewal Term (i.e., from March 1, 2007 through February 28, 2010) shall remain at $64,083.92 per year, payable in equal monthly installments of $5,340.33.

Please confirm Landlord's agreement to the Basic Rent terms set forth above by countersigning this letter and faxing a copy back to me at (203) 622-7342 and returning the original to me via mail.

If you have any questions, please contact Andrew LaMothe at (949) 809-0184 or me at (203) 618-7331. Thank you for your prompt attention to this matter.

Very truly yours,

Allen J. Roberts, III

Exhibit 15

P9 263

AJR:
cc: **via overnight mail**
Gary Bisaccio, Esq.
4112 S.W. Condor Avenue
Portland, Oregon 97201

via e-mail
Todd Carlson
Valerie Cox, J.D.
Joli Lyn Gross, Esq.
Bob Krause
Andrew LaMothe
Steve Nadelman
Tim Rule
Chris Staley
John Zweigart

AGREED AND ACCEPTED
THIS ____ DAY OF _____, 2006

STAN C. SPOSITO

By:_____
Name:
Title:

EXHIBIT 15

PG 3 of 3

7/1/07 TO 6/30/08 REAL PROPERTY TAX STATEMENT

WASHINGTON COUNTY OREGON * 155 N FIRST AVE., RM 130 * HILLSBORO, OREGON 97124

PROPERTY DESCRIPTION | **MAP:** 2S124CB-01700 | **ACCOUNT NO:** R534176

SITUS: 8250 SW TONKA RD,
ACRES 1.21

CODE AREA: 023.01

S & T SPOSITO LIVING TRUST
% BISACCIO, GARY & PAULA
5283 SW 201ST AVE
ALOHA, OR 97007

VALUES:	LAST YEAR	THIS YEAR
MARKET VALUES:		
LAND	645,130	1,033,060
STRUCTURE	60,400	48,470
TOTAL RMV VALUE	705,530	1,081,530
TAXABLE VALUES:		
ASSESSED VALUE	377,590	388,910
PROPERTY TAXES:	$5,851.92	$6,349.90

APPEAL DEADLINE	December 31, 2007
Value Questions	Call 503-846-8826
Tax Questions	Call 503-846-8801
Personal Property Questions	Call 503-846-8838
Other Questions	Call 503-846-8741

PROPERTY TAX PAYMENT OPTIONS
(See back of Statement for payment instructions.)

Pay	Due	Discount	Net Amount Due
In Full	11/15/07	190.50	$6,159.40
2/3	11/15/07	84.67	$4,148.60
1/3	11/15/07	NONE	$2,116.64

PLEASE MAKE PAYMENT TO: Washington County Tax

Make Online Payments at:
https://ecomm.co.washington.or.us/propertytax
Pay by Phone at: (888) 510-9274

2007-2008 CURRENT TAX BY DISTRICT:

COLL-PORTLAND	93.18
ESD-NW REGIONAL	51.14
SCHOOL - TIGARD	1,696.62
TIGARD/TUAL/AFTER LOL	388.91
EDUCATION TAXES:	$2,229.85
WASHINGTON COUNTY	738.03
REG-METRO SERVICE	32.40
PORT-PORTLAND	23.53
FIRE-TV FIRE & RESCUE	511.30
CITY-TUALATIN	759.81
UR-TUALATIN-DOT	704.24
FIRE-TV FIRE & RESCUE LOL	97.23
WASHINGTON COUNTY LOL AFTER	229.46
GENERAL GOVERNMENT TAXES:	$3,096.00
BOND-WASHINGTON COUNTY	63.94
BOND-METRO SERVICE DIST	57.60
BOND-PCC	73.27
BOND-SD #23-TIGARD	264.61
BOND-TV FIRE & RESCUE	10.35
BOND-CITY OF TUALATIN	49.78
BOND-TRI-MET	28.74
BOND-TIGARD/TUALATIN-AFTER	318.40
BOND-TV FIRE & RESCUE AFTER	24.58
BOND-CITY TUALATIN AFTER	70.20
BOND-METRO SERVICE AFTER	62.58
BOND AND MISC TAX:	$1,024.05
2007-08 TAX (Before Discount)	$6,349.90

DELINQUENT TAXES: NO DELINQUENT TAXES DUE
(See back for explanation of taxes marked with an asterisk (*).
Delinquent Tax Total is included in payment options to the left.)

TOTAL (After Discount): $6,159.40
All Payments Processed Upon Receipt

Tear Here — PLEASE RETURN THIS PORTION WITH PAYMENT - SEE BACK OF STATEMENT FOR INSTRUCTIONS — Tear Here

2007-2008 Property Tax Payment Stub — WASHINGTON COUNTY, OREGON — **ACCOUNT NO: R534176**

SITUS: 8250 SW TONKA RD,

☐ Mailing address change or name change on back of stub.

FULL PAYMENT (Includes 3% Discount)
2/3 PAYMENT (Includes 2% Discount)
1/3 PAYMENT (No Discount Offered)

Unpaid DELINQUENT TAX DUE IS INCLUDED IN PAYMENT OPTIONS.

DUE:	11-15-07	$6,159.40
DUE:	11-15-07	$4,148.60
DUE:	11-15-07	$2,116.64

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE.

S & T SPOSITO LIVING TRUST
% BISACCIO, GARY & PAULA
5283 SW 201ST AVE
ALOHA, OR 97007

Please Make Payment to:
WASHINGTON COUNTY
Property Tax Payment Center
P. O. Box 3587
Portland, OR 97208-3587

Exhibit 16
pg 1 of 2

34000015341760000615940000041486000002116640

150-553-008 (Rev. 6-07)

7/1/07 TO 6/30/08 REAL PROPERTY TAX STATEMENT

WASHINGTON COUNTY OREGON * 155 N FIRST AVE., RM 130 * HILLSBORO, OREGON 97124

PROPERTY DESCRIPTION | **MAP:** 2S124CB-01805 | **ACCOUNT NO:** R2052705

SITUS:

1994-011 PARTITION PLAT, LOT PT 3, ACRES .03

CODE AREA: 023.01

S & T SPOSITO LIVING TRUST
BY STAN/TRACY R SPOSITO TRS
5283 SW 201ST AVE
ALOHA, OR 97007

VALUES:	LAST YEAR	THIS YEAR
MARKET VALUES:		
LAND	2,610	2,610
STRUCTURE	0	0
TOTAL RMV VALUE	2,610	2,610
TAXABLE VALUES:		
ASSESSED VALUE	690	710
PROPERTY TAXES:	$10.69	$11.59

APPEAL DEADLINE	December 31, 2007
Value Questions	Call 503-846-8826
Tax Questions	Call 503-846-8801
Personal Property Questions	Call 503-846-8838
Other Questions	Call 503-846-8741

PROPERTY TAX PAYMENT OPTIONS

(See back of Statement for payment instructions.)

Pay	Due	Discount	Net Amount Due
In Full	11/15/07	0.35	$11.24
2/3	11/15/07	0.15	$7.58
1/3	11/15/07	NONE	$3.87

PLEASE MAKE PAYMENT TO: Washington County Tax

Make Online Payments at:
https://ecomm.co.washington.or.us/propertytax

Pay by Phone at: (888) 510-9274

2007-2008 CURRENT TAX BY DISTRICT:

COLL-PORTLAND	0.17
ESD-NW REGIONAL	0.09
SCHOOL - TIGARD	3.10
TIGARD/TUAL/AFTER LOL	0.71
EDUCATION TAXES:	$4.07
WASHINGTON COUNTY	1.35
REG-METRO SERVICE	0.06
PORT-PORTLAND	0.04
FIRE-TV FIRE & RESCUE	0.93
CITY-TUALATIN	1.39
UR-TUALATIN-DOT	1.29
FIRE-TV FIRE & RESCUE LOL	0.18
WASHINGTON COUNTY LOL AFTER	0.42
GENERAL GOVERNMENT TAXES:	$5.66
BOND-WASHINGTON COUNTY	0.12
BOND-METRO SERVICE DIST	0.11
BOND-PCC	0.13
BOND-SD #23-TIGARD	0.48
BOND-TV FIRE & RESCUE	0.02
BOND-CITY OF TUALATIN	0.09
BOND-TRI-MET	0.05
BOND-TIGARD/TUALATIN-AFTER	0.58
BOND-TV FIRE & RESCUE AFTER	0.04
BOND-CITY TUALATIN AFTER	0.13
BOND-METRO SERVICE AFTER	0.11
BOND AND MISC TAX:	$1.86
2007-08 TAX (Before Discount)	$11.59

DELINQUENT TAXES: NO DELINQUENT TAXES DUE

(See back for explanation of taxes marked with an asterisk (*).
Delinquent Tax Total is included in payment options to the left.)

TOTAL (After Discount): $11.24

All Payments Processed Upon Receipt

Tear Here — PLEASE RETURN THIS PORTION WITH PAYMENT - SEE BACK OF STATEMENT FOR INSTRUCTIONS — Tear Here

2007-2008 Property Tax Payment Stub — WASHINGTON COUNTY, OREGON — **ACCOUNT NO:** R2052705

☐ Mailing address change or name change on back of stub.

SITUS:

FULL PAYMENT (Includes 3% Discount)
2/3 PAYMENT (Includes 2% Discount)
1/3 PAYMENT (No Discount Offered)

Unpaid DELINQUENT TAX DUE IS INCLUDED IN PAYMENT OPTIONS.

DUE: 11-15-07 ..... $11.24
DUE: .....
DUE: .....

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE.

S & T SPOSITO LIVING TRUST
BY STAN/TRACY R SPOSITO TRS
5283 SW 201ST AVE
ALOHA, OR 97007

Please Make Payment to:
WASHINGTON COUNTY
Property Tax Payment Cent
P. O. Box 3587
Portland, OR 97208-3587

Exhibit 16

P9 2 of 2

340001205270500000011240000000758000000003877

150-553-008 (Rev. 6-07)

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

4 WEEK BILLING INVOICE

Job Site

TRESKY
14140 SW GALBREATH DRIVE
SHERWOOD, OR 97140

C#: 503-656-7400 J#: 503-656-7400

Customer

PORTLAND MECHANICAL CONTRACTOR
2000 SE HANNA HARVESTER DR
MILWAUKIE, OR 97222

Customer.... 231298
Invoice #... 70754413-001
Invoice date 1/08/08
Date out.... 12/27/07 11:30 AM
Billed thru. 1/24/08

Job Loc..... 14140 SW GALBREATH DRIVE, SHE
Job No..... 1 - TRESKY
P.O. #..... 71136
Ordered By.. GREG
Written by.. CYCLE BILL
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	SCISSOR 24-26FT 46-68 *	125.00	125.00	350.00	695.00	695.00
	360215 Make: GENIE Model: GS2646 Ser #: GS46-45804					
	HR OUT: 280.70 HR IN:	TOTAL:	280.70			

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV	MCI	EA	3.330	3.33
	ENVIRONMENTAL CHARGE				
	UM: (EA) EACH				
	DELIVERY CHARGE				75.00
	PICKUP CHARGE				75.00

KEN 503-209-4030
D/O INTO BRAND-NEW BLDG ONSITE - SEE KEN FOR 263 DOUG TO DELIVER OFF 1ST....

Sub-total: 848.33

Total: 848.33

BILLED FOR FOUR WEEKS 12/27/07 THRU 1/24/08 11:30 AM
RENTAL PROTECTION DECLINED

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and unders[illegible] REMINDERS: (1) Rates do not include fuel or delivery; (2) Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equip** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5 other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS A AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

Pg 1 of 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

4 WEEK BILLING INVOICE

Job Site

PURINA MILLS INC / MCMINNVILLE
102 BOOTH BEND RD
MCMINNVILLE, OR 97128

C#: 503-286-6354 J#: 503-472-9551

Customer

LAND O LAKES INC PDX
15840 N SIMMONS RD
PORTLAND, OR 97203

Customer.... 72801
Invoice #... 70713702-001
Invoice date 1/08/08
Date out.... 12/22/07 8:30 AM
Billed thru. 1/19/08

Job Loc..... 102 BOOTH BEND RD, MCMINNVILL
Job No..... 1 - PURINA MILLS INC
P.O. #..... 122107
Ordered By.. JIM
Written by.. CYCLE BILL
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	BOOM 80FT IC ARTICULATE 4WD *	840.00	840.00	2700.00	7875.00	7875.00
	212-18-2 Make: GROVE Model: AMZ86XT Ser #: 29562					
	HR OUT: 5020.80 HR IN:		TOTAL: 5020.80			

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV	MCI	EA	25.000	25.00
	ENVIRONMENTAL CHARGE				
	UM: (EA) EACH				
	DELIVERY CHARGE				75.00
	PICKUP CHARGE				75.00

JIM WILLIAMS 503 472-9551 X9315
FOR JAMIE TO DELIVER.....

Sub-total: 8050.00
Total: 8050.00

BILLED FOR FOUR WEEKS 12/22/07 THRU 1/19/08 08:30 AM
RENTAL PROTECTION DECLINED

***ENVIRONMENTAL CHARGE:** The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: ***THE RENTAL PROTECTION PLAN IS NOT INSURANCE!*** Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. ***Customer Accepts*** (_____) ***Customer Declines*** (_____)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and unders' Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equipn** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5 other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the **TERMS AN AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTAL EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

Pg 2 of 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals
24 hour service 7 days a week

LOCATION #263
14020 SW 72ND AVE
TIGARD, OR 97224
503-620-1235
503-968-6306 FAX

RENTAL OUT CONTRACT

Job Site

KFC
50TH AND POWELL
PORTLAND, OR 97086

C#: 503-620-7990 J#: 503-620-7990

Customer

LEAGJELD CONSTRUCTION CO
PO BOX 754
TUALATIN, OR 97062

Customer.... 68652
Contract #.. 70909952
Contract dt. 1/07/08
Date out.... 1/07/08 1:06 PM
Date Due In. 1/08/08 1:06 PM

Job Loc..... 50TH AND POWELL, PORTLAND
Job No..... 6 - KFC - KFC - KFC
P.O. #..... VERBAL
Ordered By.. DOUG SAUER
Written by.. UR368MZ
Salesperson. 5509
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	DEMO HAMMER 60# ELECTRIC	50.00	65.00	225.00	600.00	
	735803 Make: SB PWRTOOL Model: 11304 Ser #: 001637					
	Do not use more than 50' of grounded extension cord					
	12 gauge cord required.					

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
2	RSC	MCI	EA	8.500	17.00
	RESHARPENING CHARGE, CHISEL				
	UM: (EA) EACH				

DOUG SAUER 503-784-2937
RENTAL PROTECTION DECLINED

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
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OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts (____)* *Customer Declines (DS)*

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse si... TERMS AND CONDITIONS listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and ... Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the E...** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forn... other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERM... **AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RE... EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

Pg 3 of 32

X _____

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

QUALITY
CONDITION REPORT

Contract # 70909952
Date 1/07/08
Customer LEAGJELD CONSTRUC

Make	Model	Serial#	Equip #
SB PWRTOO	11304	001637	735803

MARK CLEARLY ALL DAMAGE BY SYMBOL "C" = CUT "H" = HOLE "D" = DENT "P" = PAINT DAMAGE

RENTAL OUT - Diagram & identify any existing damage or strike-out box

RENTAL IN - Diagram & identify any damage upon return

Inspection: Check if acceptable in accordance with manufacturer spec	OUT	IN
Structure and components secure and undamaged		
Tire condition–Spec		
All functions operate properly		
Safety devices intact and functional		
Operational and safety decals present & legible		
Operators Manual attached		
Battery charged/fueled Qty fueled IN		
Appearance acceptable - note and mark exceptions in diagram		
Fluids, Filters, Greased		
Electrical cord/plug		
Starter pull cord		
Accessories		
Accessories		

Towable equipment-Record license plate of towing vehicle:

Comments - OUT

Comments - IN (if damaged, provide details of occurrence)

Inspected and condition OUT confirmed as specified above:

United Rentals by Print Name

Date Hr Meter

Inspected and condition IN confirmed as specified above:

United Rentals by Print Name

Date Hr Meter

CUSTOMER ACKNOWLEDGEMENT: THE SAFETY AND PERFORMANCE OF THIS EQUIPMENT HAS BEEN VERIFIED. I AM RESPC EQUIPMENT. I UNDERSTAND THE CORRECT OPERATION AND FUNCTION OF THE CONTROLS AND CONFIRM THAT I HAVE RECI SHEET. TO ENABLE MYSELF AND/OR MY CREW TO USE THE EQUIPMENT IN A SAFE AND PROPER MANNER WITHOUT RISK TC

Customer acknowledges condition received as specified above:

Customer by

Print Name Date

Customer acknowl

Customer by

Print Name

Exhibit 17

Pg 4 of 32

UR1030

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

4 WEEK BILLING INVOICE

Job Site

NEW CONSTRUCTION
12555 SW LEVITON RD
TUALATIN, OR 97062

C#: 360-696-1604 J#: 360-696-1604

Customer

GARONAIRE INC
2515 KAUFFMAN AVE
VANCOUVER, WA 98660-2946

Customer.... 3553275
Invoice #... 70577255-001
Invoice date 1/02/08
Date out.... 12/17/07 8:00 AM
Billed thru. 1/14/08

Job Loc..... 12555 SW LEVITON RD, TUALATIN
Job No..... 1 - NEW CONSTRUCTION
P.O. #..... 12141
Ordered By.. DEVIN
Written by.. CYCLE BILL
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	SCISSOR 24-26FT 30-36	*	140.00	140.00	350.00	750.00	750.00
	609111 Make: SKYJACK Model: SJIII3226 Ser #: 271937						
	HR OUT: 188.80 HR IN:		TOTAL:	188.80			

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV	MCI	EA	3.600	3.60
	ENVIRONMENTAL CHARGE				
	UM: (EA) EACH				
	DELIVERY CHARGE				75.00
	PICKUP CHARGE				75.00

FRED 360-607-3410, 1ST BUILDING ON THE
RIGHT HAND SIDE... Sub-total: 903.60
696-1604 FOR DEVIN
FOR MIKE TO DELVER OFF 1ST..... **Total: 903.60**
BILLED FOR FOUR WEEKS 12/17/07 THRU 1/14/08 08:00 AM
RENTAL PROTECTION DECLINED

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
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READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and und
Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equ**
rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms;
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the **TERMS**
AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT
EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

Pg 5 to 32

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RESERVATION

Job Site

DYNAMIC BUSINESS INTERIORS
10955 SW COMMERCE CIR
SUITE D
WILSONVILLE, OR 97070
C#: 503-449-7475 J#: 503-412-9690

Customer

SCHMEETS II, WILLIAM BRADFORD
1775 SE WILLAMETTE ST
DYNAMIC BUSINESS INTERIORS
SHERWOOD, OR 97140

Customer.... 1003200416
Contract #.. 70842903
Contract dt. 1/03/08
Date out.... 1/03/08 12:00 PM
Date Due In. 1/10/08 12:00 PM

Job Loc..... 10955 SW COMMERCE CIR, WILSON
Job No.....
P.O. #.....
Ordered By..
Written by.. UR368MZ
Salesperson. 99
Terms..... Due Upon Receipt

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	SCISSOR 19FT ELEC MINI 3002000	*	115.00	115.00	245.00	545.00	245.00
1	SAFETY HARNESS FULL BODY		11.00	11.00	22.00	54.00	22.00

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV ENVIRONMENTAL CHARGE UM: (EA) EACH	MCI	EA	1.170	
	DELIVERY CHARGE				75.00
	PICKUP CHARGE				75.00

PAYMENT HISTORY

DATE	TYPE	REF #	AUTH #	TRANS TYPE	AMOUNT	APPLIED
1/03/08	MASTERCARD	**2016	028475	AUTHORIZED	455.55	

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer. X_____

D/O @ GRADE DOOR ON APPRCH SIDE
FOREMAN IS ROBBIE

Sub-total:	418.17
Rental protection:	37.38
Estimated Total:	**455.55**

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and understands. REMINDERS: (1) Rates do not include fuel or delivery; (2) Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equipr** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5 other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS AN AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTAL EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17
page 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

```
                    Print Key Output                              Page   1
5722SS1 V5R4M0 060210                URAS07                 01/03/08  13:03:45

Display Device . . . . . :  QPADEV00P8
User . . . . . :  UR368MZ

/03/08  13:03:01        Create Reservation Review              Sys: UNITED
                                                               Cmp: U1 Loc: 368

 1/03/08                          Credit Card                  Sys: UNITED
13:03:43                        User: UR368MZ                  Cmp: U1 Loc: 368

     Use Previous Authorization: N  Get New Authorization Only: Y

                         Card #: 5287152971622016
                     Expiration:  8/10 (MMYY)
                    Card Holder: WILLIAM SCHMEETS
                    Card Amount:          455.55
                 Approved Auth #: 028475
                Transaction Type: AU
                      Card Type: MASTERCARD

F6=Manual Card Entry   F8=Manual Auth# Entry   F12=Cancel
Press enter to write Contract/Invoice.
Created response queue: QPADEV00P8.

F3=Exit   F9=Accept Cash   F11=Create; Go to Sales Invoice   F12=Prev  F24=More
Press enter to process credit card approval.
```

EXHIBIT 17

PG 7 of 32

RENTAL OUT CONTRACT

United Rentals

LOCATION #370
15180 SE 82ND DRIVE
CLACKAMAS, OR 97015
503-656-1234
503-656-2682 FAX

Job Site

SKREEN, BRADLEY THOMAS
1736 KIMBERLY DR
WEST LINN, OR 97068

C#: 503-657-6931 J#: 503-657-6931

Customer

SKREEN, BRADLEY THOMAS
1736 KIMBERLY DR
WEST LINN, OR 97068

Customer.... 1004301373
Contract #.. 70843673
Contract dt. 1/03/08
Date out.... 1/03/08 11:00 AM
Date Due In. 1/10/08 11:00 AM

Job Loc..... TUALATIN
Job No.....
P.O. #.....
Ordered By..
Written by.. UR368MZ
Salesperson. 99
Terms..... Due Upon Receipt

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	SAW CIRCULAR 16 IN 615424 Make: MAKITA Model: 5402NA Ser #: 8869E Do not use more than 50' of grounded extension cord 12 gauge cord required.	40.00	40.00	108.00	258.00	108.00

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	BR BLADE RESHARPEN UM: (EA) EACH	MCI	EA	24.000	24.00

PAYMENT HISTORY

DATE	TYPE	REF #	AUTH #	TRANS TYPE	AMOUNT	APPLIED
1/03/08	VISA CARD	**6110	090546	CHARGED		147.12

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer. X

Sub-total:	132.00
Rental protection:	15.12
Total:	**147.12**
Deposit:	147.12

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* ( ) *Customer Declines* ( )

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and unde Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equip** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (! other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS AI **AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

P9 & 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

```
                    Print Key Output                              Page   1
5722SS1 V5R4M0 060210                URAS07                 01/03/08  13:19:58

Display Device  . . . . . :  QPADEV01XP
User  . . . . . . . . . . :  UR368MZ

/03/08  13:19:47            Sales Order Review                 Sys: UNITED
                                                               Cmp: U1 Loc: 368

 1/03/08                        Credit Card                    Sys: UNITED
13:19:55                      User: UR368MZ                    Cmp: U1 Loc: 368

     Use Previous Authorization: N  Get New Authorization Only: N

                         Card #: 4802131806546110
                     Expiration: 10/10 (MMYY)
                    Card Holder: SKREEN/BRADLEY
                    Card Amount:            7.74
                 Approved Auth #: 077773
                Transaction Type: AT
                       Card Type: VISA CARD

F6=Manual Card Entry   F8=Manual Auth# Entry   F12=Cancel
Press enter to write Contract/Invoice.
Created response queue: QPADEV01XP.

F3=Exit    F9=Accept cash    F12=Previous   F14=Split Payment     F24=More keys
Press enter to process credit card approval.
```

Exhibit C

Pg 9 of 32

RENTAL RETURN INVOICE

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

Job Site

WESTECH CONSTRUCTION INC
BARBER & BOBERG
JUST WEST OF BOONES FERRY
WILSONVILLE, OR 97070
C#: 503-777-7000 J#: 503-777-7000

Customer

WESTECH CONSTRUCTION INC
2204 NE 194TH AVENUE
PORTLAND, OR 97230

Customer.... 137754
Invoice #... 70848286-002
Invoice date 1/10/08
Date out.... 1/03/08 3:00 PM
Date in..... 1/03/08 3:00 PM

Job Loc..... BARBER & BOBERG, WILSONVILLE
Job No..... 131 WESTECH CONSTRUC
P.O. #..... 2704
Ordered By.. CARIE
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	LIGHT TOWER, TOWABLE SM *	90.00	100.00	300.00	695.00	N/C
	926690 Make: MAGNUM PRO Model: MLT3060 Ser #: 061847					
	HR OUT: 1010.30 HR IN: 1010.30					
	Meter from prior exchange is 17.600					

FOR 263 DOUG TO DELIVER OFF 2ND....
RENTAL PROTECTION DECLINED

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
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READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) r in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equipr** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (E other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS AI AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

pg 10 & 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

RENTAL RETURN INVOICE

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

Job Site

BALDWIN, JUSTIN L
8410 SW NIMBUS RD
(JUSTIN L BALDWIN CONST)
BEAVERTON, OR 97005
C#: 503-805-0150 J#: 503-805-0150

Customer

BALDWIN, JUSTIN L
21486 SW LADYFERN DR
(JUSTIN L BALDWIN CONST)
SHERWOOD, OR 97140

Customer.... 1001717919
Invoice #... 70560049-001
Invoice date 1/10/08
Date out.... 12/14/07 12:00 PM
Date in..... 12/14/07 12:00 PM

Job Loc..... 8410 SW NIMBUS RD, BEAVERTON
Job No.....
P.O. #.....
Ordered By..
Written by.. UR368MZ
Salesperson. 99
Terms..... Due Upon Receipt

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	SCISSOR 19FT ELEC MINI	*	115.00	115.00	245.00	475.00	N/C
	625382 Make: SKYJACK Model: 3219 Ser #: 241392						
	HR OUT: 74.70 HR IN: 74.70						

PAYMENT HISTORY

DATE	TYPE	REF #	AUTH #	TRANS TYPE	AMOUNT	APPLIED
12/14/07	MASTERCARD	**9210	B91882	AUTH USED		
12/14/07	MASTERCARD	**9210	B91882	CHARGED		700.00
12/17/07	PAY ON RETURN					
1/10/08	PAY ON RETURN					
1/10/08	MASTERCARD	**9210		CREDITED		700.00-

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer. X_____

Deliver to strip mall Hall & Nimbus
by Satrbucks & Garlic Jims
FOR 263 DOUG TO DELIVER
Amount refunded to customer: 700.00
RENTAL PROTECTION DECLINED

Deposit: 700.00
Amount refunded: 700.00

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AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT/ EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

X

CUSTOMER SIGNATURE DATE NAME PRINTED

P9 11 to 32

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

GOODFELLOW BROS OREGON
27500 SW PARKWAY
WILSONVILLE, OR 97070

C#: 503-256-4114 J#: 503-256-4114

Customer

GOODFELLOW BROS OREGON
6135 NE 80TH AVE STE A3
PORTLAND, OR 97218-4033

Customer.... 75693
Invoice #... 70836159-001
Invoice date 1/10/08
Date out.... 1/03/08 8:00 AM
Date in..... 1/03/08 8:00 AM

Job Loc..... 27500 SW PARKWAY, WILSONVILLE
Job No..... 93- GOODFELLOW BROS
P.O. #..... 338
Ordered By.. FRANK
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
CREDIT OFFICE# 930
PO BOX 846394
DALLAS, TX 75284-6394

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	PUMP 2 IN TRASH	*	40.00	40.00	140.00	301.00	N/C
	925398 Make: MULTIQUIP	Model: QP2TH	Ser #: 2TH-5722				
2	DISCHARGE HOSE 2 IN X 50 FT		10.00	10.00	30.00	60.00	N/C
1	SUCTION HOSE 2 IN X 20 FT		12.00	12.00	21.00	42.00	N/C

RENTAL PROTECTION DECLINED

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rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms;
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS A
AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

Pg 12 to 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL OUT CONTRACT

Job Site

GOODFELLOW BROS OREGON
27500 SW PARKWAY
WILSONVILLE, OR 97070

C#: 503-256-4114 J#: 503-256-4114

Customer

GOODFELLOW BROS OREGON
6135 NE 80TH AVE STE A3
PORTLAND, OR 97218-4033

Customer.... 75693
Contract #.. 70836159
Contract dt. 1/03/08
Date out.... 1/03/08 8:00 AM
Date Due In. 1/04/08 8:00 AM

Job Loc..... 27500 SW PARKWAY, WILSONVILLE
Job No..... 93- GOODFELLOW BROS
P.O. #..... 338
Ordered By.. FRANK
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
CREDIT OFFICE# 930
PO BOX 846394
DALLAS, TX 75284-6394

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	PUMP 2 IN TRASH	*	40.00	40.00	140.00	301.00	
	925398 Make: MULTIQUIP	Model: QP2TH	Ser #: 2TH-5722				
2	DISCHARGE HOSE 2 IN X 50 FT		10.00	10.00	30.00	60.00	
1	SUCTION HOSE 2 IN X 20 FT		12.00	12.00	21.00	42.00	

RENTAL PROTECTION DECLINED

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

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READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under
Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equip**
rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS A
AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA
EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

Pg 13 & 32

X _____ _____ _____
CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

QUALITY
CONDITION REPORT

Contract # 70836159
Date 1/03/08
Customer GOODFELLOW BROS O

Make	Model	Serial#	Equip #
MULTIQUIP	QP2TH	2TH-5722	925398

MARK CLEARLY ALL DAMAGE BY SYMBOL "C" = CUT "H" = HOLE "D" = DENT "P" = PAINT DAMAGE

RENTAL OUT - Diagram & identify any existing damage or strike-out box	RENTAL IN - Diagram & identify any damage upon return

Inspection: Check if acceptable in accordance with manufacturer spec	OUT	IN
Structure and components secure and undamaged		
Tire condition–Spec		
All functions operate properly		
Safety devices intact and functional		
Operational and safety decals present & legible		
Operators Manual attached		
Battery charged/fueled Qty fueled IN		
Appearance acceptable - note and mark exceptions in diagram		
Fluids, Filters, Greased		
Electrical cord/plug		
Starter pull cord		
Accessories		
Accessories		
Towable equipment-Record license plate of towing vehicle:		

Comments - IN (if damaged, provide details of occurrence)

Comments - OUT

Inspected and condition OUT confirmed as specified above:
United Rentals by Print Name
Date Hr Meter

Inspected and condition IN confirmed as specified above:
United Rentals by Print Name
Date Hr Meter

CUSTOMER ACKNOWLEDGEMENT: THE SAFETY AND PERFORMANCE OF THIS EQUIPMENT HAS BEEN VERIFIED. I AM RESPO EQUIPMENT, I UNDERSTAND THE CORRECT OPERATION AND FUNCTION OF THE CONTROLS AND CONFIRM THAT I HAVE RECE SHEET TO ENABLE MYSELF AND/OR MY CREW TO USE THE EQUIPMENT IN A SAFE AND PROPER MANNER WITHOUT RISK TO

Customer acknowledges condition received as specified above:
Customer by
Print Name Date

Customer acknowle
Customer by
Print Name

Exhibit 17
Pg 14 of 32

UR1030

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

GABEL CONTRACTING INC
14510 SW BELL RD
TUALATIN, OR 97062

C#: 503-936-5977 J#: 503-936-5977

Customer

GABEL CONTRACTING INC
20214 MERIWETHER DRIVE
OREGON CITY, OR 97045

Customer.... 1037190
Invoice #... 70209051-002
Invoice date 1/10/08
Date out.... 12/04/07 8:00 AM
Date in..... 1/01/08 8:00 AM
Last billed. 1/01/08
Job Loc..... 14510 SW BELL RD, SHERWOOD
Job No..... 1 - GABEL CONTRACTIN
P.O. #.....
Ordered By..
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	BOOM 37FT-44FT STICK 4WD *		265.00	745.00	1500.00	N/C
	989792 Make: JLG Model: 400S 4WD DIESEL Ser #: 0300112064					
	HR OUT: 269.50 HR IN: 269.50					

PAYMENT HISTORY

DATE	TYPE	REF #	AUTH #	TRANS TYPE	AMOUNT	APPLIED
11/29/07	MASTERCARD	**9902	029687	CHARGED		900.00
11/30/07	MASTERCARD	**9902		CREDITED		900.00-

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer. X_____

KNOWS TO CALL FOR PU
FINAL BILL: 1/01/08 08:00 AM THRU 1/01/08 08:00 AM.
RENTAL PROTECTION DECLINED

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) a... ...ccepts all TERMS AND CONDITIONS listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under... Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equipr...** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5... other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS AN... AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTAL... EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

P9 15 to 32

X _____ _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY:

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

GABEL CONTRACTING INC
14510 SW BELL RD
TUALATIN, OR 97062

C#: 503-936-5977 J#: 503-936-5977

Customer

GABEL CONTRACTING INC
20214 MERIWETHER DRIVE
OREGON CITY, OR 97045

Customer.... 1037190
Invoice #... 70296023-002
Invoice date 1/10/08
Date out.... 12/04/07 8:00 AM
Date in..... 1/01/08 8:00 AM
Last billed. 1/01/08
Job Loc..... 14510 SW BELL RD, TUALATIN
Job No..... 1 - GABEL CONTRACTIN
P.O. #..... 14510 SW BELL RD
Ordered By.. ERIC
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	FORKLIFT VAR REACH 6000LB *	320.00	257.00	892.00	1850.00	N/C
	995058 Make: JLG Model: 6042 Ser #: 0160027353					
	HR OUT: 111.30 HR IN: 111.30					

KNOWS CALL FOR PU
FOR 263 JOHN TO DELIVER OFF 2ND.....
FINAL BILL: 1/01/08 08:00 AM THRU 1/01/08 08:00 AM.
RENTAL PROTECTION DECLINED

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Exhibit 17

Pg 16 of 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

NEW CONSTRUCTION
12555 SW LEVITON RD
TUALATIN, OR 97062

C#: 360-696-1604 J#: 360-696-1604

Customer

GARONAIRE INC
2515 KAUFFMAN AVE
VANCOUVER, WA 98660-2946

Customer.... 3553275
Invoice #... 70577255-002
Invoice date 1/10/08
Date out.... 12/17/07 8:00 AM
Date in..... 1/14/08 8:00 AM
Last billed. 1/14/08
Job Loc..... 12555 SW LEVITON RD, TUALATIN
Job No..... 1 - NEW CONSTRUCTION
P.O. #..... 12141
Ordered By.. DEVIN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	SCISSOR 24-26FT 30-36	*	140.00	140.00	350.00	750.00	N/C
	609111 Make: SKYJACK Model: SJIII3226 Ser #: 271937						
	HR OUT: 188.80 HR IN: 188.80						

FRED 360-607-3410, 1ST BUILDING ON THE
RIGHT HAND SIDE...
696-1604 FOR DEVIN
FOR MIKE TO DELVER OFF 1ST.....
FINAL BILL: 1/14/08 08:00 AM THRU 1/14/08 08:00 AM.
RENTAL PROTECTION DECLINED

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Exhibit 17

pg 17 no 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

PURINA MILLS INC / MCMINNVILLE
102 BOOTH BEND RD
MCMINNVILLE, OR 97128

C#: 503-286-6354 J#: 503-472-9551

Customer

LAND O LAKES INC PDX
15840 N SIMMONS RD
PORTLAND, OR 97203

Customer.... 72801
Invoice #... 70713702-002
Invoice date 1/10/08
Date out.... 12/22/07 8:30 AM
Date in..... 1/19/08 8:30 AM
Last billed. 1/19/08
Job Loc..... 102 BOOTH BEND RD, MCMINNVILL
Job No..... 1 - PURINA MILLS INC
P.O. #..... 122107
Ordered By.. JIM
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	BOOM 80FT IC ARTICULATE 4WD *	840.00	840.00	2700.00	7875.00	N/C
	212-18-2 Make: GROVE Model: AMZ86XT Ser #: 29562					
	HR OUT: 5020.80 HR IN: 5020.80					

JIM WILLIAMS 503 472-9551 X9315
FOR JAMIE TO DELIVER.....
FINAL BILL: 1/19/08 08:30 AM THRU 1/19/08 08:30 AM.
RENTAL PROTECTION DECLINED

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Exhibit 17

P9 18 & 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

CREDIT MEMO

Job Site

TRESKY
14140 SW GALBREATH DRIVE
SHERWOOD, OR 97140

C#: 503-656-7400 J#: 503-656-7400

Customer

PORTLAND MECHANICAL CONTRACTOR
2000 SE HANNA HARVESTER DR
MILWAUKIE, OR 97222

Customer.... 231298
Invoice #... 70754413-003
Invoice date 1/10/08
Date out.... 1/10/08 1:37 PM
Date in..... 1/10/08 1:37 PM

Job Loc..... 14140 SW GALBREATH DRIVE, SHE
Job No..... 1 - TRESKY
P.O. #..... 71136
Ordered By.. GREG
Written by.. UR368MZ
Salesperson. 7302
Credit Inv.. 70754413-001

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	SCISSOR 24-26FT 46-68 *	125.00	125.00	350.00	695.00	142.00-
	360215 Make: GENIE Model: GS2646 Ser #: GS46-45804					
	HR OUT: 280.70 HR IN:	TOTAL:	280.70			

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV	MCI	EA	.680	.68-
	ENVIRONMENTAL CHARGE				
	UM: (EA) EACH				
	Reason: INPUT ERROR CREDIT				
	DELIVERY CHARGE				20.00-
	PICKUP CHARGE				20.00-

KEN 503-209-4030
D/O INTO BRAND-NEW BLDG ONSITE - SEE KEN
FOR 263 DOUG TO DELIVER OFF 1ST....

Sub-total: 182.68-
Total: 182.68-

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EXHIBIT 17

X

CUSTOMER SIGNATURE DATE NAME PRINTED

PG 19 OF 32

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

PORTLAND MILLWORK INC
29600 SW SEELY AVE
WILSONVILLE, OR 97070

C#: 503-612-6828 J#: 503-612-6828

Customer

PORTLAND MILLWORK INC
10280 SOUTH WEST SPOKANE COURT
PO BOX 2300
TUALATIN, OR 97062-2300

Customer.... 184073
Invoice #... 70607925-002
Invoice date 1/10/08
Date out.... 12/18/07 8:00 AM
Date in..... 1/15/08 8:00 AM
Last billed. 1/15/08
Job Loc..... 29600 SW SEELY AVE, WILSONVIL
Job No..... 4 - PORTLAND MILLWOR
P.O. #..... CRAIG
Ordered By.. CRAIG
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	SCISSOR 24-26FT 46-68	*	125.00	125.00	350.00	695.00	N/C
	634946 Make: GENIE Model: GS2646 Ser #: GS4604-61469						
	HR OUT: 182.40 HR IN: 182.40						

CRAIG 503-849-4556
KNOWS TO CALL FOR PU
FOR CAL TO DELIVER OFF 1ST.....
FINAL BILL: 1/15/08 08:00 AM THRU 1/15/08 08:00 AM.
RENTAL PROTECTION ACCEPTED

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AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT
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Exhibit 17

pg 20 to 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY: DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL RETURN INVOICE

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Invoice #... 69313676-007
Invoice date 1/10/08
Date out.... 10/23/07 8:32 AM
Date in..... 1/10/08 10:05 AM
Last billed. 1/15/08
Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
8	GRAVITY PIN refuced guard rails	1.00	1.00	1.00	4.00	N/C

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
8	6757480 GRAVITY PIN UM: (EA) EACH = 1.00		EA		N/C

FINAL BILL: 1/15/08 08:32 AM THRU 1/10/08 10:05 AM.
RENTAL PROTECTION DECLINED

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Exhibit 17

pg 21 & 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

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United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RESERVATION

Job Site

NORTHSTAR CHEMICAL
14200 SW TUALATIN SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-625-6284 J#: 503-572-0310

Customer

STEEPROW, MICHAEL B.
22065 SE CHESAPEAKE PL
SHERWOOD, OR 97140

Customer.... 1001992298
Contract #.. 70838462
Contract dt. 1/03/08
Date out.... 1/03/08 8:04 AM
Date Due In. 1/04/08 8:04 AM

Job Loc..... 14200 SW TUALATIN SHERWOOD RD
Job No.....
P.O. #.....
Ordered By.. MIKE
Written by.. UR368MZ
Salesperson. 99
Terms..... Due Upon Receipt

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	MINI EXCAVATOR 14000# UP 9070114	*	325.00	325.00	1100.00	3300.00	325.00
1	EXCAVATOR BUCKET 36IN TOOTH BUCKET		1.00	1.00	1.00	1.00	1.00

SALES ITEMS:

Qty	Item number	Stock class	Unit	Price	Amount
1	ENV ENVIRONMENTAL CHARGE UM: (EA) EACH	MCI	EA	1.560	

DELIVERY CHARGE 75.00

PICKUP CHARGE 75.00

PAYMENT HISTORY

DATE	TYPE	REF #	AUTH #	TRANS TYPE	AMOUNT	APPLIED
1/03/08	VISA CARD	**8803	013071	AUTHORIZED	540.00	

Cardmember acknowledges receipt of goods and/or services in the amount of the total shown hereon and agrees to perform the obligations set forth by the cardmember's agreement with the issuer. X_____

KNOWS TO CALL FOR PU

Sub-total:	477.56
Rental protection:	45.64
Estimated Total:	**523.20**

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

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FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

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READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under[illegible] (2) Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equi[illegible]** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; [illegible] other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the **TERMS A[illegible] AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT[illegible] EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

pg 22 to 32

X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

```
                    Print Key Output                              Page   1
 5722SS1 V5R4M0 060210                URAS07                 01/03/08  11:17:16

 Display Device  . . . . . :  QPADEV01XP
 User  . . . . . . . . . . :  UR368MZ

 /03/08  11:16:58        Create Reservation Review              Sys: UNITED
                                                                Cmp: U1 Loc: 368

  1/03/08                          Credit Card                  Sys: UNITED
 11:17:14                       User: UR368MZ                   Cmp: U1 Loc: 368

      Use Previous Authorization: N  Get New Authorization Only: Y

                          Card #: 4798510040268803
                      Expiration:  5/10 (MMYY)
                     Card Holder: mike steeprow
                     Card Amount:          540.00
                 Approved Auth #: 013071
                Transaction Type: AU
                       Card Type: VISA CARD

 F6=Manual Card Entry   F8=Manual Auth# Entry   F12=Cancel
 Press enter to write Contract/Invoice.
 Created response queue: QPADEV01XP.

F3=Exit   F9=Accept Cash   F11=Create; Go to Sales Invoice   F12=Prev  F24=More
Press enter to process credit card approval.
```

EXHIBIT 17

PG 23 & 32

RENTAL OUT CONTRACT

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

Job Site

JANSSEN MASONRY
8659 HAMLIT CT
TIGARD, OR 97223

C#: 503-625-1050 J#: 503-625-1050

Customer

JANSSEN MASONRY
23135 SW CINNAMON HILLS PL
SHERWOOD, OR 97140

Customer.... 97442
Contract #.. 70953644
Contract dt. 1/09/08
Date out.... 1/09/08 8:30 AM
Date Due In. 1/10/08 8:30 AM

Job Loc..... 8659 HAMLIT CT, TIGARD
Job No..... 14- JANSSEN MASONRY
P.O. #..... WILL ADVISE
Ordered By.. DICK
Written by.. UR368MZ
Salesperson. 6861
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #		Min	Day	Week	4 Week	Amount
1	TRAILER DUMP	*	65.00	90.00	350.00	950.00	
	949184 Make: OLYMPIC Model: DT612R52HD Ser #: 4ZEDT122171035501						
	Light adapter sent w/ cust (blue)						

RENTAL PROTECTION DECLINED

FOR YOUR CONVENIENCE, UNITED RENTALS IS NOW OFFERING A TOLL-FREE NUMBER TO SCHEDULE EQUIPMENT FOR PICKUP. PLEASE CALL 800-UR-RENTS (800-877-3687)

CUSTOMER CARE REPRESENTATIVES ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A TERMINATION NUMBER IN ORDER TO CLOSE THIS CONTRACT. A CLEANING CHARGE WILL APPLY TO ALL EQUIPMENT RETURNED WITH EXCESSIVE DIRT, CONCRETE, AND/OR PAINT. CUSTOMER IS RESPONSIBLE FOR ALL DAMAGES INCLUDING TIRES. THERE WILL BE AN ADDITIONAL CHARGE FOR MISSING KEYS AND A REFUELING CHARGE WILL BE APPLIED TO ALL EQUIPMENT NOT RETURNED FULL OF FUEL.

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts (____)* *Customer Declines (XX)*

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and und Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equi** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the **TERMS A AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT/ EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

Pg 24 of 32

X _____

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY DATE

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

QUALITY
CONDITION REPORT

Contract #	Date	Customer
70953644	1/09/08	JANSSEN MASONRY

Make	Model	Serial#	Equip #
OLYMPIC	DT612R52HD	4ZEDT122171035501	949184

MARK CLEARLY ALL DAMAGE BY SYMBOL "C" = CUT "H" = HOLE "D" = DENT "P" = PAINT DAMAGE

RENTAL OUT - Diagram & identify any existing damage or strike-out box	RENTAL IN - Diagram & identify any damage upon return

Inspection: Check if acceptable in accordance with manufacturer spec	OUT	IN
Structure and components secure and undamaged		
Tire condition–Spec		
All functions operate properly		
Safety devices intact and functional		
Operational and safety decals present & legible		
Operators Manual attached		
Battery charged/fueled Qty fueled IN		
Appearance acceptable - note and mark exceptions in diagram		
Fluids, Filters, Greased		
Electrical cord/plug		
Starter pull cord		
Accessories		
Accessories		
Towable equipment-Record license plate of towing vehicle:		

Comments - IN (if damaged, provide details of occurrence)

Comments - OUT

Inspected and condition OUT confirmed as specified above:		**Inspected and condition IN confirmed as specified above:**	
United Rentals by	Print Name	United Rentals by	Print Name
Date	Hr Meter	Date	Hr Meter

CUSTOMER ACKNOWLEDGEMENT: THE SAFETY AND PERFORMANCE OF THIS EQUIPMENT HAS BEEN VERIFIED. I AM RESPON
EQUIPMENT, I UNDERSTAND THE CORRECT OPERATION AND FUNCTION OF THE CONTROLS AND CONFIRM THAT I HAVE RECEI
SHEET. TO ENABLE MYSELF AND/OR MY CREW TO USE THE EQUIPMENT IN A SAFE AND PROPER MANNER WITHOUT RISK TO I

Customer acknowledges condition received as specified above:		**Customer acknowle**	
Customer By		Customer by	
Print Name	Date	Print Name	

Exhibit 17

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UR1030

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

PARTIAL RETURN INVOICE

** COPY **

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Invoice #... 69313676-005
Invoice date 12/15/07
Date out.... 10/23/07 8:32 AM
Date in..... 12/15/07 1:42 PM
Last billed. 12/18/07
Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR263JS1
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	END FRAME/CPLNG 5 X 5	10.00	10.00	10.00	22.00	N/C
4	ALUMINUM PLANK 7'	11.00	11.00	11.00	32.00	N/C
4	SCREWJACK W/SOCKET	4.00	4.00	4.00	12.00	N/C
4	GRAVITY PIN refuced guard rails	1.00	1.00	1.00	4.00	N/C
4	BASEPLATE FIXED	2.00	2.00	2.00	6.00	N/C

Billing period: 12/18/07 08:32 AM THRU 12/15/07 01:42 PM.
RENTAL PROTECTION DECLINED

COPY

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under
Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equip**
rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS Al
AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA
EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

P9 27 & 32

X _____ _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED DELIVERED BY:

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

4 WEEK BILLING INVOICE

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Invoice #... 69313676-003
Invoice date 11/15/07
Date out.... 10/23/07 8:32 AM
Billed thru. 11/20/07

Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. CYCLE BILL
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	END FRAME/CPLNG 5 X 5	10.00	10.00	10.00	22.00	88.00
4	ALUMINUM PLANK 7'	11.00	11.00	11.00	32.00	128.00
4	SCREWJACK W/SOCKET	4.00	4.00	4.00	12.00	48.00
12	GRAVITY PIN refuced guard rails	1.00	1.00	1.00	4.00	48.00
4	BASEPLATE FIXED	2.00	2.00	2.00	6.00	24.00

Sub-total: 336.00
Total: 336.00

BILLED FOR FOUR WEEKS 10/23/07 THRU 11/20/07 08:32 AM
RENTAL PROTECTION DECLINED

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
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READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and understands. REMINDER: (1) Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equi** rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the **TERMS A** **AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT/ EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

X

CUSTOMER SIGNATURE DATE NAME PRINTED

P9 28 & 32

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL OUT CONTRACT

** COPY **

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Contract #.. 69313676
Contract dt. 10/23/07
Date out.... 10/23/07 8:32 AM
Date Due In. 11/20/07 8:32 AM

Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO :
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	END FRAME/CPLNG 5 X 5	10.00	10.00	10.00	22.00	
4	ALUMINUM PLANK 7'	11.00	11.00	11.00	32.00	
4	SCREWJACK W/SOCKET	4.00	4.00	4.00	12.00	
12	GRAVITY PIN refuced guard rails	1.00	1.00	1.00	4.00	
4	BASEPLATE FIXED	2.00	2.00	2.00	6.00	

RENTAL PROTECTION DECLINED
IF APPLICABLE THERE WILL BE A FUEL AND/OR CLEANING CHARGE AT THE END OF THE RENTAL
INITIAL _____

COPY

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

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rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms;
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS
AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENT
EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.

Exhibit 17

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X _____ _____

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #368
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

EXCHANGE EQUIPMENT

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Invoice #... 69313676-002
Invoice date 10/23/07
Date out.... 10/23/07 8:32 AM
Date in..... 10/23/07 8:51 AM

Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	SCAFFOLD PLANK 19 IN X 10 FT Reason: WRONG EQUIPMENT NUMBER	11.00	11.00	11.00	32.00	EXCHANGED
4	ALUMINUM PLANK 7'	11.00	11.00	11.00	32.00	NEW ITEM

***ENVIRONMENTAL CHARGE:** The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (_____) *Customer Declines* (_____)

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Exhibit 17

Pg 30 to 32

X

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #366
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

PARTIAL RETURN INVOICE

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Invoice #... 69313676-001
Invoice date 10/23/07
Date out.... 10/23/07 8:32 AM
Date in..... 10/23/07 8:50 AM

Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
1	CROSS BRACE 10 X 2 4 10' xbraces	12.00	12.00	12.00	36.00	N/C

RENTAL PROTECTION DECLINED

***ENVIRONMENTAL CHARGE:** The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: ***THE RENTAL PROTECTION PLAN IS NOT INSURANCE!*** Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. ***Customer Accepts*** (_____) ***Customer Declines*** (_____)

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Exhibit 17

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X

CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

United Rentals

LOCATION #308
8250 SOUTHWEST TONKA STREET
TUALATIN, OR 97062
503-691-1234
503-691-0836 FAX

RENTAL OUT CONTRACT

Job Site

AUTO CENTER
13925 SW TUALATIN-SHERWOOD RD
SHERWOOD, OR 97140

C#: 503-387-5312 J#: 503-639-6070

Customer

STONERIDGE CUSTOM DEV LLC
696 MCVEY AVENUE STE 101
LAKE OSWEGO, OR 97034

Customer.... 974109
Contract #.. 69313676
Contract dt. 10/23/07
Date out.... 10/23/07 8:32 AM
Date Due In. 11/20/07 8:32 AM

Job Loc..... 13925 SW TUALATIN-SHERWOOD RD
Job No..... 1 - AUTO CENTER
P.O. #..... RICK
Ordered By.. RICK OUNDGREN
Written by.. UR368MZ
Salesperson. 7302
Terms..... Net 30 Days

PLEASE REMIT PAYMENT TO:
UNITED RENTALS NORTHWEST, INC.
PO BOX 951978
DALLAS, TX 75395-1978

Qty	Equipment #	Min	Day	Week	4 Week	Amount
4	END FRAME/CPLNG 5 X 5	10.00	10.00	10.00	22.00	
4	SCAFFOLD PLANK 19 IN X 10 FT	11.00	11.00	11.00	32.00	
4	SCREWJACK W/SOCKET	4.00	4.00	4.00	12.00	
12	GRAVITY PIN refuced guard rails	1.00	1.00	1.00	4.00	
1	CROSS BRACE 10 X 2 4 7' xbraces	12.00	12.00	12.00	36.00	

RENTAL PROTECTION DECLINED
IF APPLICABLE THERE WILL BE A FUEL AND/OR CLEANING
CHARGE AT THE END OF THE RENTAL
INITIAL RL

*ENVIRONMENTAL CHARGE: The items indicated above are subject to an environmental charge which is designed to recover the company's direct and indirect expenses for the handling, managing and disposing of waste products, hazardous materials, and related administrative costs. This is not a government mandated charge.
FUEL: Fuel charges do not include federal, state or local fuel excise taxes.

OPTIONAL RENTAL PROTECTION PLAN: *THE RENTAL PROTECTION PLAN IS NOT INSURANCE!* Upon accepting the Optional Rental Protection Plan, the Customer agrees to pay a charge equal to 14% of the rental charges on Equipment Customer wants covered by the Rental Protection Plan. In return, as set out on the back page, United agrees to waive certain claims for accidental damage to such covered Equipment occuring during normal and careful use. Customer remains liable for all damages and loss due to theft listed under The Rental Protection Plan provisions in the Terms and Conditions on back page, including Customer's negligence. *Customer Accepts* (____) *Customer Declines* (RL)

READ BEFORE SIGNING: United hereby leases to Customer the Equipment (as defined in the Terms and Conditions on the reverse side) and Customer hereby accepts all *TERMS AND CONDITIONS* listed in this rental agreement, including the Terms and Conditions set forth on the reverse side, which the undersigned has read and under
Optional Rental Protection Plan charge is 14% of the total rental charge for covered equipment; (3) **Customer pays for all time the Equip**
rental agreement supersedes all other purchase orders or terms and conditions contained in any of Customer's agreements or forms; (5
other costs, including late charges. Details of the above as well as other obligations and responsibilities are contained in the TERMS A
**AS OR ON BEHALF OF CUSTOMER: (1) AGREES TO ALL OF THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS RENTA
EQUIPMENT IN GOOD WORKING ORDER AND, (3) IS FULLY FAMILIAR WITH ITS OPERATION AND USE.**

Exhibit 17

Pg 32 to 32

X Ric Ounsgren 10/23/07 _____
CUSTOMER SIGNATURE DATE NAME PRINTED

A LARGER FONT COPY OF THE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.

FAX COVER SHEET

Number of pages: 3 *(including cover sheet)*

To: Dennis Feveregon
UNITED RENTALS

Phone #: 949 872 6646
Fax #: 949 809 0189

Date: 11/12/08

From: STANTEC
STAN SPOSITO
S+T LIVING TRUST

Phone #: 503 649 2685
Fax #: 503 649 2685

Exhibit 18
pg 1 of 5

Comments: Dennis PROPOSAL FOR CHRISTMAS TREE SALE By Larry Bingham
WITH YOUR ACCEPTANCE should check Be GIVEN TO John ZWEIGART at TigARD UNITED?

Stan Esposito
5283 SW 201st
Aloha, OR 97007

Dear Sir,

In regards to our phone conversation last night, I am writing in regards to the possibility of leasing a certain piece of your property in Tualatin for the purpose of creating a Christmas tree lot.

A few of the facts of the proposal.

- I anticipate selling Noble, Douglas, and Grand fir trees, as well as a small assortment of Christmas swags.
- The lot will be set up Monday-Wednesday (November 24-26) and the selling of the trees would officially begin on Friday, following Thanksgiving, November 28, 2008. I expect to have the lot cleaned up and all equipment, wood, or extraneous garbage cleared by December 24. I will be taking pictures prior to any set up, and returning the property to the same condition.
- I will be staying on site, throughout the month, or have someone on site for security purposes. I anticipate using an RV (5th Wheel) to stay in during the day and evening.
- I will need access to electricity, but would not need access to the building.
- I anticipate setting up a few trees near the fence on Tualatin-Sherwood Blvd for publicity and advertisement. I also expect to advertise with some small signs and Christmas tree lights
- I will have in hand, and a copy available to you, of an insurance liability rider, through GuideOne Insurance, to cover the 30 days that the stand will be set up.
- Access to the interior gated area will remain available to the property owner.
- I will acquire and have in hand the necessary permits and business licenses as required by the city of Tualatin in advance of the set up date.
- I am prepared and propose to pay a total of $500 for the use of the property (8250 SW Tonka, Tualatin, Oregon, 97062) to Mr. Stan Esposito

A few facts about myself. I am a minister (ordained Elder) within the Church of the Nazarene. I have pastored for the last 22 years in Seaside (7 years), Tualatin (11 years), and Molalla (4 years).

Larry Bryson pd Acceptance by UTCD

Exhibit 18

FP 2 26 5

I am married (27 years) and have three children. They have all attended the Tualatin School system. Their ages: 23, 20, and 18. The youngest is a Senior at Tualatin High School. We've lived here for 15 years.

Currently, I am pursuing a ministry position within the Church of the Nazarene in the pacific northwest, but I am without a church at this time. This break in employment has lead me to some time off and the opportunity to look for support of a temporary nature.

The trees I will be selling are being cultivated and cut in Colton, Oregon in Clackamas County. They are of the highest quality. I have opportunity to get as many trees as possible, but want to sell all I get.

Thank you for taking the time to consider this matter. You can reach me at 503.691.1355 (home) or 971.645.0819 (cell).

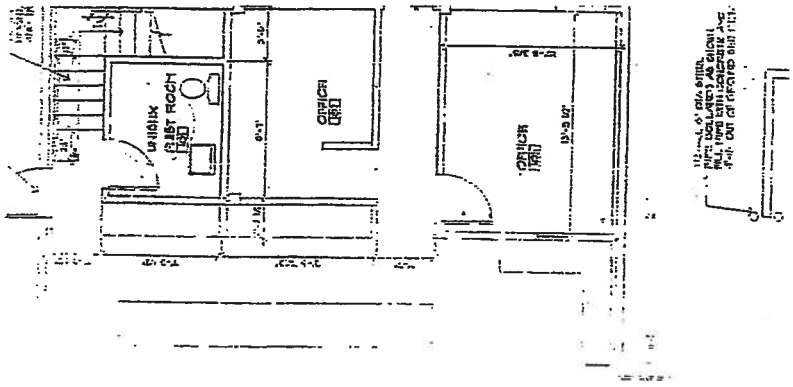
Sincerely,

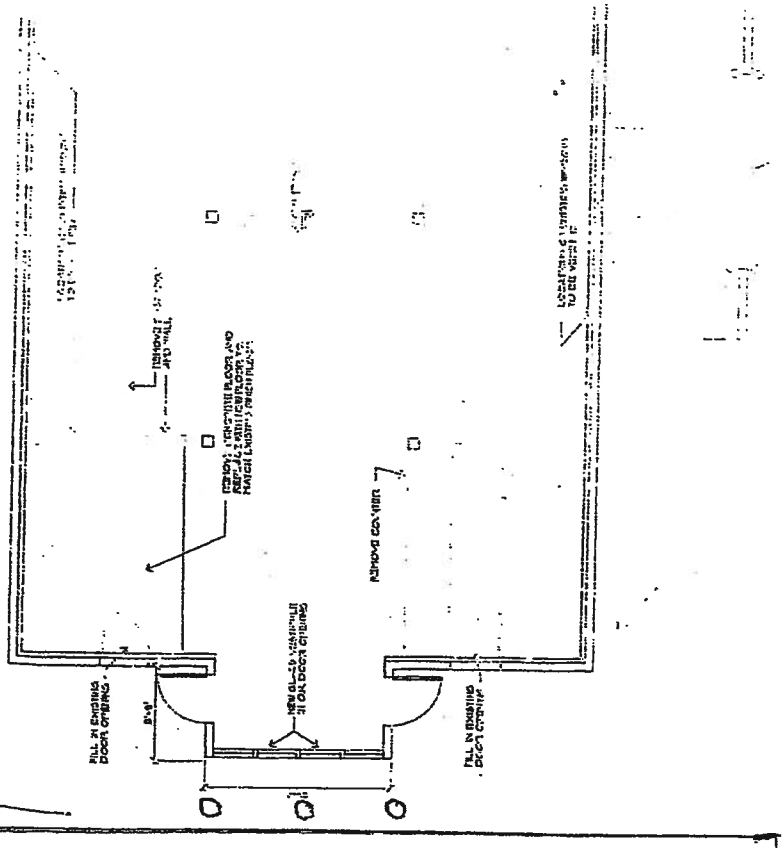
Larry D. Bingham
20680 SW 90th Avenue
Tualatin, OR 97062

Re Acceptance By United

EXHIBIT 18

PG 3 & 5





SLIDE GATE

TRAILER

REQUEST PARKING AREA FOR TREES

DRIVEWAY

SW TOMKA ST.

Exhibit 18

Pg 4 of 5

STANT CO.
Stan M. Sposito
Tracy R. Sposito
5283 SW 201 Ave.
Aloha, OR 97007
503.649.2685 office
503.649.2685 fax

Dear Sir,

In regards to our phone conversation last night, I am writing in regards to the possibility of leasing a certain piece of your property in Tualatin for the purpose of creating a Christmas tree lot.

A few of the facts of the proposal.

- I anticipate selling Noble, Douglas, and Grand fir trees, as well as a small assortment of Christmas swags.
- The lot will be set up Monday-Wednesday (November 24-26) and the selling of the trees would officially begin on Friday, following Thanksgiving, November 28, 2008. I expect to have the lot cleaned up and all equipment, wood, or extraneous garbage cleared by December 24. I will be taking pictures prior to any set up, and returning the property to the same condition.
- I will be staying on site, throughout the month, or have someone on site for security purposes. I anticipate using an RV (5th Wheel) to stay in during the day and evening.
- I will need access to electricity, but would not need access to the building.
- I anticipate setting up a few trees near the fence on Tualatin-Sherwood Blvd for publicity and advertisement. I also expect to advertise with some small signs and Christmas tree lights
- I will have in hand, and a copy available to you, of an insurance liability rider, through GuideOne Insurance, to cover the 30 days that the stand will be set up.
- Access to the interior gated area will remain available to the property owner.
- I will acquire and have in hand the necessary permits and business licenses as required by the city of Tualatin in advance of the set up date.
- I am prepared and propose to pay a total of $500 for the use of the property (8250 SW Tonka, Tualatin, Oregon, 97062) to Mr. Stan Esposito

A few facts about myself. I am a minister (ordained Elder) within the Church of the Nazarene. I have pastored for the last 22 years in Seaside (7 years), Tualatin (11 years), and Molalla (4 years).

Not Accepted by United

EXHIBIT 18

P9 5 of 5

Will Harper

From: Will Harper
Sent: Monday, January 28, 2008 10:53 AM
To: Doug Rux
Cc: Will Harper
Subject: United Rentals Site--Enterprise Truck Rental

Follow Up Flag: United RentalsINT Record Request
Flag Status: Flagged

Doug:
Ava Joubert of Enterprise Rentals came in this morning and will be contacting you regarding locating the Enterprise Truck Rental operation at the former United Rentals site on SW Tonka/TS Road. She believes that the site is ideal for the truck operation.
I informed her of the non-conforming use status associated with the property in CG and in the downtown area. We discussed "small equipment rental" as a permitted use in CG and "auto and light truck leasing & rental as a conditional use in ML and MG (restricted from the SCS). I indicated that CDD believes this is not a desireable use at the location and that we question whether a truck rental operation would fall within the non-conformance associated with United Rentals/Anderson Rentals/Oregon Rentals.
Ms. Joubert asked what the next steps would be in obtaining a favorable determination for locating Enterprise there. I referred her to you for this question.

Let me know if I can assist.

William Harper, AICP
Associate Planner
Community Development Department
Planning Division
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Direct 503-691-3027 FAX 503-692-3512
Email wharper@ci.tualatin.or.us

EXHIBIT 19

PG 1 OF 5

2-22-08

UNITED RENTALS SITE / TONICK

STAN SPOSITO
Katherine Hill
JOHN. Zwiegert ATTY

S/S "GRANDFATHER" CLAUSE.

DR Co. like UR going in - NC wise. WH/DR
retain NC STATUS
TTUCK RENTAL NOT

NO BIG TRUCKS.
NOTED UR pu/del. TRUCKS problem
NO ON-GOING TRUCK MEETING

SS Grandfather "Live + Well"
discussions w J JACKS
Bldg + Site improvements. improvements ON TSRd ROW frontage
JJ 4/8/1999 letter ON WALL - CITED
ITEM #5 Dig dump TRUCKS / EXCAVATORS / LOADERS
"equipment smaller than ABOVE" agreed as allowed.
- GeoTEX fabric - applied - used when "heavy equip. on p
SS NO CAR LOT THERE - "Med size TRUCKS" - COT engineering "requir
SOIL TESTS SHOW ROCK underlaying
SS held onto "Gran
SS Little "mid level" TTUCKS

EXHIBIT 19

PG 205

JOHN showed photos of LT/MED TRUCK operations - TRUCKS move btwn STORES & CUSTOMERS

won't be STATIONARY
2-12 TRUCKS AT NITE
SOMETIMES

JOHN Zweigart
ATTY

pred. CRANE TRUCKS 15-20 TON
20ft SPACE
WATER TRUCKS.
16ft Flat beds

DR if UR LKE
if TRUCK rental goes IN - NOT what UR did

CC/CG LIST of uses
INT. 88-01 SETS up Rental use

12 MO window for NC use.

EXHIBIT 19
pg 3 & 5

MAY argue that TRUCK rental is similar to UR operation
RABBITT HUTCH/ DM MECHANIX/ AD RENTAL/ UNITED R

* $70K yr lease x 10yrs w/ enterprise
WORTH LITIGATING over

3.19.0'

(1)

OCT 1988 - INT-88-01 ANDERSON Oregon Rental

APRIL 1999 - letter @ UNITED RENTALS

SEPT 1999/July 2000 AR 99-20 U Rentals IMPROV. / completed.

DEC 30 2007 UNITED RENTALS CLOSES

(1) INT-88-01
(2) APRIL 1999 letter + AR for UNITED RENTALS
(3) UR. NOT ALLOWED to HAVE EQUIP. > INT-88-01
(4) UR left Dec 2007
(5) ENT proposes TRUCKS
(6) lease ≠ use
(7) decided IN INT, PTA

BILL CAMPBELL

GREG

DR/WH

why would we WANT GM KIND of AUTO SALES or LEASING IN DOWNTOWN AREA.

NO ISSUES w/ w UR

QUESTIONS @ CONTINUATION of ENTERPRISE NOT CLEAR

VACANT property COSTS TO MAINTAIN

WORST thing IN urban RENEWAL is blight SPRAWL IS A key element

EXHIBIT 19

PG 4 of 5

BC How does City see plan/property
Sposito see property

DR 2005-6 TOWN CTR PLAN - Accepted but no implementation
2007 VISIONING for Y. 2030
2008 REVISITED w/ TC Plan + reconcile w/ Visioning
- METRO UR. PROGRAM - CAPACITY ANALYSIS
TC - 20 yr. 1-1.5 M# Bldg SPACE RETAIL housing
Sposito property.
- 50 yr 3 M# RETAIL/housing
- APRIL - BACK TO COUNCIL
CURD EVALUATION NEXT MONTH.
DR/SPOSITO discussed EXTENSION → TONIC A MALES
Sposito property A corner lot
Vision that multiple story - Mixed use.

OPTIONS
① find A UR replacement ala INT
② LET UR pay walk
③ find AN allowed use
④ GET INT / DTA

City shouldn't WANT A for lease prop.
STAN HAS opportunity TO PARTICIPATE IN PLAN.

EXHIBIT 19
PG 5 of 5

Spos.to

LO / ET / DR / SC 1/20/09

DR - went over background on Stan S issue on use of property

ET - Stan S approached him on issue on use of property (Chamber Event)
Stan S thinks city is backpedaling on past agreements

Stan S says has 1996 agreement.
Has not sent it to ET.

LO - Stan S approache LO at same chamber meeting

He had met about 1 yr ago
Discussed passed interpretation

LO - meeting with Stan on site
3:30 pm next Friday

LO - Stan S may want to talk to Emami on future of downtown. 50 yr vision may be different than Stan's vision

EXHIBIT 20

PG 1 OF 2

SL

Interp

PTA

Non-conforming

Use allowed on TDC

EXHIBIT 20

PG 2 OF 2

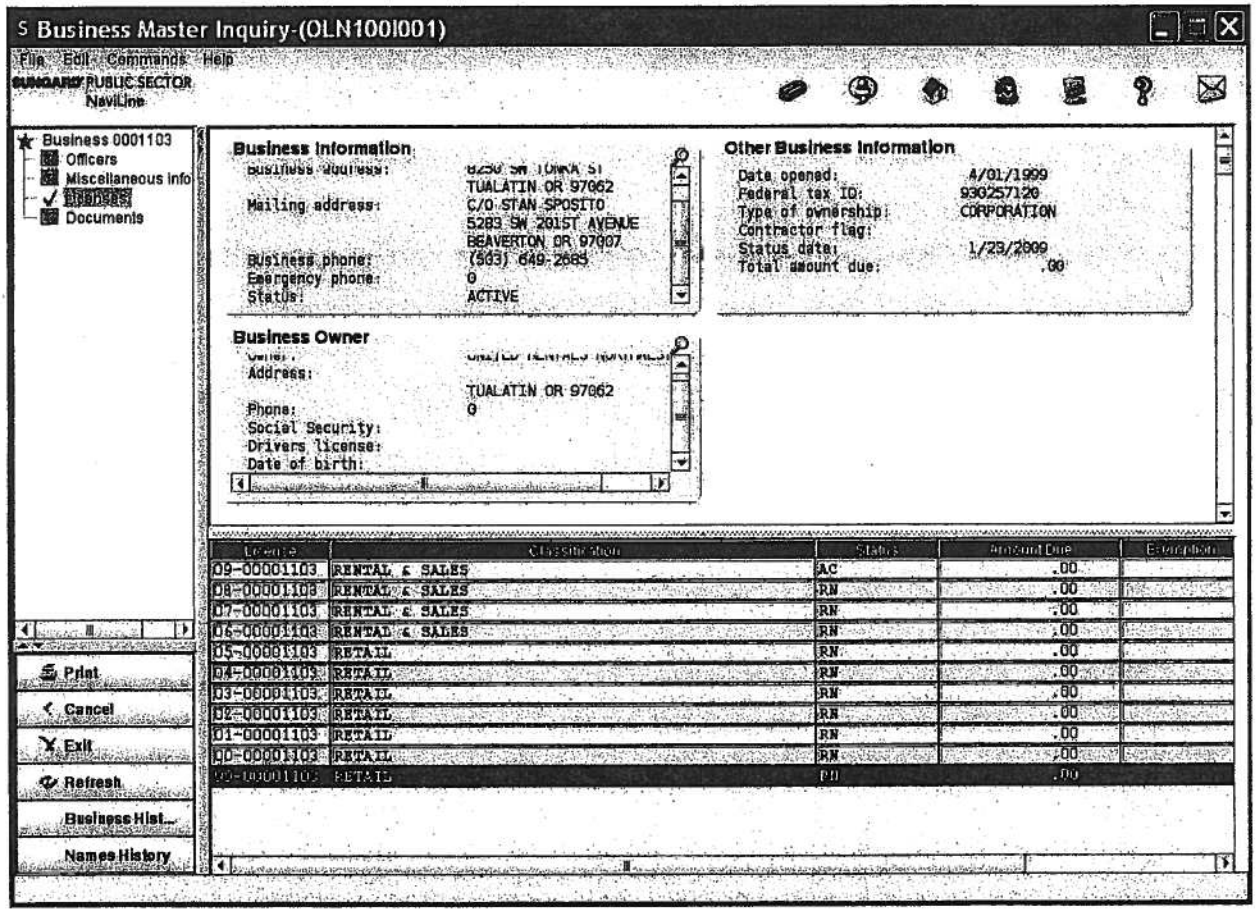

S Business Master Inquiry-(OLN1001001)
File Edit Commands Help
SUNGARD PUBLIC SECTOR
NaviLine
Business 0001103
Officers
Miscellaneous info
Licenses
Documents
Business Information
Business address: 8250 SW TOWN CT
TUALATIN OR 97062
Mailing address: C/O STAN SPOSITO
5283 SW 201ST AVENUE
BEAVERTON OR 97007
Business phone: (503) 649-2685
Emergency phone: 0
Status: ACTIVE
Other Business Information
Date opened: 4/01/1999
Federal tax ID: 930257120
Type of ownership: CORPORATION
Contractor flag:
Status date: 1/23/2009
Total amount due: .00
Business Owner
Owner: UNITED RENTALS NORTHES
Address:
TUALATIN OR 97062
Phone: 0
Social Security:
Drivers license:
Date of birth:
License
Classification
Status
Amount Due
Description
09-00001103 RENTAL & SALES AC .00
08-00001103 RENTAL & SALES RN .00
07-00001103 RENTAL & SALES RN .00
06-00001103 RENTAL & SALES RN .00
05-00001103 RETAIL RN .00
04-00001103 RETAIL RN .00
03-00001103 RETAIL RN .00
02-00001103 RETAIL RN .00
01-00001103 RETAIL RN .00
00-00001103 RETAIL RN .00
99-0000110 RETAIL PD .00
Print
Cancel
Exit
Refresh
Business Hist...
Names History

Exhibit 21

CHANGES_____ NO CHANGES_____

CITY OF TUALATIN
PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

RECEIVED
MAR 26 1999
ACCOUNTS PAYABLE DEPT

1 - 10 employees - $50
11 - 50 employees - $100
Over 50 employees - $200

New or Renewal (circle one)

750-42-02202

Allan Tubbin
Signature

BUSINESS LICENSE APPLICATION

Start of Business: 4/99

Business Name United Rentals Northwest, Inc DBA United Rentals 02042 Phone 503-691-1234

Business Address 8250 SW Tonka St., Tualatin OR 97062
City State Zip

Mailing Address Attn: Tax Dept 5 Terri Lane, Ste I Burlington NJ 08016
City 95358 State Zip

Type of Business ___Manufacturer ___Distributor/Warehouse ___Sales Office
X Retail ___Medical/Dental ___Restaurant/Tavern ___Bank/S&L
___Other (explain) Sic

If Manufacturer, list products _____

Home Occupation (Yes/No) No Residential Care Facility (Yes/No) No

Owner/Operator Name & Title United Rentals Northwest Inc Phone 209-544-9000

Property/Bldg Owner Name Stan Sposito Phone 649-2685

Property/Bldg Owner Address 5283 SW 201st Ave, Aloha OR 97006
City State Zip

Emergency Contacts Allan Tubbin DAY Phone 503-691-1234
" " Eve Phone 503-849-8618

Number of employees at Tualatin location (include part-time and/or full-time employees). The business owner or operator is considered an employee. 12

Hazardous materials stocked, stored or handled Gas, Diesel, Propane

Are you registered with the Oregon Corporation Commission (Yes/No) Yes

State of Oregon License Number, if applicable (Contractor's Board, Plumbing Board, Electrical Board, Massage Therapy, Cosmetology/Barber's Board, etc. Indicate type of license(s), number(s) and expiration date(s) _____

I hereby certify that the information contained herein is true to the best of my knowledge. I hereby agree to abide by the ordinances of the City and to correct any hazards or violations as they may pertain to the above business. Issuance of this license does not guarantee that the use conforms to City of Tualatin land use regulations.

Print Applicant's Name and Title Allan Tubbin, Br. Mgr.

Applicant's Signature Allan Tubbin Date 3/25/99

Contractors and Businesses in Core Area Parking District, please fill out page 2.

Exhibit 21

FOR CONTRACTORS:

ORS 701.055(7) states, "Every City and County which requires the issuance of business license as a condition precedent to engaging, within the city, or Cit, and County, in a business which is subject to regulation under this Chapter, shall require that each licensee and each applicant for issuance or renewal of such license file, or have on file, with such City or City and County, a signed statement that such licensee or applicant is registered under the provisions of this chapter and stating that the registration is in full force and effect."

The applicant is registered with the Construction Contractors Board of the State of Oregon under the provisions of ORS 701, and that registration is in full force and effect under:

Certificate of Registration Number_____ Expiration Date_____

Business Name_____

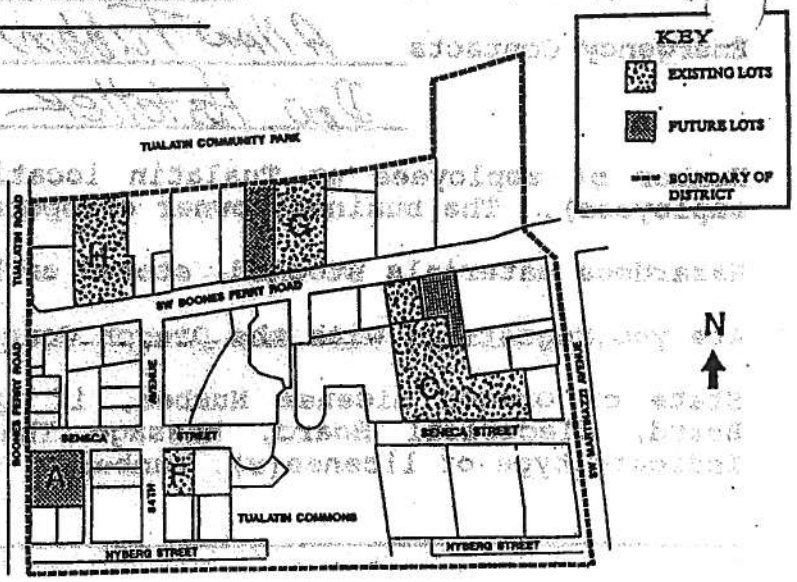
Applicant's Signature_____ Date_____

FOR BUSINESSES WITHIN THE CORE AREA PARKING DISTRICT

Date of Occupancy_____

Gross leasable area, in square feet_____

Number of on-site parking spaces assigned to you by owner_____



DO NOT WRITE BELOW THIS LINE - FOR OFFICE USE ONLY

Amount Paid 100 — Receipt No. 3429 — Date Received 4-1-99

License No. 99-01103 — Date Issued 4-7-99 — Date Expires 12-31-9

ACKNOWLEDGED BY: Bldg. Dept. 4/6/99 — Planning Dept. NA

Tax map and lot number of property 2S124CB, 1700 — Planning Dist. CG

Exhibit 21

2 of 1

In order to issue your business license - all pages must be completely filled out and returned

Business Name: United Rentals - 75042

Federal Tax I.D.# or Social Security #: 93-0257120

Owner Information:

Name: United Rentals Inc

Address: Four Greenwich Office Park

City, State, Zip: Greenwich CT 06831-5153

Social Security: ___-___-___ Telephone: (___)

Type of Ownership - Choose One:

Sole Proprietor		Partnership	
Ltd Liability Co		Ltd Partnership	
Corporation	X	S Corporation	
Other		Description	

4 digit SIC Code (see reverse side for list): 5990 misc retail
7359

Please provide a brief description of the business:

Tool & Equipment Rental

7359

Exhibit 21

BUSINESS LICENSE APPLICATION

Renewal

Submit payment with application

CITY OF TUALATIN
18880 SW Martinazzi Avenue
TUALATIN, OREGON 97062

(503) 691-3054
TDD (503) 692-0574

Fee based on # Employees

1-2	$55.00	
3-10	$60.00	X
11-50	$120.00	
Over 50	$240.00	

Actual Number 6
of employees at Tualatin location
Part-time and Full-time - Include Owner as one

All information with * will appear on the license

Start of Business 4/99

ALL INFORMATION MUST BE COMPLETED

Business

*Name United Rentals Northwest Inc

*DBA United Rentals

*Address 8250 SW Tonka Street RQ

*City, State Tualatin, OR Zip 97062

Mailing Address Business License Dept. 12802 Tampa Oaks Blvd Suite 350

City, State Temple Terrace, FL Zip 33637

Business Phone (239) 489-9900 ext. 1039 Federal ID or SS # 93-0257120

Fax (239) 489-1381 Email or Web Address

Type of Ownership - Choose One:

Sole Proprietor ____ Partnership ____ Corporation X

Ltd Partnership ____ Ltd Liablity Co ____ S Corporation ____

Other ____

Home Occupation Yes ____ No X

Owner Owner SS# ____ Unlisted

*Name United Rentals Northwest Inc Pager/Cell Phone ( ) ____ y / n

Owner Address ____ Daytime Phone ( ) ____ y / n

City, State,Zip ____ Evening Phone ( ) ____ y / n

Check if address is considered confidential ☐

Corporate Officers (if applicable)

Name See Attached ____

Title ____ ____

Phone ( ) ____ ( ) ____

Property Owner ____ Phone ( ) ____

Address ____

City, State ____ Zip ____

Exhibit 21

249 Rental + Sales

Emergency Contact:

	Business Hours	After Hours
Name	John Zweigart	
Phone	(503) 591-1234	( )

*** Type of Business** SIC Code (see additional sheet) 7 3 5 9 Equip Rental

Please provide a brief description of the business:
CONSTRUCTION equipment rental + sales

If Manufacturer, list products produced _____

Hazardous Materials stocked, stored or handled Yes X No ____ If yes, please list items
gas, diesel, propane

State License (Contractors Board, Electrical Board, Massage Therapy, Cosmetology/Barbers Board, etc.)

Type _____ Number _____ Expiration Date _____

Type _____ Number _____ Expiration Date _____

Metro License Yes ____ No X If Yes, please include # _____

Is the Business Registered with the Oregon Corporation Commission Yes X No ____

I hereby certify that the information contained herein is true to the best of my knowledge. I hereby agree to abide by the ordinances of the City and to corrrect any hazards or violations as they may pertain to the above business. Issuance of this license does not guarantee that the use conforms to City of Tualatin land use regulations.

Applicant (Please Print)

Name Margaret Kelley

Title _____

Signature Margaret J Kelley ATTY-IN-FACT Date 8/24/07

Check if you do not wish this business included in public listings ☐

For Office Use Only:

Amount Paid 60.00 CK Receipt # 270466 Date 08-29-07

Tax map/lot number of property 2S124CB01700 Planning District CG

License # ~~07-3450~~ 07-1103 Issued ~~9-13-07~~ 1988 Building _____ Planning JH

Exhibit 2

City of Tualatin

www.ci.tualatin.or.us

July 23, 2009

INTERPRETATION-09-01: RECOMMENDED DECISION

CASE:	INT-09-01
REQUEST:	"What is the status of the non-conforming use rights of the land and structure located at 8250 SW Tonka Street?"
LOCATION:	8250 SW Tonka Street—General Commercial Planning District
APPLICANT:	Bill Campbell & Associates LLC, on behalf of Stan Sposito, Sposito Family Trust

BACKGROUND

Stan Sposito, representing the Sposito Family Trust, is the owner of a property at 8250 SW Tonka Street. The property is in the General Commercial (CG) Planning District and in the Central Urban Renewal District (CURD) Block 11, with frontage on both SW Tualatin-Sherwood Road (North) and SW Tonka Street (Southwest). The property was formerly the site of a United Rentals small equipment rental business and includes a 4,700 sq. ft. building and a paved and fenced outdoor storage yard.

With the vacancy of the property following the departure of the United Rentals operation in December of 2007, Mr. Sposito seeks to lease the site to a nationally syndicated light truck or auto rental/leasing business. Mr. Sposito believes that the history of non-conforming uses on the property and the general language and provisions of the CG Planning District and Non-Conforming Use sections of the Tualatin Development Code (TDC) allow a light truck or auto rental/leasing use to be conducted on the property as a continuation of a non-conforming use.

City staff from the Community Development Department, Legal Department and Administration Department have met with Mr. Sposito and his advisors & associates on several occasions to discuss his proposals. Based on the meetings and research of the TDC and the property's history, City staff provided general guidance that:

1. The proposed light truck rental/leasing use was not an allowed use under the CG Planning District standards in TDC Chapter 54, nor allowed as a continuation of any legal non-conforming uses that exist on the property in accordance with TDC Chapter 35, Non-Conforming Use;
2. Auto rental or sales are not listed as allowed uses and "auto leasing" is restricted to "...no more than five autos stored on site..."[TDC 53.020(2)(a)]

Mr. Sposito disagrees with Staff that the non-conforming use on the property has been abandoned and also disagrees with not allowing auto/truck rental & leasing (auto leasing with five or fewer vehicles on-site) in the CG Planning District and on the property. Mr. Sposito has requested an interpretation that would identify the legal non-conforming uses on the property and would find that the proposed light truck or auto rental/leasing use is allowed. The question for Interpretation is stated as "What is the status of the non-conforming use rights of the land and structure located at 8250 SW Tonka Avenue," (Attachment 1, pg. 4)

ANALYSIS AND FINDINGS

1. The Tualatin Development Code (TDC), General Commercial (CG) Planning Districts allow the following permitted uses that are relevant and related to the Interpretation request:

   54.020(2)(a) Automobile glass shop; **auto leasing office with no more than five autos stored on site**; auto service shop, including but not limited to, service for air conditioners, electrical, brakes, washing, mufflers, oil or lubrication, sound, transmissions, tune-up, and upholstery; and auto tire shop.

   54.020(2)(q) Rental of various small equipment, tools, and devices.

   There are no CG Conditional Uses or Central Urban Renewal District (CURD) allowed uses listed that are relevant or related to the Interpretation request.

2. On October 28, 1988, the Planning Director issued Interpretation INT-88-01 for Anderson Oregon Rental on the subject property. The interpretation established the word "small" in the CG Planning District allowed use "Rental of various small equipment, tools, and devices" (TDC 54.020) **"means equipment, tools and devices up to and including those items with 20 h.p. motors."** That interpretation (Attachment 2) was cited in an April 8, 1999 letter to United Rentals as information for United Rentals use of the 8250 SW Tonka Street property and in the subsequent Architectural Review AR-99-20 approving paving, landscaping, screening and storm water improvements to the site. The interpretation did not approve the rental of cares or trucks as an allowed use in the CG Planning District and it did not verify any non-conforming uses that may have been in effect in 1988.

   At a February 22, 2008 meeting with Mr. Sposito, Mr. Sposito's legal counsel, City Staff and representatives of United Rentals (Katherine Hill and John Zwiegert) stated that United Rental had closed its operation at 8250 SW Tonka Street on December 30, 2007 and vacated the site. United Rental also indicated that the operation and the uses on the property were conducted in compliance with the April 8, 1999 letter and AR-99-20.

3. Equipment leasing and rental is listed in the North American Industry Classification System (NAICS) under Sector 53—Real Estate and Rental and Leasing, section 53241 Construction, Transportation, Mining, and Forestry Machinery and Equipment Rental and Leasing. The sector described in the NAICS states "This U.S. industry comprises establishments primarily engaged in renting or leasing heavy equipment without operators that may be used for construction, mining, or forestry, such as bulldozers, earthmoving equipment, well-drilling machinery and equipment, or cranes." A specific listing of rental/listing of small equipment, tools and devices for construction, business and industry is not listed in the NAICS.

   The Anderson Oregon Rental and United Rentals operations at the 8250 SW Tonka Street property were allowed to be rentals and leasing of small equipment, tools and devices consistent with INT-88-01. The use has a very limited correspondence with the NAICS classification and descriptions of a equipment rental or leasing in 53241.

4. TDC 31.070 sets forth the process for Interpretations. INT-09-01 follows the process set forth in TDC 31.070.

5. The Applicant is requesting this interpretation to identify the legal non-conforming uses on the 8250 SW Tonka Street property and find that the proposed light truck or auto rental/leasing use is allowed on the property as a permitted or non-conforming use. The Sposito application materials (Attachment 1, Narrative pp.1-5) states:

   > "The question for interpretation for the city is: What is the status of the non-conforming use rights of the land and structure located at 8250 SW Tonka Avenue, Tax Lot 2S124CD 1700, Sposito Family Trust, Owner."

   The Sposito Family Trust acquired the subject property in 1973. The application materials chronicle the tenant businesses that have occupied the property, including the Rabbit Hutch (automotive repair); Anderson Oregon Rentals (equipment rentals) and United Rentals (equipment rentals). Information about the site improvements and the various uses & activities associated with the property tenants is provided. Mr. Sposito states: "The property has been engaged in the storage, repair, and rental in one form or another since 1973."

   With the departure of United Rentals in December, 2007, Mr. Sposito seeks to obtain an interpretation of non-conforming uses on the property and CG Planning District standards that would allow a prospective light truck/auto leasing & rental business (identified as Enterprise Rent-a Car) to conduct their operation on the property.

6. The Sposito narrative states:

> "The occupancy history of the property reflects a pattern of automotive service uses from the VW repair operation of the Rabbit Hutch in 1984 through truck, machinery and equipment rental and leasing operations from 1988 to the present; beginning with Anderson Oregon Rentals Inc. and the assumption of the lease by United Rental in 1999. A common thread for each company was the rental and leasing of vans, small trucks and equipment..." (Attachment 1, Narrative pp.1-5)
>
> "Rental vehicles, cars and trucks will be stored within a secure enclosure that is well screened from view. The area is not readily visible or noticeable from adjacent sites and businesses." (Attachment 1, Section 3. Description Item "e")

Staff agrees with the listing of the Rabbit Hutch, Anderson Oregon Rental and United Rental businesses on the site and that the businesses operated both conforming (small equipment rental) and non-conforming (equipment rental restricted from heavy equipment such as bulldozers, track hoes, large trucks and trailers) uses in the CG Planning District. This is established with other documents including INT-88-01, the 1999 United Rentals letter and AR-99-20. Any larger trucks on the site should have been only for pick up and delivery of equipment allowed under INT-88-01. However, no business has operated on the site since December, 2007.

Staff does not agree that this location is suitable for outdoor storage of equipment, light trucks and autos. The subject property is in Tualatin's downtown area and the Central Urban Renewal District (CURD), and is located directly across SW Tualatin-Sherwood Road from the Tualatin Commons and the Century Hotel. Screening of outdoor storage of 12 ft. high light trucks and vans from view of the adjacent SW Tualatin-Sherwood Road, the Commons and the upper floors of the Hotel will likely be inadequate.

7. The Sposito application contends:

> "The prior, present and intended future uses of the property are consistent with stated intent and purpose of the General Commercial Zone of the city and they have been and are "particularly suitable for businesses needing direct automobile access to the freeway and the arterial streets leading to the freeway." (Attachment 1, Narrative pg.1)
>
> "The commercial vehicular uses have included activities involving autos, vans, trucks, machinery and equipment rentals, including U-Haul rentals in the mid-1980's. The property and structure has been actively involved in commercial automotive repair, rental and leasing for the past 22 years." (Attachment 1, Narrative pg.5)

"The SW Tonka property has a history and continuity of use from 1973 to the present that includes auto repair, maintenance, rental and leasing that included cars, vans, trucks, equipment and machinery. During this period of thirty-six years, the City Planning Department has never formally articulated specific non-conforming uses or structures on the subject property. While some uses may be thought to be non-conforming, it could be a matter of scale or size or other factors that would render the use non-conforming." (Attachment 1, Narrative pg.3)

"The United Rental Lease is current and in effect. The site may be sub-leased or assigned and Enterprise Rent-a-Car has indicated its interest in using the site for its auto and truck rental operations." [Attachment 1, Narrative, 3. Description (a)]

"The site was prepared for the continuing storage and rental of vehicles; cars, trucks and equipment. The proposed continuation of use would be for auto and truck rental services." [Attachment 1, Narrative, 3. Description (f)]

Staff disagrees that automotive and truck rentals are suitable business uses for the CG Planning District, especially in the downtown and Tualatin Commons area. The CG Planning District Purpose provisions of the TDC state:

Section 54.010 Purpose.

The purpose of this district is to provide areas of the city that are suitable for a full range of commercial uses, including those uses that are inappropriate for the neighborhood, office, or central commercial areas. This district is particularly suitable for businesses needing direct automobile access to the freeway and the arterial streets leading to the freeway. Such uses are motels, drive-in restaurants, automobile service stations, and carwashes. Other suitable automobile-related businesses are automobile upholstery shop, or automobile tire shop. Automotive uses that use large amounts of land, such as automotive, truck and machinery sales and rental, are not appropriate uses in this district. (Emphasis Added)

The proposed light truck and automotive rental use is a land-extensive activity, relying on outdoor storage of vehicles that take up both surface and vertical space. The purpose section of the CG Planning District does not encourage or endorse the uses proposed by Mr. Sposito and the uses are not consistent with the CG Planning District.

Rental and leasing of autos and light trucks is allowed as a conditional use in the Light Manufacturing (ML) [TDC 60.040(p)] and General Manufacturing (MG) Planning Districts. Enterprise has an existing rental and leasing facility on SW Teton Avenue in the ML Planning District as approved in a conditional use permit. In the CG Planning District, an "...auto leasing office with no more than five autos stored on site" is a permitted use. The Sposito property is not in ML or MG, and the proposed use will exceed the "five autos stored on site" maximum provision in the CG Planning District.

Staff disagrees with Mr. Sposito that the Anderson and United operations legally included auto, van, truck and large machinery & equipment rentals as non-conforming uses and which establishes light truck/auto leasing & rental as a legal non-conforming use in the CG Planning District. The first tenant Rabbit Hutch, was an auto service use and did not create or continue a non-conforming equipment rental use. The CG list of allowed uses (including "rental of small equipment, tools and devices") have been in effect for this location since 1983. The interpretation of INT-08-01 requested for Anderson Oregon Rental (succeeding the Rabbit Hutch auto repair business) for this property and history of use specifically limited the Anderson and United activities on the Sposito property to rental of "small equipment, tools and devices" and restricted powered equipment and vehicles with motors greater than 20 h.p. There is no evidence that Anderson and United legally included rental or leasing of large machinery & equipment, light trucks or autos on the property. Staff finds that the United Rental operation which ended in December 2007, did not create or continue large machinery & equipment and light truck/auto leasing/rental use as a legal non-conforming uses on the property in the CG Planning District.

8. The application narrative states: "The lawful uses of the property have not been discontinued over the past 26 years; however, they were modified by concessions made in 1999. At present, the tenant and property owner would like to sublease the property to Enterprise Rent-a-Car, which would be further reduction of the present uses but the city has seriously discouraged the continued economic use of the property." (Attachment 1, pg. 5)

Mr. Sposito contends that a former lease agreement with Anderson Oregon Rentals and a current lease with United Rentals effectively establishes and continues larger equipment rental/leasing as a non-conforming use on the property. He provides photographs of equipment and vehicles on the property in an attempt to establish and continue non-conforming uses and activities including light truck/auto leasing/rental. He implies that the recent presence of a vehicle (Attachment 1, pg. 4) parked on the property serves to continue the United Rentals activities on the site following the departure of the firm in December 2007. Staff disagrees.

The non-conforming use provisions of TDC state:

35.020 Continuation of Nonconforming Uses or Structures.

(1) Any nonconforming use of a structure or land existing on the date of the adoption of the Tualatin Community Plan, or any use of a structure or land becoming nonconforming subsequent to the effective date of the adoption of said Plan, may be continued, used, occupied or maintained only in accordance with the provisions of this chapter.

35.040 Discontinuance of a Nonconforming Use.
(1) If a nonconforming structure or use of land is discontinued for more than 12 months, it shall not be re-established unless specifically approved by the City Council. Approval by the City Council shall be granted or denied only after a public hearing is conducted on the proposed continuance. Notice of such public hearing shall be given in the manner required in TDC 31.077. (Emphasis Added)

The Definitions Section of the TDC in 31.060 provides the following definitions:

Use The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

Nonconforming Structure or Use. A lawful existing structure or use at the time this Code or any amendment hereto becomes effective which does not conform to the requirements of the planning district in which it is located.

Based on the provisions of Non-conforming Uses in TDC Chapter 35 and the definitions of "use" and "non-conforming use", a lease agreement between a property owner and a tenant and the language of the document do not create a "use" and do not constitute, establish or serve to continue a non-conforming use. Mention and photos of a vehicle or vehicles on the site were cited in the Application, but the vehicles were parked on the site sometime after United Rentals vacated the site. The presence of a vehicle parked on the site absent a verifiable use does not serve to continue a non-conforming use. When United Rentals closed the business at 8250 SW Tonka Avenue and vacated the small equipment rental business on the property on December 31, 2007, all legal non-conforming uses ceased on December 30, 2008 and no use or activity was re-established. There is no evidence that any legal non-conforming uses were continued since that date. While the lease between the property owner and United Rental may continue beyond that date, no legal non-conforming uses associated with United Rental on the property continued and the discontinuance provisions of TDC 35.040(1) are applicable.

A 12-Month time period beginning December 30, 2007 when United Rentals discontinued operations and use on the 8250 SW Tonka Street property, ended December 30, 2008. In accordance with TDC 31.040(1), any legal non-conforming use associated with the property discontinued over 12 months may not be re-established without the approval of the City Council. Staff concludes that any use or form of use established as a legal non-conforming use by Anderson Oregon Rentals and United Rentals on the property has been discontinued for more than 12 months and is no longer allowed on the property.

9. Mr. Sposito's application includes statements about a history of payment of property taxes on the property, economic contributions by the Sposito Family Trust to the City of Tualatin, and the character and condition of the barn building on the site (Attachment 1, pg. 5). Information on comparative traffic conditions, site improvements, and benefits of allowing light truck or auto rental on the site

are also presented. (Attachment 1, Section 3 items d-j) These statements are not relevant to the issues of CG Planning District standards, allowed uses and non-conforming uses on the 8250 SW Tonka Street property and Interpretation process raised in the application and considered in the Interpretation decision.

10. Mr. Sposito's application concludes:

> "The proposed use, car and truck rental services, provides an exceptional fit with the on-site improvements of the site and primary structure enabling the property owner an tenants to fully realize the storage and rental of vehicles; cars, trucks an equipment. The proposed continuation of use would be for auto and truck rental services." (Attachment 1, Section 3 Item f)

As discussed in the sections above, Staff disagrees with the applicant's statements on non-conforming uses and on whether light truck/auto leasing and rental use are suitable uses in the CG Planning District or allowed as an extension of legal non-conforming uses. Staff concludes based on the above information and the information in the INT-88-01 file, no legal non-conforming uses remain on the 8250 SW Tonka Street property and that the proposed light truck/auto leasing and rental use is not an allowed use nor a legal non-conforming use on this property in the CG Planning District.

INTERPRETATION

Based upon the above findings and analysis and the information in the application and the case file, the United Rentals equipment rental business discontinued operations on December 30, 2007 on the Sposito Family Trust property at SW 8250 SW Tonka Avenue. No legal non-conforming uses were retained on the property after December 30, 2008. A "Rental of various small equipment, tools, and devices" use is allowed as a permitted use in the CG Planning District and the subject property, subject to the definitions and conclusions in Interpretation INT-88-01. A light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not permitted uses nor previously established legal non-conforming uses and are not allowed uses on the property as permitted uses nor as non-conforming uses.

APPEAL

This interpretation will be final after 14 calendar days on **August 6, 2009**, unless a written appeal is received by the **Community Development Department Planning Division at 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062 before 5:00 p.m., on August 5, 2009. The appeal must be submitted on the City appeal form with all the information requested provided thereon and signed by the appellant.** The appeal forms are available at the Tualatin Library and the Planning Division offices. Appeals of interpretations are reviewed by the City Council.

Questions should be directed to William Harper at (503) 691-3027, fax to (503) 692-0147 or wharper@ci.tualatin.or.us.

Submitted by,

William Harper, AICP
Associate Planner

Attachment 1. Application Material
2. Copy of INT-88-01

c: City Manager
Community Development Director
City Attorney
Building Official
City Engineer
City Council
Owners of property within 300 feet
Applicants: Bill Campbell, Bill Campbell & Assoc, PO Box #843, Manzanita, OR 97130
Stan Sposito, Sposito Family Trust, 5283 SW 201 Ave. Aloha, OR 97007

file: INT-09-01
INT-88-01

APPLICATION FOR INTERPRETATION

Community Development Department
Planning Division (503-691-3026)
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

Case No INT-09-01
Fee Rec'd N/A
Receipt No N/A
By Scranford

PLEASE PRINT IN INK OR TYPE

Applicant's Name: STAN SPOSITO, SPOSITO FAMILY TRUST

Applicant's Address 5283 SW 201 Ave., ALOHA, OR 97007
(street) (city) (state) (zip)

Applicant is: Owner ✓ Contract Purchaser ____ Developer ____ Agent ____

Other Agent: Bill Campbell & Associates LLC
POB 843, MANZANITA, OR 97130
503-368-3134

Code Section: chapter 35

Interpretation request: Briefly describe your request. Please use additional pages to give a more detailed description of factor involved.

What is the status of the NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA AVENUE, TAX LOT 2S1 24CB 01700

"SEE ATTACHED MATERIALS"

In the interpretation is for a use on a particular site, please fill in the section below:

Address of Property 8250 SW TONKA AVE., TUALATIN, OR

Lot Area 1.21 acres Planning District ____

Assessor's Map Number 1S124CB01700 Tax Lot Number(s) ____

Property Owner's name STAN SPOSITO, SPOSITO FAMILY TRUST

Property Owner's address ____

CITY OF TUALATIN
RECEIVED
JUN 25 2009
COMMUNITY DEVELOPMENT
PLANNING DIVISION

Attachment 1
Application Material

REQUEST FOR INTERPRETATION
June 23, 2009

Question Posed: **What is the status of the non-conforming use rights of the land and structure located at 8250 SW Tonka Avenue**, Tax Lot 2S1 24CB 1700, Sposito Family Trust , Owner

Representation & Background

The subject property is located at 8250 SW Tonka Avenue, Tualatin, Oregon; it is within the Central Urban Renewal District of the city, is Zoned General Commercial in the Tualatin Development Code and has been in Commercial use from its date of acquisition by Stan Sposito, Principle in the Sposito Family Trust, managed by Mr. Sposito. The property has been engaged in the storage, repair, and rental in one form or another since 1973. The owner and the lease tenants, under terms of the lease agreement, have kept the property well maintained and over the past thirty-six (36) years Mr. Sposito has endeavored to meet the requirements of the city while managing the property to provide an economic return to the Sposito Family Trust and to the Community.

The prior, present and intended future uses of the property are consistent with the stated intent and purpose of the General Commercial Zone of the city, in that they have been and are "particularly suitable for business needing direct automotive access to the freeway and to the arterial streets leading to the freeway". Automotive uses that use large amounts of land, such as automotive, truck and machinery sales and rental, are not deemed to be appropriate uses in the district. Although the Permitted Uses in the zone provide for Auto Leasing as an outright use, but limit the number of vehicles to five (5), rendering the use a less than viable economic use. It is the only automotive use within the General Commercial Zone with such a restriction limiting its economic viability.

The occupancy history of the property reflects a pattern of automotive service uses from the VW repair operations of the Rabbit Hutch in 1984 through truck , machinery and equipment rental and leasing operations from 1988 to the present;

beginning with Anderson Oregon Rentals, Inc., and the assumption of the lease by United Rentals in 1999. A common thread for each company was the rental and leasing of vans, small trucks and equipment, which the city allowed through the apparent recognition of the property owners right to continue with uses that had been established. Letters issued in 1988 indicate the city's position on uses within the General Commercial Zone by interpretation of a commercial property on SW Hazelfern, indicating those uses deemed appropriate for that property in the CG Zone; a second city letter in October 1988 provides a dissertation on small and its application to the rental of equipment and the use of trailers as being incidental to the primary activity on the SW Tonka property. In 1999, following contact by United Rental on the assumption of the SW Tonka property lease, the city issued a letter regarding upgrades and improvements to the site, albeit recognizing the right of the property to continue the pre-existing uses of the land and structure. A point of agreement developed in the meetings that was memorialized in the letter that the use of the site would not include 'large equipment', e.g. big dump-trucks, excavators, D-5s and D-6's; but it did allow bobcats, mobile platforms, cherry pickers, scissor scaffolding, and the array of equipment available through United Rentals. The 1999 City of Tualatin letter, in our view, represents a de-facto recognition of the non-conforming uses and continuing rights of the property owner and lease tenants for the 8250 SW Tonka Avenue property.

In 1987 the site was under serious consideration and supported for the development of a new postal facility in Tualatin; the city was quite interested in the use and future development of the site throughout the 80's and 90's and wanted the barn, one of the last vestiges of the cities agrarian past, to be razed and removed. However, during the period of occupancy by Anderson Oregon Rentals and into the present occupancy by United Rentals the site has realized investments to improve and update the "barn" and the site to meet city zoning and environmental requirements, that included site screening consistent with design standards for the Central Urban Renewal District. The site improvements have contributed to the realization of the urban renewal objectives for the SW Tonka area, substantial

roadway and storm drainage improvements, combined with on-site improvements that were consistent with the character of the Central urban Renewal District.

The Tualatin Development Code, chapter 35, Non-Conforming Uses indicates a intent to strictly regulate and permit uses and structures in each district to exist only under specific regulation. It is the purpose of such specific regulation and control over such incompatible uses and structures that such non-conforming uses or structures be discontinued or brought into conformity. The chapter does allow, however, that the use of any land or structure becoming non-conforming subsequent to the effective date of the adoption of said Plan, may be continued, used, occupied or maintained only in accordance with the provisions of Chapter 35. The code provisions also provide that "If a non-conforming structure or use of land is discontinued for more than 12 months, it shall not be re-established unless specifically approved by the City Council". The lawful uses of the property have not been discontinued over the past twenty-six (26) years; however, they were modified by concessions made in 1999. At present the tenant and property owner would like to sublease the property to Enterprise Rent-a-Car, which would be a further reduction of the present uses but the city has seriously discouraged the continued economic use of the property.

The SW Tonka property has a history and continuity of use from 1973 to the present that includes auto repair, maintenance, rental and leasing that included cars, vans, trucks, equipment and machinery. During this period of thirty-six years the city planning department has never formally articulated specific non-conforming uses or structures on the subject property. While some uses may be thought to be non-conforming, it could be a matter of scale or size or other factors that would render the use non-conforming. During this period of time the city has allowed and issued permits for improvements to the property including upgrades to the Gambrel Barn that is the primary structure on the property, improvements to the site to include fencing, site screening , paving and the installation of environmental controls. Property improvements from 1999 to the present represent an investment by the

property owner and tenants of over $396,000. It is assumed that the present use and activities on the subject property meet the requirements and standards for the Central Urban Renewal District on transportation and environmental controls, both on and off site. The successful business use of the property has benefitted the City of Tualatin through an increase in taxable property improvements that contributed to the urban renewal tax increment as well as general city commercial revenues. The continued use of the property in auto and small truck leasing would bring vitality and activity into an area of the city that is experiencing a 50-70 percent decline in business operations. Allowing the continuity of use would enable a National Company, Enterprise Rent-a-Car to expand its operations within the city on a site that is well suited and located for that purpose, satisfying a comprehensive plan objective of allowing auto-oriented uses in close proximity to I-5 and the secondary arterial that is SW Tualatin-Sherwood Road.

Statements have been made by representatives of the City of Tualatin, both city staff and elected officials, that the continuance of auto, truck and equipment rental uses of the SW Tonka property have been discontinued and will not be allowed. However, the Commercial Lease for the lawful use of the property by United Rentals is in full force and effect, photographic evidence indicates that the uses have been continued and are still active on the property. Enterprise Rent-a-Car, a national auto and small truck leasing corporation, has indicated its interest in sub-leasing and using the property for its business activities. Both the property owner and representatives of the national corporation have been informed by the city that Enterprise cannot use the property for its proposed use, denying the continuity of use allowed by city ordinance.

The question for interpretation by the city is: **What is the status of the non-conforming use rights of the land and structure located at 8250 SW Tonka Avenue**, Tax Lot 2S1 24CD 1700, Sposito Family Trust, Owner.

The following bulleted facts have specific relevance and bearing on the question posed for interpretation:

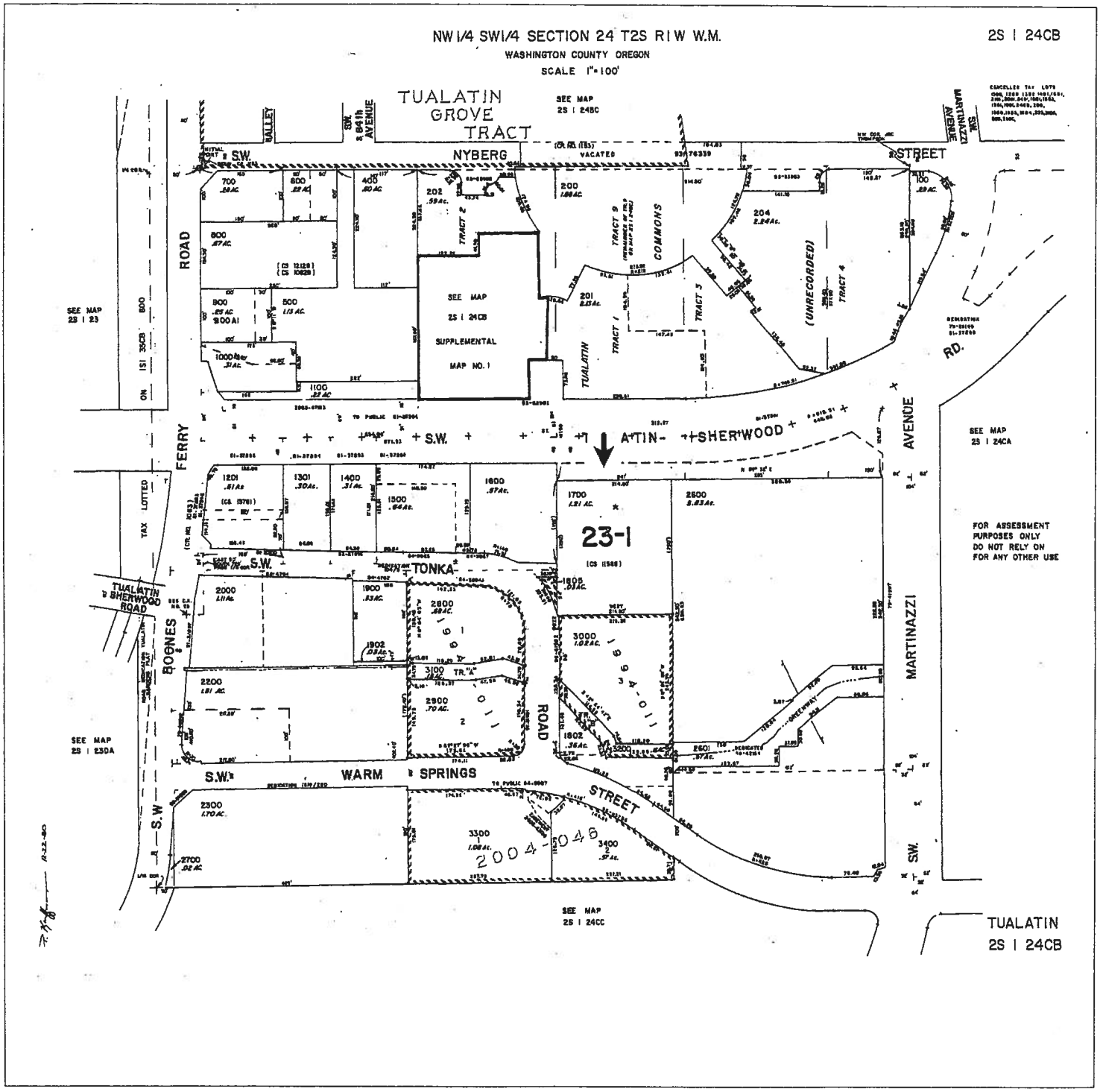
- The subject property has been actively and continuously used for vehicular and equipment related business for the past 36 years, 1973 – 2009;
- The commercial vehicular uses have included activities involving autos, vans, trucks, machinery and equipment rentals, including U-Haul Rentals in the mid-1980's;
- The property and structure has been actively involved in commercial automotive repair, rental and leasing for the past 22 plus years;
- In 1999 the property owner and United Rentals agreed to site operational limitations that restricted 'large equipment', excavators, earth movers, etc. from being stored on the property;
- Property taxes have been dutifully paid on the property for commercial activities from 1973 to the present, including those taxes collected for Urban Renewal projects and Tax increment Financing, based upon on-site taxable improvements to the benefit and well being of the Central Urban Renewal District of the City of Tualatin;
- The property and the Sposito Family Trust has made a substantial economic contribution to the City of Tualatin, consistent with the intent and purpose of the City Comprehensive Plan from 1973 to the present; and
- While the primary structure on the property, a Gambrel Barn, is not listed as a historical resource of the City of Tualatin, it is one of the oldest standing structures of the original town site and represents the early history of the city and its roots as a rural agrarian community. The structure has been well maintained and improved for commercial use and operations, preserving a brief sense of the earlier charm and character of Tualatin.

First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

Reference Parcel Number 2S124CB 01700



Adjoining Properties: Addresses & Summary Information

Map Tax Lot	Situs	Owner Address	Size	2008 RMV
2S124CB-02600	19221 SW Martinazzi Ave	Martinazzi Square LLC By API/Pichon VIII LLC 112 Third St. Lake Oswego, OR 97034	5.83	$14,716,150
2S124CB-03000	8200 SW Tonka Rd.	KOWBOY C LLC DBA: Bushwhackers 8200 Tonka Rd. Tualatin, OR 97062		$54,488
2S124CB-02900	8355 SW Warm Springs St.	Vandolay Properties LLC 8375 SW Warm Springs St. Tualatin, OR 97062	.70	$1,715,670
2S124CB-02800	8340 SW Tonka Rd.	J LO LLC 8340 SW Tonka St. Tualatin, OR 97062	.68	$1,005,250
2S124CB-01600	8335 SW Tonka Rd.	Oregon Village Pizza Associates LLC ATTN: Jake Mathews 121 Spear St. #250 San Francisco, CA 94105	.57	$773,290
2S124CB-01500	8349 SW Tonka Rd.	Portland Rose LLC 1801 NW Iowa Bend, OR 97701	.64	$1,629,590
2S124CB-01900	8386 SW Tonka Rd.	Melbo Land & Investment Co. PMB #123 1115 Madison St. NE Salem, OR 97301	.33	$411,360
2S124CB-00201	8185 SW Tualatin-Sherwood Rd.	Century Hotel, LLC 4601 NE 78th St. Ste. 130 Vancouver, WA 98665		$5,516,880
2S124CB-00500	8460 SW Nyberg Rd.	Harvey Clark & David Emami 3380 Barrington Dr.	1.13	$945, 490

		West Linn, OR 97068		
2S124CB-03300	8350 SW Warm Springs	Tualatin Valley Lodge #2780 PO Box 1535 Tualatin, OR 97062	1.80	$1,042,970
2S124CB-03400	8322 SW Warm Springs	Warm Springs Crossing LLC 8220 SW Warm Springs #100 Tualatin, OR 97062	.57	$994,060
2S124CC-00102	8140 SW Warm Springs	KC Propco LLC 650 NE Holliday St. #1400 Portland, OR 97232	.78	$1,323,920

3. Description of Factors:

a. The SW Tonka site has been used in a variety of automotive and vehicular uses including storage, rental services, repair and maintenance of autos, vans, trucks and equipment over the past thirty-six years. Through the years city zoning has allowed these uses, although the size and scale of commercial operations may have been a source of non-conforming use issues. The United Rental Lease is current and in effect. The site may be sub-leased or assigned and Enterprise Rent-a-Car has indicated its interest in using the site for its auto and truck rental operations.
b. The proposed continuation of site operations will include auto and truck rental operations with office operations located within the primary structure, it may well include records storage and archiving of other corporate uses as well. Meetings, training, and small conferences. The site is well screened from all sides and can accommodate the on-site storage of vehicles as well as provide an indoors area for maintenance and repair of vehicles. There are two fueling points on the premises together with a wash rack area. The site has developed environmental control systems in place for wash water and fuel systems in accordance with state regulations. The site is wel sited and located for an auto leasing operation, which is a permitted use in the General Commercial Zone, save for the scale of the proposed operation. The use is consistent with the objectives and purpose of the comprehensive plan by supporting those commercial opportunities that require proximity to the primary and secondary arterials. The concierge services of Enterprise provides an opportunity to enhance the economic vision of the community.
c. Machinery use would be limited to maintenance and minor automotive repairs of cars, trucks and vans. These operational necessities would not be visible or noticeable off the premises, given the quality screening of the property and the indoor garage facilities of the primary structure. A wash down area is located to the rear of the primary structure and is screened from adjoining properties used for refuse containment and garbage service.
d. The proposed site use will not add or increase vehicular noise or odors beyond those that exist in the area. The area has been designed and developed for high traffic both within and through the community. The proposed use will actually present a reduction of previous uses by limiting the use to auto and truck rentals. The concierge service provides for off-site delivery of vehicles within the community and region, reducing traffic into the area.

e. Rental vehicles, cars and trucks, will be stored within a secure enclosure that is well screened from view. The area is not readily visible or noticeable from adjacent sites and businesses. Some product together with signage would be presented at the entry of the property to inform the public. Fleet maintenance operations could be conducted within the garage of the primary structure.
f. The proposed use, car and truck rental services, provides an exceptional fit with the on-site improvements of the site and primary structure enabling the property owner and tenants to fully realize the value of those investments. The site was prepared for the continuing storage and rental of vehicles; cars, trucks and equipment. The proposed continuation of use would be for auto and truck rental services. All facilities are in excellent condition and well maintained for commercial use of the site and facilities.
g. The site will continue to generate vehicular traffic, but the change in scale of rentals proposed would serve to reduce the actual volume of traffic, especially trucks into the area. The area is designated and developed to accommodate a high level of traffic consistent with the vehicular orientation of commercial uses in the immediate vicinity. The site has more than adequate parking for employees and clientele through typical business hours, 8 AM – 5 PM. A vehicle drop off area is customarily provided in conjunction with rental operations and would be an element of site operations. The proposed use indicates a decrease, rather than an increase, in on-site activities, which will translate into an overall reduction of traffic generated by the site. The concierge services offered by Enterprise will further reduce traffic into the area.
h. Approximately one (1) acre of the 1.21 acre site is improved for vehicle and equipment parking that is both secured and unsecured. It is more than adequate to meet the needs of the business and the public access. The site provides adequate area, outside the secured storage area, for product display, client parking and employees. On site parking has been deemed consistent with code requirements.
i. The lease provides for a single tenant, or at the option of the lease holder, multiple tenants at the discretion of the lease holder subject to consent of the property owner and consistency with city requirements.
j. The proposed Enterprise operations will provide enhanced services to the city, southerly metropolitan region, and the outlying residential and rural areas. Primary clientele would be from the greater Tualatin community and consist of commercial and industrial businesses together with private residential users. The activity will augment the lagging economic activities in the central business district of the community, generating activity where there is an unfortunate increase in vacant office buildings and store-fronts. The services

offered by Enterprise can provide a unique fit with the city vision for Tualatin to be a business destination serving the area and the region.

k. We will be more than happy to provide any additional information or responses for information requested by the Director.

Timeline: Elements and Uses

Sposito Family Trust
8250 SW Tonka

1973 - Property acquired by Stan Sposito, initial uses included miscellaneous automotive services including storage of autos, vans, trucks and equipment. Uses changed over the ensuing ten years as uses became more formalized under the Sposito Family property management.

1984 - Annual lease with the "Rabbit Hutch" Volkswagen Repair and Storage executed. Uses included the repair of autos and vans, sales of repaired vehicles, repair services to the general public, and on-site storage of vehicles for parts and repair together with ongoing storage of vans, trucks and equipment.

1987 - Property offered for purchase to United States Postal Service as a prospective location for a new postal service facility in Tualatin. The property was appropriately zoned for Light Manufacturing (M-3) at that time.

1988 - City letter of Interpretation, May 11, 1988 pertaining to Tax Lot 2S1 13DC 0500, Hazelfern" to provide guidance regarding uses in the General Commercial Zone. The letter addressed a discontinued use, a service station, and did not address the non-conforming use rights of the Tonka Property.

1988 – City letter of Interpretation to Ms. Caplan, INT-88-01, which thoroughly addressed "Small" and its context of uses within the General Commercial zone of the city. The letter, specific to proposed uses on the SW Tonka property did not address the non-conforming use rights or rights of continuation.

1989 - February 15th, the lease agreement with Anderson's Oregon Rental, Inc. (AOR) signed for the use of the property as a full service public rental facility, the uses were deemed consistent with zoning provisions and within the ongoing non-conforming use rights of the property owner. The lease agreement contained provisions to protect the prior uses of the site, including the storage and rental of vans, trucks and equipment. The lease enabled the Lessee or Lessor to enter into a sub-lease with third parties for use of the property with the consent of one another and consistency with city requirements.

1995 - Notes of a May 12th meeting with Doug Johnson regarding the property; key elements of the meeting indicated that "the city wants the barn down", "Doug wants the barn down", city will find location for Paul (Anderson's Oregon Rentals, Inc.) city will arrange proper timing, city will commit to prior agreements".

1997 - December 31st, City Building Permit #9779-97 issued to Paul Moody, AOR, for a wash rack canopy and support structure located behind the barn with a wash down area and sump for environmental control of wash water.

1999 - April 8th, City letter to United Rental and Sposito Family Trust pertaining to 'suggested' site improvements and uses of the site proposed by United Rentals in concert with the assumption of the existing lease from AOR; excluding 'large equipment' storage on-site with consent of United Rental and Stan Sposito.

1999 - August 1st, United Rentals enters into a sub-lease for the use of the site as a full-service rental facility, excluding the storage of "heavy equipment" as agreed upon, subject to provisions for lease modifications and property improvements for business operations.

1999 - November, a multi-phased program of building and site improvements are agreed upon with bid proposals accepted to initiate phased improvements to the primary structure, the barn, and the site totaling over $396,225.

2001 – October – Lease Amendment No. 1 approved by parties

2004 – January – clarifying letter sent from Mr. Bisaccio to United Rental to resolve questions and issues.

2006 – United Rental letter confirming the 2006 extension of the Commercial Lease through February 28, 2010.

The property is presently under continuing lease to United Rental for all authorized activities conducted upon the property from 1989 through the present. Clearly indicating no break or discontinuance of allowed and permitted activities, and clearly indicating a right to continue all or elements of non-conforming uses on the subject property.

(LAW PUB.CO.) Stevens-Ness Law Publishing Co. © Portland, Oregon 97204 OB

EARNEST MONEY RECEIPT

City Tualatin State Oregon December 11, 1984

A. RECEIVED FROM Thomas Wheeler RABBIT HUTCH - AUTO REPAIR

(hereinafter called "purchaser") the sum of Five Thousand---------- Dollars ($ 5,000.00 SAL

in the form CASH, CHECK, DRAFT Note (transferred from E.M. #12784) as earnest money and in part payment for the purchase of the following described real estate situated in the City of Tualatin Tual

County of Washington, State of Oregon, to-wit, 8250 S.W. Tonka, Tualatin, Oregon also described as tax lot 1700 on Washington County Assessors map #2 S1 24CB

which we have this day sold to said purchaser

for the sum of Three Hundred Thousand---------- Dollars ($300,000.00)

on the following terms, to-wit: The sum, hereinabove receipted for, of Five Thousand---------- Dollars ($ 5,000.00)

{ on owner's acceptance. (Strike whichever not applicable)
{ on ....., 19....., as additional earnest money, the sum of ..... Dollars ($.....)

Upon acceptance of title and delivery of { ~~deed~~ (Strike whichever not applicable) contract, the sum of One hundred and ninety-five thousand---------- Dollars ($195,000.00)

Balance of One hundred thousand---------- Dollars ($100,000.00)

payable as follows: #SEE ADDENDUM "A"

1. If this transaction includes dwelling units, buyer and seller certify that a working smoke detector shall be installed in each such unit according to applicable law, prior to closing.
2. A title insurance policy from a reliable company insuring marketable title is to be furnished purchaser in due course at seller's expense; preliminary to closing, seller shall furnish a title insurance company's preliminary title report showing its willingness to issue title insurance, which shall be conclusive evidence as to seller's record title.
3. It is agreed that if seller does not approve this sale within the period allowed broker below in which to secure seller's acceptance, or if the title to the said premises is not insurable or marketable, or cannot be made so within thirty days after notice containing a written statement of defects is delivered to seller, the said earnest money shall be refunded. But if said sale is approved by seller and title to the said premises is insurable or marketable and purchaser neglects or refuses to comply with any of said conditions within ten days after the said evidence of title is furnished and to make payments promptly, as hereinabove set forth, then the earnest money herein receipted for and additional earnest money, if any, shall be forfeited and disposed of as stated in Section F below and this contract thereupon shall be of no further binding effect.
4. The property is to be conveyed by good and sufficient deed free and clear of all liens and encumbrances except zoning ordinances, building and use restrictions, reservations in Federal patents, easements of record and The Statutory powers of the Unified Sewerage Agency
5. All irrigation, plumbing, ventilating, cooling and heating fixtures and equipment (including stoker and oil tanks but excluding fireplace fixtures and equipment), water heaters, light fixtures, bulbs and lamps, bathroom fixtures, venetian blinds, drapery and curtain rods, window and door screens, storm doors and windows, attached floor coverings, attached television antenna, all shrubs and trees and all fixtures except .....

are to be left upon the premises as part of the property purchased. The following personal property is also included as a part of the property for said purchase price.

6. Pro rates for current tax year, rents, interest, premiums for existing insurance and other matters shall be made as of the date of ☒ closing, date of ☐ possession. Date of closing is March 30, 19 85 Date of possession is March 30 1985 or as soon thereafter as existing laws and regulations will permit removal of tenants, if any. Any real property taxes, interest or assessment thereon which is attributable to periods before closing, but the due date for payment of which has been deferred, shall be paid by ☐ purchaser ☒ seller. Encumbrances to be discharged by seller may be paid at his option out of purchase money at date of closing. SELLER AND PURCHASER AGREE THAT SUBJECT SALE WILL BE CLOSED IN ESCROW, THE COST OF WHICH SHALL BE BORNE CO-EQUALLY BETWEEN SELLER AND PURCHASER.
7. Time is the essence of this contract. This contract is binding upon the heirs, executors, administrators, successors and assigns of buyer and seller. However, the purchaser's rights herein are not assignable without written consent of seller. In any suit or action brought on this contract, the losing party therein agrees to pay the prevailing party therein (1) the prevailing party's reasonable attorney's fees in such suit or action, to be fixed by the trial court, and (2) on appeal, if any, similar fees in the appellate court, to be fixed by the appellate court.

Listing Broker Norris, Beggs, & Simpson Phone ..... Address .....

Selling Broker Metro-West Realty Phone 692-3050 By MDG Address 8265 S.W. Nyberg, Tualatin, Ore

B. AGREEMENT TO PURCHASE

I hereby agree to purchase and pay the price of $ 300,000.00 to purchase the property herein described in its present condition, as set forth above and grant to said agent a period of 10 days hereafter to secure seller's acceptance hereof, during which period my offer shall not be subject to revocation. Said deed or contracts to be in the name of December 11, 1984

Standard Telephone Design, Inc.

Address 8250 S.W. Tonka

Tualatin, Oregon 97062 Phone 692-4165

X Thomas C. Wheeler Purchaser

Purchaser

C. BUYER'S AND SELLER'S AGREEMENT RE DEPOSIT OF EARNEST MONEY

The Earnest Money deposit in this transaction of $..... in the form stated above shall be deposited in the Client's Trust Account of the ☐ listing Broker, ☒ selling Broker December 11, 1984 indicated above until this offer is accepted, whereupon the parties agree and direct that such funds be deposited in escrow with Safeco Title Insurance Co.

Address 4040 S.W. Douglas Way, Lake Oswego, Oregon 97034

to be held pending closing of this transaction pursuant to the attached escrow instructions.

X Thomas C. Wheeler Purchaser ..... Seller

Purchaser ..... Seller

D. AGREEMENT TO SELL

I hereby approve and accept the above sale for said price and on said terms and conditions and agree to consummate the same as stated.

....., 19.....

Seller's Address ..... Seller

Phone ..... Seller

E. Deliver promptly to purchaser, either manually or by registered mail, a copy hereof showing seller's acceptance.

Purchaser acknowledges receipt of the foregoing instrument bearing his signature and that of the seller showing acceptance.

..... Purchaser

Date ..... Purchaser

Copy hereof showing seller's signed acceptance sent buyer by registered mail to buyer's above address. (return receipt requested) on ....., 19.....

Return receipt card received and attached to broker's copy ....., 19.....

F. SELLER'S CLOSING INSTRUCTIONS AND AGREEMENT WITH BROKER RE FORFEITED EARNEST MONEY

I, the seller whose signature appears below, agree to pay to said broker a commission amounting to $ ..... for services rendered in this transaction and hereby grant to said broker a lien on the proceeds of the sale to secure payment of said commission. In the event that the buyer's deposit is forfeited pursuant to sub-paragraph 3, above, said forfeited deposit shall be dispersed in accordance with the terms and conditions set forth in the listing agreement, or in the event it is not stated or there is no signed listing agreement, then in the following manner: #this is a co-op transaction between Norris, Beggs & Simpson and Metro-West Realty (50/50) December, 1984

Seller acknowledges receipt of a copy of this contract bearing signatures of seller and buyer named above.

..... Listing Broker ..... Seller

By .... Seller

NOTE: IF ANY BLANK SPACES ARE INSUFFICIENT, USE S-N No. 810 "HANDY PAD", TO BE SEPARATELY SIGNED BY BUYER AND SELLER.

BROKER'S COPY - FILE IN DEAL ENVELOPE

THIS ADDENDUM IS ATTACHED TO AND A PART OF EARNEST MONEY AGREEMENT #121184
BETWEEN THOMAS WHEELER AS BUYER AND STANLEY C. SPOSITO AS SELLER.

1. Earnest money note to be converted to cash upon sellers acceptance.

2. Earnest money to be placed in an interest bearing account with all interest accrued payable to buyer.

3. Balance of $100,000.00 to be payable in monthly payments of not less than $966.00 which amount shall include principal and interest at the rate of 10% per annum on the unpaid monthly balance. 20yrs

4. This offer is contingent upon buyer approving all preliminary title documents on or before January 10, 1985.

5. This offer is contingent upon buyer securing all necessary permits and approvals from the City of Tualatin on or befofe March 10, 1985.

6. This offer is contingent upon buyer securing adequate financing on or before March 10, 1985

7. Any documents pertinent to buyers intended use that may be in sellers possession shall be made available to buyer on or before January 10, 1985. (survey, easement agreements, etc

8. Washington County transfertax to be split 50/50 buyer/seller.

9. This earnest money instrument does not guarantee that any particular use may be made of the property described in this instrument. A buyer should check with the appropriate city or county agency to verify approved uses.

10. Seller hereby agrees that the property included in this transaction will include property sufficient to adequate access and egress to/from S.W. Tonka.

11. This offer is being prepared by Mark Gensman an Associate Broker with Metro-West Realty in Tualatin, Oregon.

Buyer_____ Date_____

Seller_____ Date_____

By: Mark D. Gensman

Mark D.Gensman
Associate Broker
Metro-West Realty
8265 S.W. Nyberg Rd.
Tualatin, Oregon
97062

FORM NO. 810 - HANDY PAD
Stevens-Ness Law Publishing Co.
Portland, Oregon 97204

Grubb&Ellis

September 9, 1987

Mr. Stan Sposito
1243 S.W. Cheltanham
Portland, Oregon 97201

Dear Stan:

Enclosed is the proposal package and offering letter submitted to the United States Post Office for their review in connection with the relocation of the Tualatin facility.

Please retain this package for your files and should you have any questions or comments, please do not hesitate to contact me. Otherwise, I will keep in touch with you as I find out more from the Postal Service regarding this transaction.

Very truly yours,

Mark A. New
Retail Properties Division

MAN:ssh
enclosure

U.S. POSTAL SERVICE

Offer to Sell Real Property

Alley 87

The Undersigned, hereinafter called the Vendor, in consideration of one dollar to me in hand paid, receipt o which is hereby acknowledged, and in consideration of the mutual covenants and agreements herein set forth hereby makes the irrevocable offer to sell and convey to the United States Postal Service and its assigns, th fee simple title to the following described land, with the buildings and improvements thereon, and all rights hereditaments, easements and appurtenances thereunto belonging, located in the City of Tualatin County of Washington, State of Oregon bounded and described as follows

subject to the following rights outstanding in third parties:

See attached Exhibit "A"

Excepting and reserving to the Vendor the following rights and interests: a lease by and between Mr. Stan Sposito as Lessor, and P.M. Mechanik as Lessee

The terms and conditions of this offer are as follows: None

1. The Vendor agrees that this offer may be accepted by the United States Postal Service through any du authorized representative, by delivering, mailing or telegraphing a notice of acceptance to the Vendor at the addre stated below, at any time within Two Hundred Forty (240) calendar days from the date hereof, whereupc this offer and the acceptance thereof become a binding contract.

2. The Postal Service agrees to pay to the Vendor for said land the sum of Three Hundred Fifty Thousand and no/100 ----------Dollars ($ 350,000.00 payable upon approval by the Postal Service of the Vendor's title and execution and delivery by the Vend of a good and sufficient general warranty deed conveying said land with the hereditaments and appurtenanc thereunto belonging to the United States Postal Service and its assigns, in fee simple, free and clear from all lie and encumbrances, except those specifically excepted or reserved above, together with all right, title, and intere of the Vendor in and to any streams, alleys, roads, streets, ways, strips, gores, or railroad rights-of-way abutting adjoining said land.

3. It is agreed that the Postal Service will defray the expenses incident to the preparation and recordation the deed to the Postal Service and the procurement of the necessary title evidence.

4. The vendor agrees that all taxes, assessments, and encumbrances which are a valid lien against the land of the time of conveyance to the Postal Service shall be satisfied of record by the Vendor at or before the transf of title and, the Vendor will, at the request of the Postal Service and without prior payment or tender of t purchase price, execute and deliver the general warranty deed to the Postal Service and obtain and record su other curative evidence of title as may be required by the Postal Service. If the Vendor fails to satisfy any su liens or fails to secure such curative evidence as required the Postal Service may pay said liens and cure such defe and deduct any cost incurred from the purchase price of the land. Taxes for the current year are to be pro-rat as of the date of closing.

5. The Vendor agrees that loss or damage to the property by fire or acts of God shall be at the risk of the Vendor until the title to the land and deed to the Postal Service have been accepted by the Postal Service through its duly authorized representative or until the right of occupancy and use of the land, as hereinbelow provided for, has been exercised by the Postal Service; and, in the event that such loss or damage occurs, the Postal Service may, without liability, refuse to accept conveyance of the title or it may elect to accept conveyance or title to such property, in which case there shall be an equitable adjustment of the purchase price.

6. The agents, employees or representatives of the Postal Service shall have the right, during the period of the offer, subject to the use made of the premises by the Vendor to enter upon the said premises for the sole purpose of inspecting the same and making test borings, plans and topographical surveys in connection with the Postal Service's contemplated use of the premises. The Postal Service, at its expense shall promptly restore the property of the Vendor to its original condition in accordance with good engineering practices.

7. Possession of the property shall be delivered to the purchaser on the day the sale is consummated unless a different possession date is herein specified.

8. The Vendor agrees not to rent, lease or otherwise increase tenancy on any portion of the property subsequent to execution of this Offer to Sell Real Property.

9. It is agreed that the spouse, if any, of the Vendor, by signing below, agrees to join in any deed to the Postal Service and to execute any instrument deemed necessary to convey to the Postal Service any separate or community estate or interest in the subject property and to relinquish and release any dower, curtesy, homestead, or other rights or interests of such spouse therein.

10. The Vendor represents and it is a condition of acceptance of this offer that no member of or delegate to Congress, or resident commissioner, shall be admitted to or share any part of this agreement, or to any benefits that may arise therefrom; but this provision shall not be construed to extend to any agreement if made with a corporation for its general benefit.

11. The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the Postal Service shall have the right to annul this contract without liability or in its discretion to deduct from the price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property in accordance with general business practice, and who have not obtained such licenses for the sole purpose of effecting this contract, may be considered as bona fide employees or agencies within the exception contained in this clause.)

12. The terms and conditions aforesaid are to apply to and bind the heirs, executors, administrators, successors, and assigns of the Vendor.

13. All terms and conditions with respect to this offer are expressly contained herein and the Vendor agrees that no representative or agent of the Postal Service has made any representation or promise with respect to this offer not expressly contained herein.

14. Legal title is held as follows: (Show whether joint tenants, tenants in common, tenants by the entirety, etc.) Stanley C. Sposito

15. The following paragraphs were added or deleted before execution:

Signed, Sealed, and Delivered this 13th Day of August , 19 87

Witnesses**

Vendor(s)*

_____ _____ (Seal)
(Vendor)
Mr. Stanley C. Sposito

_____ _____ (Seal)
(Spouse of Vendor)

_____ _____ (Seal)
(Vendor)

_____ _____ (Seal)
(Spouse of Vendor)

Notice of acceptance of this offer is to be sent to:

Mr. Mark A. New, Grubb & Ellis Company, 1001 S.W. Fifth Avenue,
(Name, street number, city, state, and ZIP+4)

Suite 700, Portland, Oregon 97214-1196 503/241-1155
(Telephone No.)

Acceptance of Offer to Sell Real Property

Date:

The offer of the Vendor contained herein is hereby accepted for and on behalf of the United States Postal Service.

_____
(Name)

Witness:** _____ _____
(Title)

_____
(Address)

*Identify each signature as to Vendor or spouse. If property is located in a state providing dower rights the offer must be signed by the spouse. I unmarried, owner's legal marital status must be indicated. If property is in an estate or owned by a corporation, evidence of authority of the signatories must accompany the offer. This offer must be acknowledged as required by state statutes.

**This space will be used for witnesses to signatures if required by State law.

900 LIGHT MANUFACTURING M-3

901 PURPOSE

The purpose of this district is to provide sites for heavy commercial and light manufacturing activities requiring light machinery, under controls which will allow them to be located in close proximity to commercial and residential areas.

902 PERMITTED USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the following uses:

Any of the following uses to be conducted wholly within a completely enclosed building except for off-street parking and loading. Any open storage to be clearly incidental to the primary use and shall be enclosed with a sight-obscuring fence not less than six (6) feet nor more than seven (7) feet in height unless otherwise specified by the City Council.

Group A

Assembly of electrical appliances, electronic instruments and devices, radios, phonographs, television, including the manufacture of small parts only, such as coils, condensers, transformers and crystal holders.
Assembly (only) of metal products.
Book bindery.
Dairy products, manufacture of (other than creamery).
Gloves, manufacture of.
Laboratories: experimental, dental, medical, photo, or motion picture research or testing.
Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay.
Manufacture of musical instruments, toys, novelties, or rubber or metal stamps.
Manufacture of optical goods, scientific and precision instruments and equipment.
Manufacture of artificial limbs, dentures, hearing aids, surgical instruments and dressings, and other devices employed by the medical and dental professions.
Medicines, the manufacture of.
Public service and utility.
Any other use held similar to the above uses, as approved by the City Council.

Group B

Automobile painting and upholstering.
Boat building (small).
Creamery.
Feed and seed store.
Laundry or dry cleaning plant.
Lumber yard.
Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics,

setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The City Council shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

905 HEIGHT

The maximum height of any structure shall be three (3) stories or forty-five (45) feet.

906 LOT COVERAGE

There shall be no maximum lot coverage in this district.

907 MAXIMUM FLOOR AREA

The gross area devoted to the conduct of any individual use together with its accessory uses, shall not exceed ten-thousand (10,000) square feet if within one-hundred (100) feet, plus the width of intervening streets, of an R or A zone.

908 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required in Section 1100.

909 ACCESS

All lots in this district shall abut a public street.

910 SIGNS

Refer to Sign Ordinance #133.

911 ACCESSORY BUILDINGS

1. Separate permits shall not be issued for the construction of any type of accessory building prior to that of the main building.

2. A detached accessory building shall not encroach upon the required yard or court of any other building on the same lot.

3. Any attached or detached accessory building shall maintain the same yards and setbacks as the principal use.

912 PERFORMANCE STANDARDS

1. Smoke and Particulate Matter

It is the intent of this section to provide standards which, regardless of the intensification of industrial activity, will avoid creation of nuisance conditions and will maintain area standards under which the particle fallout rate will not exceed fifteen (15) tons per square mile per month, suspended particulate matter will not exceed one-hundred and fifty (150) micrograms per

4. Odors

The emission of odors in such quantities as to create a nuisance condition at any point beyond the property line is prohibited.

5. Heat and Glare

A. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building.

B. Exterior lighting shall be directed away from adjacent properties.

6. Insects and Rodents

All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

7. Materials and Equipment Storage

A. The open storage of materials and equipment is permitted only under the following conditions:

(1). The storage must be in an area contained by opaque fence or sight obscuring screening at least six (6) feet high but not more than ten (10) feet high.

(2). No materials or equipment may project above such fence.

(3). All other standards of this section shall apply.

B. Boundary Fences - Fencing will be allowed inside of boundary planting screen and where it is necessary to protect property of the industry concerned or to protect the public from a dangerous condition with the following provisions:

(1). No fence shall be constructed in the required setback from the public road right-of-way.

(2). Fences shall be of open wire mesh or similar open construction.

8. Drainage

All drainage permitted to discharge into a street, gutter or permitted cause to enter, or allowed to flow into any pond, lake, estuary, stream or other natural water course shall be limited to surface waters or waters having similar characteristics.

Gravel mining or rock crushing.
Greenhouses.
Governmental Structures: City, County, State, Federal.
Moving of buildings.
Public Utility.
Radio and T. V. transmitters.
Railroad right of way.
Veterinary or animal hospital.

915 PROHIBITED USES IN M-3 DISTRICTS

All R or A uses.
All commercial uses except as hereinabove permitted.
Structures or uses of land not specifically mentioned in the foregoing chapter.
The use of automobile trailer houses as a residence.
New residences

916 ADDITIONAL REQUIREMENTS AND CONDITIONS

1. Any property within this industrial district which abuts a residential district either single or multiple family, shall have a fifty (50) foot building setback in yards facing the residential district. In this setback area, an evergreen landscape area shall be provided and maintained in accordance with the plot plan presented to and approved by the City Planning Commission and the City Council. Maintenance of this landscape area shall be perpetual and in a manner to present a pleasing character to the property.

2. Properties abutting a residential district shall be subject to special building permit controls for a distance of two-hundred (200) feet from the boundary of a single family residential district or for a distance of one-hundred (100) feet from the boundary of a multiple family residential district. Applications for building permits shall be accompanied by information needed to satisfy the building code, plus the following:

   A. A plot plan of the property showing the location of all present and proposed buildings, including setback and landscape as required above, and drives, parking lots, additional landscaping, waste disposal fields, and other construction features on the property, and all buildings, streets, alleys, highways, streams and other topographical features outside of the property for one-hundred (100) feet from the property lines.

   B. A description of the industrial operations proposed in sufficient detail to indicate the effects of those operations carried out in the buffer area, in producing traffic congestion, noise, toxic or noxious matter, vibrations, odors, heat, glare, air pollution, wastes and other objectionable effects.

   C. Engineering and architectural plans for the disposal of sewage and industrial wastes and for the handling

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

MAY 12 1988

May 11, 1988

Mr. Gary Bisaccio
1020 SW Taylor
Suite 350
Portland, Oregon 97205

REFERENCE: Equipment Rental on Sposito Property
Tax Map 2S1 24CD - Tax Lot 1700

Dear Mr. Bisaccio:

Enclosed is the letter from Jim Jacks regarding the staff interpretation of equipment rental in a CG Planning District. If you wish to pursue an appeal of this question, you should request another letter from Mr. Jacks with your specific questions.

I have also enclosed the zoning map and the M-3 Zoning District from the 1971 Tualatin Plan. M-3 appears to be the zone which applied to Stan Sposito's property at that time.

Let me know if there are any further questions that I can answer concerning this matter.

Cordially,

Janet Young

Janet Young
Economic Development Coordinator

JY/jn

ENCLOSURE

cc: Jim Jacks

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

February 16, 1988

RE: CODE INTERPRETATION--EQUIPMENT RENTAL AT VACANT MOBIL STATION, 17999 SW HAZELFERN (TAX MAP 2S1 13DC, TAX LOT 500)

Dear .:

Thank you for your interest in considering Tualatin as a location for a new rental store. As you know, the rental store at the corner of 63rd and Lower Boones Ferry Road recently went out of business with a resultant inconvenience to residents in Tualatin, Tigard and Lake Oswego.

The Planning Department is in receipt of a letter dated February 8 and nine 4 x 6 and nine 3.5 x 5 color pictures. Your letter refers to Chapter 54, the General Commercial (CG) District of the Tualatin Development Code, and discusses equipment rental uses. Although the letter contains no specific request, it does state "...a review of the enclosed material should be conducted without a delay" (p. 2). Based on our phone conversations of the last week or two, I assume the question the Planning Department should respond to is, "Does the CG District allow an equipment rental use, such as , at the old Mobil gas station site on Hazelfern in Tualatin?" The subject property is in the CG District.

Based on your stationery, the motto of is, It seems clear that some items shown in the pictures would be appropriate rental items in the CG District. These could be things such as are shown in the "Party Time Rentals" picture which shows party items, china, glassware, etc., and the rubber raft shown in another picture. Other items, however, are of a different character and are the subject of the remainder of this letter.

As indicated previously on the telephone, the CG District does not permit rental of construction machinery such as discussed in the letter. The proper districts are the Light Manufacturing (ML) and General Manufacturing (MG) Districts which permit "Tool and Equipment Rental" per Sections 60.020(17) and 61.020(1), respectively.

The pictures enclosed with the letter show machinery such as brush chippers, scissor scaffolds, small tractors with front end loader capability and rear end power take off capability, trenchers, pavement cutters, rotary concrete trowelers, rototillers, contractor-type space heaters, nonmotorized forked lifts, motorized fork lifts, combination equipment with simultaneous rear trencher and front blade capability and utility trailers (5 x 8 foot bed--1000 lb. capacity). These pieces of machinery are generally wheeled vehicles that are either towed or self propelled. They are not hand held or able to be carried by a person. They also are generally for the purposes of professional contractor projects and larger jobs or a series of jobs such as the landscaping of yards at several new homes in a new subdivision.

The CG District permits as an outright use "Rental of various small equipment, tools and devices" [Section 54.020(2)(p)]. The Planning Director's interpretation is that the types of machinery shown in the pictures are not within the meaning of the terms "small equipment, tools and devices." The machinery shown in the pictures would be within the meaning of the term "Tool and Equipment Rental" which is permitted outright in the ML and MG Districts.

The CG District focuses on "small" equipment, etc. which is interpreted to mean hand held and transportable by hand. It refers to items rented by homeowners, oftentimes, such as hand held electric circular saws and electric "snakes" to clear septic lines, rather than contractor's equipment such as concrete cutters, powered scissor scaffolds, self-propelled trenchers, etc. The machinery pictured is designed for the professional contractor and larger jobs.

The Purpose Statement of the CG District states in part, "Automotive uses that use large amounts of land, such as automotive, truck and machinery sales and rental, are not appropriate uses in this district" (Section 54.010). The list of permitted uses follows-up on the purpose statement by allowing the rental of only small equipment, tools and devices. As stated above, the Planning Department's interpretation is that the equipment shown in the pictures is not "small" within the context of the Code's language.

The February 8 letter contends that in the CG District "...a rental center could include limited inventories of some of the following:

1. Small to medium sized service and delivery trucks.
2. Landscaping equipment up to 25 H.P., tractors, front-end loading equipment, trenchers and power plows (trenchers) for underground sprinkling systems.
3. An enclosed area to clean and repair."

Based on the Code's listing of permitted uses (which reflects the purpose statement of the CG District) and the above discussion, No. 1 is clearly not permitted in the CG District. The rental of small to medium sized service and delivery trucks is not listed as a permitted or conditional use. The ML District allows No. 1 as a conditional use, for example, "Automobile sales, service and rental" and "Truck sales, service and rental" [Sections 60.040(1)(a) & (p)].

Again, based on the Code and the above discussion, No. 2 is clearly not permitted in the CG District. As explained above, the CG District allows "small equipment, tools and devices" (emphasis added). The machinery identified in No. 2 does not fit within the list of uses permitted in the CG District.

No. 2 mentions "Landscaping equipment up to 25 h.p." It is not clear where the term "landscaping equipment" comes from. Such term is not listed in the CG District. It is not clear where the "25 h.p." figure comes from, but it is possible the Code was misread because the CG District allows "Lawn and garden tractor sales (not exceeding 25 h.p.)." Such sales, which are typically to homeowners for lawn and garden care rather than to contractors for professional construction activity, are clearly not a rental activity and cannot be used to justify the rental of such equipment in the CG District.

No. 3 is not an issue as a cleaning/repair area is an auxiliary on ancillary activity tied to the primary use. If rental of the above-described machinery is not permitted, then the cleaning/repair area is a moot issue.

In summary, the CG District allows the rental of various small equipment, small tools and small devices. These are items that are hand held or are able to be carried by a person. Bigger items for the professional contractor such as those listed in the February 8 letter from are permitted in the ML and MG Districts under the category of "Tool and equipment rental" [Section 60.020(17) and 61.020(1)].

Should you have any questions or concerns regarding this interpretation, please call me at 692-2000.

This is an interpretation of the Tualatin Development Code and is a decision by an administrative officer which, in accordance with Section 31.090(1) is final unless a petition for review from an aggrieved party filed in the office of the City Recorder not more than 15 days from the date of such decision. If such an appeal is desired, an appeal fee of $75.00 must accompany the letter of appeal and the letter must conform to the requirements of Section

31.090. Should you desire to receive a copy of Section 31.090, please call me at the above number.

Sincerely,

James F. Jacks, AICP
Planning Director

/jb

cc: City Manager
City Attorney
City Engineer
Building Supervisor
Economic Development Coordinator
Project Planner

file: Interpretation
17999 SW Hazelfern Road

LAW OFFICES
JOSEPH, BABENER & CARPENTER
ONE MAIN PLACE, SUITE 600
101 S. W. MAIN
PORTLAND, OREGON 97204-3235
TELEPHONE (503) 226-6600
FAX (503) 273-8810

THOMAS P. JOSEPH, JR.
JEFFREY A. BABENER*
DUNBAR S. CARPENTER
KIMBERLEE COLLINS MORROW
CHRISTOPHER C. S. BLATTNER
MITCHELL A. GOLDSTEIN
SALLY HOLT CAPLAN

OF COUNSEL
LEONARD D. DUBOFF**
PROFESSOR OF LAW
LEWIS & CLARK LAW SCHOOL

ALSO MEMBER OF
* CALIFORNIA BAR
** NEW YORK BAR

August 31, 1988

HAND DELIVERED

Mr. Gary Bisaccio
1020 S.W. Taylor, Suite 350
Portland, OR 97205

Re: Andersen Oregon Rental, Inc.
Our File No. 13966-1

Dear Mr. Bisaccio:

This document is intended to be a binding letter of intent if it is countersigned by both Paul Moody or assigns and Stan Sposito in the spaces provided below.

1. Mr. Sposito shall lease to Paul Moody or assigns the following described real estate:

Tax Lot 1700 on Washington County Assessor's Map No. 2 S1 24 CD; also known as the street address 8250 S.W. Tonka Street Tualatin, Oregon.

This real estate is approximately 1.2 acres in area. It is cyclone fenced and it contains a three-story barn.

2. The lease term shall be March 1, 1989, through February 28, 1994, with three five-year options to renew.

3. The rent for the first three years shall be $3,000.00 per month, quadruple net. The rent for the second two years of the term shall be $3,500.00 per month, quadruple net.

4. The amount of rent increase for the second and subsequent five year periods (if lessee exercises its options) shall be negotiated by lessor and lessee. If the parties cannot agree on the amount of rent increase for the property, the issue shall be resolved by arbitration.

5. Lessee shall have a 30 day right of first refusal to purchase the property if lessor elects to sell.

6. Lessee shall take reasonable steps to protect the

grandfathered rights of Lessor to maintain trucks and equipment on the property.

7. The parties shall enter into a written lease of the property. The terms of the lease shall be consistent first with the terms of this letter, and second with Stevens-Ness business property lease form number 812, a copy of which is attached hereto and incorporated herein. Otherwise, standard terms and practices shall be used.

8. This binding letter and the written lease to be entered into between the parties shall be contingent upon and subject to the following conditions and limitations. Lessee and lessor agree that the parties either jointly or lessee severally shall apply to the City of Tualatin for and shall make a diligent effort to obtain permission to operate on the above described property a rental business for items including but not limited to the following: equipment, tools, tractors, trailers, generators, pumps, air compressors, demolition hammers, and health and painting equipment, of various sizes and/or horsepower. Such permission shall include authorization by all of the appropriate city and county agencies including, but not limited to, those responsible for the issuance of business licenses and those responsible for implementing the applicable fire codes, Planning District Standards and Development Code provisions. In the event that the authorization or license to conduct such a business is not granted by December 31, 1988, the parties are under no further obligation under the terms of this letter or under any lease entered into between them regarding aforesaid property.

If the foregoing terms are acceptable to Mr. Sposito, please have him countersign this letter below and return the original to me.

Very truly yours,

Thomas P. Joseph, Jr.

Agreed to and approved this 31 day of August, 1988.

Paul Moody

Agreed to and appoved this _____ day of _____, 1988.

Stan C. Sposito

w/GF

LAW OFFICES
JOSEPH, BABENER & CARPENTER
ONE MAIN PLACE, SUITE 600
101 S. W. MAIN
PORTLAND, OREGON 97204-3235
TELEPHONE (503) 226-6600
FAX (503) 273-8810

THOMAS P. JOSEPH, JR.
JEFFREY A. BABENER*
DUNBAR S. CARPENTER
KIMBERLEE COLLINS MORROW
CHRISTOPHER C. S. BLATTNER
MITCHELL A. GOLDSTEIN
SALLY HOLT CAPLAN

OF COUNSEL
LEONARD D. DUBOFF**
PROFESSOR OF LAW
LEWIS & CLARK LAW SCHOOL

ALSO MEMBER OF
* CALIFORNIA BAR
** NEW YORK BAR

August 31, 1988

TRANSERV

Mr. Gary Bisaccio
1020 S.W. Taylor, Suite 350
Portland, OR 97205

Re: Andersen Oregon Rental, Inc.
Our File No. 13966-1

Dear Mr. Bisaccio:

Enclosed please find a letter of intent for review by Stan Sposito, a Business license application to be filled out and signed by Mr. Sposito, and a check in the amount of $50.00 as filing fee.

If the business license application meets with Mr. Sposito's approval, please forward the application with the check to the City of Tualatin.

If you have questions concerning any of the above please do not hesitate to contact me.

Very truly yours,

Sally Holt Caplan

SHC/5-37/dp

Enclosures

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

1 - 10 employees - $ 5
11 - 50 employees - $10
Over 50 employees - $20

BUSINESS LICENSE APPLICATION

Please fill out and return with remittance

Name of Business Paul Moody Phone none as of yet

Business Street Address 8250 S.W. Tonka Street Phone none as of yet

Business Mailing Address 8250 S.W. Tonka Street, Tualatin Oregon 97062
(street) (city) (state) (zip)

Type of Business Rental of small equipment.

Number of employees ---6---- (include the number of part time and/or full time employees working within the City of Tualatin. The business owner or operator is considered an employee.)

Business Owner or Operator's Name Paul Moody

Title _____ Phone _____

Name of Property Owner _____ Phone _____

Address of Property Owner _____
(street) (city) (state) (zip)

Person to contact in emergency Paul Moody Phone 281-115

Hazardous Material Stocked none
(Propane, Petroleum Products, Acetone, Resin, Plastics in Quantity)

Do you have permanent business facilities (owned, rented or leased) inside the City limits of Tualatin? no

If so, tax map & lot number(s) of property _____

Planning District _____ Is the property located in the Core Area Parking District? ____

Is this a new license or renewal? (circle one)

I hereby certify that the information contained herein is true to the best of my knowledge. I hereby agree to abide by the ordinances of the City of Tualatin and to correct any hazards or violations as they may pertain to the above business. Issuance of this license does not guarantee that the use conforms to City of Tualatin land use requirements.

Paul W. Moody _____
Signature Date

Property Owner Date

License No. _____ Date Issued _____ ACKNOWLEDGEMENT BY:

Amount Paid $_____ Receipt No. _____ Building Department _____

This License Expires _____ Planning Department _____

Contractors and Businesses in Core Area Parking District, please complete page 2.

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

October 28, 1988

Ms. Sally Holt Caplan
One Main Place, Suite 600
101 SW Main
Portland, OR 97204-3235

RE: INT-88-01--REQUEST FOR INTERPRETATION--SECTION 54.020(2)(p), TUALATIN DEVELOPMENT CODE, RENTAL OF VARIOUS SMALL EQUIPMENT, TOOLS AND DEVICES IN GENERAL COMMERCIAL (CG) PLANNING DISTRICT

Thank you for your letter of September 21, 1988, wherein your client, Mr. Paul Moody of Anderson Oregon Rental (5413 NE Columbia, Portland 97218, 282-1313) attempts to "...clarify... the type of equipment, tools and devices he proposes to rent." Although the letter does not specifically state what Mr. Moody proposes to rent, it does indicate the rental of "...various small equipment, tools and devices" is desired. You have asked for an interpretation of the Tualatin Development Code and specifically whether your clients intended use is permitted.

BACKGROUND

The subject property is at 8250 SW Tonka Street. It is in the General Commercial (CG) Planning District. The owner is Mr. Stan Sposito.

A meeting occurred on September 15, 1988, attended by me, Janet Young and Messers. Sposito, Moody and Bisaccio. The meeting revolved around what the word "small" meant when used in Section 54.020(2)(p) to describe the permitted rental of equipment. It was agreed Mr. Moody would request an interpretation of the Code in writing and the Planning Department would respond.

This request does not involve the rental of cars or trucks as their rental is specifically permitted in the Light Manufacturing (ML) District. The rental of trailers is addressed in this interpretation as an item that is incidental to the rental of equipment.

REQUEST

What is meant by the word "small" in the permitted use of Rental of Various Small Equipment, Tools and Devices in the CG District [Section 54.020(2)(p)]? The focus is on the word "small" because the ML District allows as a permitted use the rental of any size of tools and equipment [60.020(17)] whereas the CG District limits the size to "small equipment, tools and devices."

DISCUSSION

Answering the question, What is small, is very difficult. Webster's New Collegiate Dictionary (G & C Merriam Co, 1977) defines small as "having comparatively little size or slight dimensions; and little in an objectively measurable aspect (as quantity, amount, or value).

Clearly, the dictionary does not provide an answer that can be directly related to equipment, tools and devices. Some knowledge of equipment, etc. and the rental industry is needed.

The rental service industry is very diverse. Individual tools such as hammers and socket sets as well as backhoe loaders weighing over 20,000 lbs. (10 tons) can be rented. The following is a list of the categories of rental items from U-Haul's 1986-87 catalog:

audio/video eq.
automotive & mechanical tools
builders tools & eq.
concrete & masonry eq.
floor & carpet eq.
guest, infant & pet eq.
heating & cooling eq.
heavy construction eq.
home health care eq.
ladders & scaffolding
lawn & garden eq.
materials handling eq.
painting & wallpaper eq.
party goods
plumbing & electrical tools
recreation equipment
trucks, trailers
cartop carriers
bumper hitches, tow bars

Within each category there can be great diversity in the size, weight, function and skill needed to operate each item. The automotive category, for example, includes 14" high jack stands to support a car as well as a towable engine hoist weighing over 350 lbs. with a lifting height of 96" (8') and capable of lifting a 2,000 lb. engine out of a vehicle. The concrete category includes a hand trowel as well as a towable concrete mixer. The heavy equipment category includes hand operated soil compactors and front end loader/backhoes up to 60 horsepower and tracked excavators (steam shovels).

What guidance is available to help answer the question, What is small? One obvious possibility is the Tualatin Development Code. There is no definition for the words, "equipment," "tools," "devices" or "small." There are three cases in the Code's definition section where the word small is used as an adjective.

Section 1.020 defines Small Lot as "Any lot with an area less then 7,000 square feet," and Small Lot Subdivision as "A subdivision containing lots of a size smaller than 7,000 sq.ft." Section 31.060 defines Small Animal as, "A domestic animal, such as a dog, cat, rabbit, or guinea pig, accepted by the American Veterinary Medical Association as a household pet." These definitions are not helpful because lot size and animal size do not logically relate to equipment, etc. rental.

There are several instances outside the definition sections where the word "small" is used. Section 53.050(11) of the Central Commercial District lists a conditional use, "Veterinary Clinic" with practice limited to small animals. Section 54.065(7)(f) of the General Commercial District lists a development standard for gas stations with the word "small" in it. It states:

> The storage and display of merchandise such as tires and batteries offered for sale shall be conducted in the station building. However, small items such as oil and windshield wiper blades may be displayed outside the building.

Section 60.020(13)(d & e) of the ML District lists two permitted uses with the word small (the manufacture of small generators and small electric motors). Also permitted are "Metal Casting (small)" [60.020(14)]; the "processing, assembly, packaging and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur..." [60.020(23)]; the "assembly and packaging of small electrical appliances, such as radios, televisions, photographs, office machines, and including the manufacture of small parts for such appliances" [60.020(24)]; and the "molding of small products from metal or plastic" [60.020(27)].

These Code sections give a general idea of what small is, but are only an approximation and they are not specifically related to, nor are they directly linked to tools, devices and equipment. There is some benefit, however, in looking at these references because they are examples from the Code of the use of the word small. Two of the references (small lots and animals) should be ignored because this interpretation does not deal with either land or animals. Most of the remaining references mention small electric generators and motors, castings and products, but there is no objective way to know what small means. Two references do list examples to show what is meant by small. Gas stations can display small items such as oil and wiper blades outdoors and small electrical appliances such as radios, TVs, photographs and office machines may be assembled in the ML District. These are the only specific references to the word small in the Code that give examples of what small is.

The Purpose Statement for the CG District states in part, "Automotive uses that use large amounts of land, such as automobiles, truck and machinery sales and rental, are not appropriate uses in this district" (54.010). Based on the purpose, new and used car and truck sales and rental are not

permitted in the CG District. They are permitted conditionally in the ML District [60.040(1) (a & r)]. It is clear that land expansive uses like auto-truck-machinery sales and rental are not permitted in the CG District. The rental of "small" equipment is consistent with the purpose statement, whereas the rental of large equipment is not.

In addition to the Purpose Statement, the CG District allows as a permitted use "Any use permitted outright in the Central Commercial Planning District as provided in Section 53.020 of the Planning District Standards" [54.020(1)]. Section 53.020 requires all permitted outright uses to be "...conducted wholly within a completely enclosed building." Further, the CG District allows as conditional use "Any conditional use permitted in a Central Commercial Planning District, as provided herein by Section 53.050" [54.030(1)]. Section 53.050 lists "Outside storage and sales" as a conditional use. It is a conditional use in the CG District also per 54.030(1).

The Code includes some additional guidance, although it is not as direct as the two examples above because the word small is not included. The CG District allows the retail sale of "lawn and garden tractors (not exceeding 25 h.p.)." No mention is made, however of whether or not lawn and garden tractors from 1-25 horsepower are considered small, medium or large, although one may infer that a lawn and garden tractor exceeding 25 h.p. would be larger than is permitted. It is not possible to directly transfer the 25 h.p. limit to the rental of devices, tools and equipment. It would appear that a 25 h.p. or larger lawn and garden tractor would be considered large and would not be consistent with small equipment.

Sears lawn and garden tractors begin with lawn tractors at 10 - 14 h.p. and go up to yard tractors at 16 h.p. and top out with garden tractors at 18 and 20 h.p. Similarly, John Deere products begin with 6-12.5 h.p. riding mowers (400 lbs.) and go up to 9-17 h.p. lawn tractors (500 lbs.) and top out with 14-20 h.p. garden tractors (750 lbs.). The next step up for Deere is a farm tractor which is not in the same category as lawn and garden tractors.

The size of most lawn and garden tractors which I have examined tops-out at 20 h.p. This size, based on horsepower, provides a useful guide to help determine what constitutes small equipment and can be transferred to other types of equipment.

FACTORS TO CONSIDER

When considering what small is, some basis for the determination must be identified. Many factors have been reviewed. Height could be used, but it does not adequately address the diversity of items that can be rented. For example, if the height of a human is used, say 6 feet, then something as minor as a 7-foot stepladder could not be rented, but a piece of equipment such as a limited size steam roller of about 4 feet in height with

18-inch high rollers and weighting 2-3 tons would be permitted. Similar inconsistent results occur when width or volume are used. A different factor could be tried, such as whether the item is used indoors or outdoors, or whether the item is used by homeowners or contractors. But again, such factors do not work well, given the diversity of items rented. The tie between being classified as small because it is used indoors and big because it is used outdoors is not very direct. Some items such as ladders are used inside and outside and many items used exclusively outside would be considered small by a reasonable person. Many items are used by both homeowners and contractors.

The underlying problem with all of the above factors is a line must be drawn and there appears to be no logical demarcation based on a person's height, its weight, use indoors versus outdoors or whether a homeowner or a contractor uses it.

One possible factor is whether the item is stored inside or outside. It is related to the Purpose Statement in 54.010. Automotive uses, such as car and truck sales and rental, are characterized by outside storage and are not permitted in the CG District. On the other hand the sale of items smaller than cars and trucks, such as lawn and garden tractors and motorcycles, which rely on indoor storage are permitted.

FACTOR SELECTED

This interpretation is based upon horsepower. In defining "small," the hundreds of items in the category of hand held tools, including compressed air and electrically operated items such as circular saws and nailing guns, are considered small. They are small based on common knowledge related to their use, function and size compared to other tools, devices and equipment. Larger items such as air jacks for breaking up concrete, single foot compactors (gas powered "jumping jacks"), concrete saws, industrial rug cleaners, 42" floor fans, etc., are, by their use and function still in the small category. Many other items that are powered by gas or electrical motors or compressed air and operated by hand are also small. Examples are power trowels for finishing concrete; tampers, plate compactors and walk-behind vibratory rollers; and walk-behind trenchers for narrow ditches.

The demarcation point becomes fuzzy as larger items, self-propelled equipment, for example, are reviewed. Some self-propelled vehicles such as riding lawn mowers are powered by a 10-15 h.p. motor, but others such as backhoe/loaders can range from as little as 15 h.p. weighing 2,450 lbs. up to 112 h.p. weighing 20,500 lbs.

The CG District allows the sale of lawn and garden tractors not exceeding 25 h.p. Although the sale of lawn and garden tractors is not directly related to the rental of small equipment, tools and devices, there is a relationship between them, since the right to use is being transferred for value, either permanently

or temporarily. The Code does not indicate if lawn and garden tractors not exceeding 25 h.p. are small, medium or large, but it is clear that any equipment, tools or devices for rent must be small. The industry standard for lawn and garden tractors tops out at about 17 and 18 h.p. with some at 20 h.p. A lawn and garden tractor rated at 25 h.p. is, for the purposes of this interpretation, not considered to be small. A rating of 20 h.p. is considered to be small, thus equipment for rent, not exceeding 20 h.p. would also be small.

The 20 h.p. standard would allow the rental of small equipment such as lightweight backhoe/loaders. Several companies make backhoe/loaders with 20 h.p. or less engines. They include Dig It (14-18 h.p.), Garden Way (15 h.p.), Kubota (12.5 h.p.) Takeuchi (14.5 h.p.) and Terramine (18-20 h.p.) (Rental Equipment Register, July 1988, p. 74). Skid-steer loaders are also available at less than 20 h.p. They include Austoft (as low as 3 h.p.), Case (18 h.p.), Ford New Holland (18 h.p.), Kinsey Equipment (18 h.p.), Leon Ram/Ramrod (14 h.p.), Melroe (15 h.p.) and Prime Mover (18 h.p.).

The 20 h.p. limit would prohibit the rental of certain compaction equipment such as ride-on rollers weighting several tons. "Downsizing is prevalent in the roller market, especially in the case of the ride-on units" (Rental Equipment Register, July 1988, p. 89). For example, the Eager Beaver model SRH300 2-3 ton asphalt roller operates from a 23 h.p. gas engine (ibid., p. 92). The roller would also appear to be inconsistent with the CG Purpose Statement.

INTERPRETATION

The word small as used in Section 54.020(p) is interpreted to mean equipment, tools and devices up to and including those items with 20 h.p. motors.

In consideration of the above interpretation, it should be noted that an integral part of renting equipment is the provision of trailers to transport the items. Trailers are not considered to be equipment, tools or devices. The rental of equipment is considered to be the primary use and trailer rental is secondary or incidental to the primary use. The rental of trailers as a primary use is permitted conditionally in the ML District as is the rental of cars [60.040(1)(a)] and trucks [60.040(1)(p)].

Given the ancillary nature of trailers, their size need not exceed what is required to haul small equipment. A gross trailer weight rating of 4000 pounds would be adequate to transport small equipment. The trailers would not need to be covered or enclosed because the equipment to be hauled is all-weather and durable.

APPEAL

As provided by Section 31.070(4) of the Tualatin Development Code, this interpretation of Code provisions may be appealed to the City Council. Such an appeal may be in the form of a letter and must be filed no later than 10 city business days after the date of the decision (no later than 5:00 p.m., November 14, 1988) with the office of the City Recorder. A fee of $100.00 payable by check to the City of Tualatin must accompany the letter of appeal.

Should you have questions concerning this interpretation, please call me at 692-2000.

Sincerely,

James F. Jacks, AICP
Planning Director

/jb

cc: City Manager
City Attorney
City Engineer
Redevelopment Director
Economic Development Coordinator
Planners
Gary Bisaccio
file: INT-88-01, 54.020(2)(p)
8250 SW Tonka

5-12-95

Lunch Conference with Doug Johnson

Don't Worry about it. Tell Stan not to worry.
Wants about 30 days
Henry offered $3400. Too little under circumstances of unusability of some of his garage
4000 sf. Tibble Company offered $1060
Feels worth $5,600 - Won't hold us up.
If had approvals would cut deal w/Henry now
If had house sold would cut deal w/Henry now
Needs bargaining power - Re balloon pymt

City wants barn down
Doug wants barn down
Rent will go up for Paul in 4-5 years
City will find Paul suitable alternative location
City will help arrange for proper timing
City will Commit to prior agreements
What else would City be pleased to do for us.
Would City fathers want to miss a golden opportunity to get rid of the barn?

5-16-95 Call with Allard
Has buyer for Johnson's site.

CITY OF TUALATIN

PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000
TDD 692-0574

SITE COPY

This drawing is to be kept on the Building Site at all times

CITY OF TUALATIN

APPROVED PLANS

PERMIT NO. 9779-97 DATE: Dec. 31 ST 197

ADDRESS: 8250 SW TONKA

APPROVED BY: Jerry D. Wade

FAILURE TO KEEP THE PLANS AT THE SITE WILL RESULT IN NO INSPECTIONS BEING CONDUCTED AND SUBJECT TO A RE-INSPECTION FEE.

LOCATED AT: 18880 SW Martinazzi Avenue

BUILDING PERMIT APPLICATION

CITY OF TUALATIN

P.O. BOX 369 18880 SW MARTINAZZI AVE.
TUALATIN, OREGON 97062
(503) 692-2000

Plan Check no. 9779-97
Receipt No. _____
Date Received 10-17-97

692-5421

BUILDING PERMIT X OCCUPANCY CHANGE FORM ☐

PERMIT NO. 9779-97
RECEIPT NO. _____
DATE ISSUED _____

Occupancy Group B Type Const. STEEL Valuation $ 12,000.00
DING ADDRESS 8250 S.W. TONKA D-N AREA OF LOT 53,625
L DESCRIPTION: LOT _____ SUBDIVISION _____
MAP NO. _____ TAX LOT NO. _____ PLANNING DIST. _____

ER PAUL MOODY TELEPHONE NO. Home: _____
IESS 5413 NE COLUMBIA BLVD. Bus.: 282-1313
PORTLAND OR. STATE OR. ZIP 97218
S BY LOOIJINGA LIMITED TELEPHONE NO. Bus: 224-6788
ESS 4621 SW CORBETT CITY PORTLAND STATE OR ZIP 97201
TRACTOR BENDER METAL PROD. TELEPHONE NO. Bus: 282-0015
IESS 4703 NE LOMBARD CITY PORTLAND STATE OR ZIP 97218

ermit Applicant is required to be registered with the Construction Contractors Board of the State of Oregon the provisions of ORS 701, and that registration is in force and effect, under Certificate of Registration 089375 Exp. Date 3/16/98
ermit Applicant is exempt from registration with the Construction Contractors Board for the following reason: _____

PERMIT FEES:

X	BLDG. PERMIT	92.50
	PLAN REVIEW	60.13
	F L & S PLAN REVIEW	37.00
	5% SURCHARGE	4.63
☐	PLUMB. PERMIT	
	PLAN REVIEW	
	5% SURCHARGE	
☐	MECH. PERMIT	
	PLAN REVIEW	
	5% SURCHARGE	
☐	EROSION CONTROL	
	PLAN REVIEW	
	TOTAL	$ 194.26

SYSTEM FEES:

___	SEWER CONNECTION	
	Serviced by USA ☐ Lake Oswego ☐	
	SEWER INSPECTION	
___	WATER INSTALLATION	
	Meter by city ☐ by owner ☐	
	WATER CONNECTION	
___	STORM WATER QUALITY	
	STORM WATER QUANTITY	
	(Impervious Surface Area)	
	TRAFFIC IMPACT FEE	
	C.A.P.D. FEE	
	(No. Parking Spaces)	
	PARK FEE	
	TOTAL	$

DESCRIPTION OF WORK

Family ___ Multi Family ___ Commercial X Industrial ___ Sprinkler System: Yes ☐ No X
Const. ___ Addition X Alteration ___ Repair ___ Demo. ___ Relocation ___
BACK: Front Yard 160' Rt. Side 170' Rear Yard 20' Lt. Side 30'
by Fire Service Connection: Yes ☐ No X Size of Line ___" Heating: ☐ Gas ☐ Electric
: Basement -NA- First Floor _____
Second Floor -NA- Garage _____
Bedrooms -NA- FU/DU _____ Hgt. of Bldg. 16'6"

URFACE STORM WATER SHALL BE DIVERTED FROM THE BUILDING SITE AND SHALL NOT DRAIN ONTO ADJACENT PROPERTIES.
SEPARATE PERMITS REQUIRED FOR SEWER, PLUMBING, ELECTRICAL, AND MECHANICAL.

• • SPECIAL INFORMATION AND CONDITIONS • • •

CANOPY OVER WASH RACK per O.E.Q

1) Work Subject to Field Inspection, 24-HR. NOTICE Required on Inspection Request.

BLDG. DIV. TOTAL. $ _____
SYSTEM DEV. TOTAL $ _____
TOTAL DUE $ -

U.S.A. INDUSTRIAL WASTE FORM

☐ YES ☐ NO

DATED _____

MIT APPROVED BY: Jerry D. Wade DATE Dec. 31st

by certify I have read and examined this application now the same to be true and correct. All provisions of and ordinances governing this type of work will be lied with whether specified herein or not. The granta permit does not presume to give authority to violate ncel the provisions of any other state or local law ating construction or the performance of construction.

APPLICANT Mike Martin
ADDRESS _____
DATE 12-22-97

ROUTE SLIP

Received	Plans Process	Completed
11/20/97	A.R.B. JK	11/20/97
11/20/97	PLANNING JK	11/20/97
___	ENGINEERING	___
—	T.V.F&R.	___
—	OPERATIONS	___
___	BUILDING	___
—	ADMIN.	___
—	PARKS	___
—	FINANCE	___

White Copy—Property File Yellow Copy—Finance Pink Copy—Builder Tagboard—Inspector

PLUMBING PERMIT APPLICATION

Andersen Ore. Rental

CITY OF TUALATIN
18880 SW MARTINAZZI AVE.
PO BOX 369
TUALATIN, OR 97062-0369

PERMIT NO. 9779-97
RECEIPT NO. _____
DATE ISSUED _____

8250 SW TONKA
JOB ADDRESS

ANDERSON OREGON RENTAL PAUL MOODY
OWNER/CONTRACTOR

PLUMBING CONTRACTOR

TYPE OF WORK: ✓ COMMERCIAL ___ INDUSTRIAL
___ NEW ✓ ADDITION ___ ALTERATION ___ REPAIR

TYPE OF FIXTURE AND/OR APPURTENANCE	FEE	NO.	TOTAL
CLOTHES WASHER/LAUNDRY TUB	$ 9.00		
DISHWASHER/GARBAGE DISPOSAL	9.00		
SINK KITCHEN/BAR	9.00		
DRINKING FOUNTAIN	9.00		
WATER HEATER	9.00		
WATER CLOSET/BIDET	9.00		
LAVATORY - WASH BASIN	9.00		
URINAL	9.00		
TUB/SHOWER	9.00		
FLOOR DRAIN OR FLOOR SINK	9.00		
SERVICE OR MOP SINK	9.00		
ANY TRAP OR WASTE NOT CONNECTED TO A FIXTURE	9.00		
OTHER PLUMBING INSTALLATION, NOT LISTED, HAVING A SANITARY WASTE OR POTABLE SUPPLY	9.00		
SANITARY SEWER: 1st 100 ft.	30.00	1	30.00
additional 100 ft	15.00		
WATER SERVICE: 1st 100 ft.	20.00		
additional 200 ft	15.00		
STORM AND RAIN DRAIN: 1st 100 ft	30.00		
additional 100 ft	15.00		
CATCH BASIN OR AREA DRAIN	9.00	1	9.00
SEWAGE EJECTION PUMP OR SUMP PUMP	9.00	1	9.00
SPECIAL WASTE CONNECTION VAULT & COALESSOR	9.00	2	18.00
MOBILE HOME SPACE	25.00		
MOBILE HOME UTILITY LINES (PARK/PRIVATE)	15.00		
BACKFLOW PREVENTION DEVICE	9.00	1	9.00
SUB TOTAL (MINIMUM: NEW: $25.00 REPAIR $15.00)			75.00
PLAN CHECK FEE (25% OF SUBTOTAL)			18.75
ADD. STATUTORY SURCHAGE: (5% OF SUBTOTAL)			3.75
	TOTAL FEE		$ 97.50

I certify that all plumbing work will be done in accordance with the State of Oregon Plumbing code and administrative rule, under the provision of ORS 447, 456 and 693.

_____
Signature of Authorized Applicant/Date/Registration Number/Phone

DEC-15-97 05:34P UTK LOOTJENGA 224-6788 P.05

HR-36

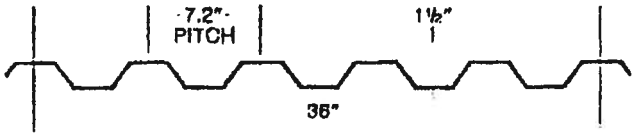
ASC PACIFIC INC.

Featuring

20-YEAR WARRANTY

ZINCALUME®

. . . the zinc / aluminum hot-dip alloy coating which offers up to four times the service life of standard galvanized coatings.



- ☐ Long-span capability—economy in design
- ☐ Custom lengths available—no end laps
- ☐ Ideal for carport, pole barn, mini storage, or agricultural construction
- ☐ Grade E high-tensile steel panels in 29- and 26-gauge with several coating options:
  - ☐ Available in Zincalume®
  - ☐ SMP* paint system
  - ☐ Polyester paint system
- ☐ 24- through 18-gauge panels available with:
  - ☐ PVF* coating system
  - ☐ Enduraclad™ coating system

*SMP (Silicone Modified Polyester)
PVF_2 (Polyvinylidene Fluoride)

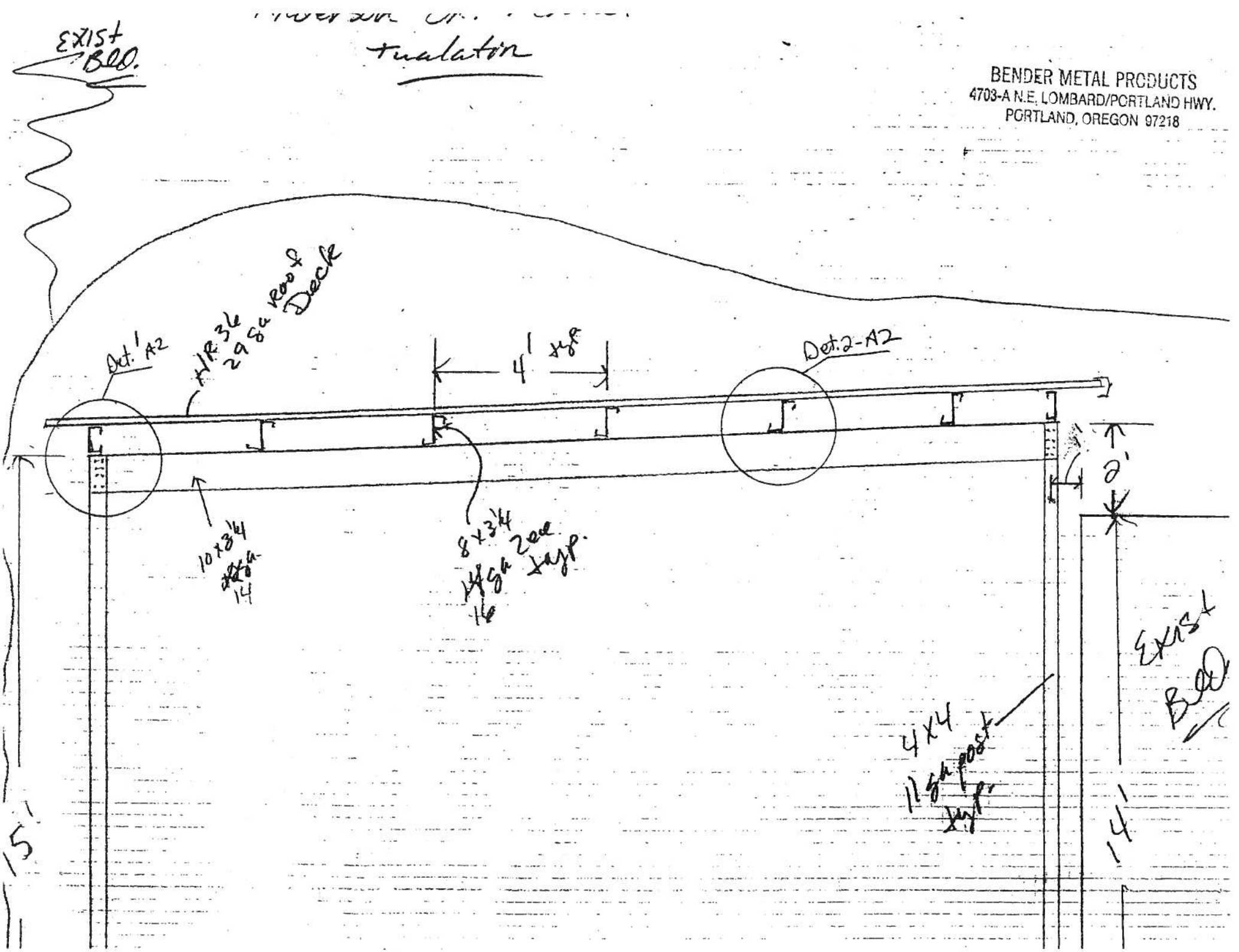
HR-36 Section Properties

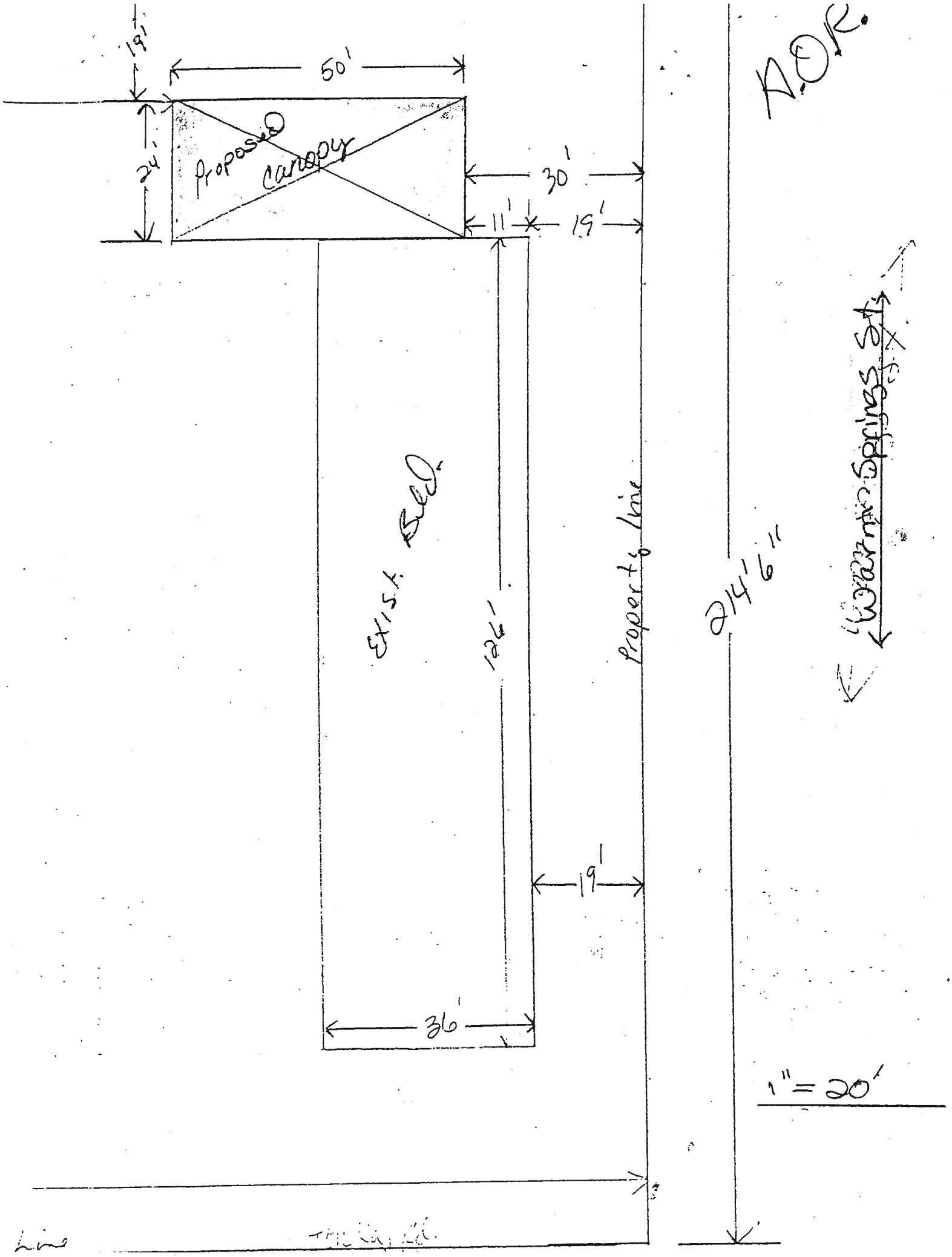
Gauge	Wt. (lbs/ft²)	S+ (in^3/ft)	I+ (in^4/ft)	S (in^3/ft)	I (in^4/ft)
29	0.83	.0715	.0674	.0650	.0689
26	1.01	.0925	.0862	.0870	.0878

Northwest Regional Office-2141 Milwaukee Way, Tacoma, WA 98421, 206 383-4955, 1-800-733-4955 FAX 209-272-0791
Mfg. Plants: Tacoma WA, Anchorage AK, Spokane WA
Western Regional Office-2110 Enterprise Blvd., West Sacramento, CA 95691, 916-372-6851, 1-800-726-ASCP FAX 916-372-7606
Mfg. Plants: Sacramento CA, Los Angeles CA, Phoenix AZ
Southwest Regional Office-404 East Dallas Road, Grapevine, Texas 76051, 817-481-3521, 800-252-2666 FAX 817-488-0446
Mfg. Plants: Little Rock AR, San Antonio TX, Dallas TX
Corporate Headquarters: 2110 Enterprise Blvd. West Sacramento, California 95691, 916-372-7606 FAX 916-372-5442

(2)

BENDER METAL PRODUCTS
4703-A N.E. LOMBARD/PORTLAND HWY.
PORTLAND, OREGON 97218




19'
50'
24'
proposed canopy
30'
11'
19'
ROW
Existing Bldg.
126'
Property Line
214'6"
Warm Springs St.
19'
36'
1" = 20'
Property Line

CITY OF TUALATIN

PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000
TDD 692-0574

April 8, 1999

Mr. Michael Crouch, District Manager
United Rentals
8205 SW Hunziker Rd.
Tigard, OR 97223

RE: United Rentals Tualatin Facility (8250 SW Tonka)

Mr. Crouch:

This informational letter is to follow-up the April 7 meeting with myself and Doug Rux so that you know what we understand the conclusions to be. If I misrepresent what you understand was concluded, please call me at 692-2000 ext 510. Generally, you proposed upgrading the site's appearance by repainting the barn, constructing a new fence and paving the equipment area as well as improving the interior of the barn.

We appreciate your desire to upgrade the site as it is a highly visible location in downtown Tualatin where many nicely designed and landscaped properties have been developed in the last few years. Your desires are consistent with our desires and we look forward to working with you and your development team.

Based on the color rendition you showed us, we discussed and concluded:

1. The barn is proposed to be repainted with white walls and a blue roof. We advised that earth tone colors would be acceptable. The blue roof was too bright and did not match other roof colors in the area. We noted the red roof at Pizza Hut and explained it was due to a City Council decision that was not consistent with what staff recommended. The white walls would be too bright and do not match other brick wall colors in the area. We suggested Cocina del Sol at SW 84th and SW Boones Ferry Road as an example of a remodeled building with earth tone, or muted, colors.

2. The fence is proposed to be black wrought iron with brick posts with caps and evergreen shrubs between the posts on the north. We advised a six foot high fence with those materials would be acceptable. We advised extending the fence along the east side as far south as the north wall of the Martinazzi Square Building and extending the fence along the west property line. The grass area between the existing fence and the sidewalk along SW Tualatin-Sherwood Road would be retained.

3. The equipment area is proposed to be paved. We advised that would be acceptable and a water quality swale is needed for the runoff. The City's Engineering Department should be contacted regarding the swale's design and location (Rich Spofford or Kaaren Hofmann 692-2000).

4. The barn is proposed to have a new window and two new overhead doors on the north elevation; the overhead door on the west elevation would be replaced with a smaller entryway. We advised these changes would be acceptable.

5. You indicated the equipment to be available at this site would not include the large equipment such as big dumptrucks, large excavators, D5s and D6s. They would be available at the Tigard facility at I-5 and Highway 217. You indicated the Tualatin location would have equipment such as bobcats and equipment smaller than the large equipment mentioned above. You indicated mobile platforms, cherry pickers and scissor scaffolding would be available. We asked if the extendable equipment could be stored in a nonextended position and you agreed they would not be extended.

One item that we did not discuss, but that I was made aware of after our meeting is complaints have been filed with the Planning Department regarding the washing station on the east side. There is a rapid succession of pressure waves generated from the pressure washer that penetrate the Martinazzi Square Building and disrupt the tenants. I would suggest addressing this issue and reducing or eliminating the problem. A physical barrier such as a masonry wall or another type of washer may solve the problem.

We commented that the barn's exterior and interior changes would need building permits and that the barn's exterior changes and the site improvements would need Architectural Review approval. Please contact Jerry Wade in the Building Division (692-2000 extension 145) for building permit issues and Will Harper in the Planning Department (692-2000 extension 530) for architectural review issues.

We did not discuss trees, but Tualatin is a Tree City USA and I would ask that you consider including a small number of deciduous shade trees in your plans.

Again, we appreciate your efforts and look forward to an expeditious project.

Sincerely,

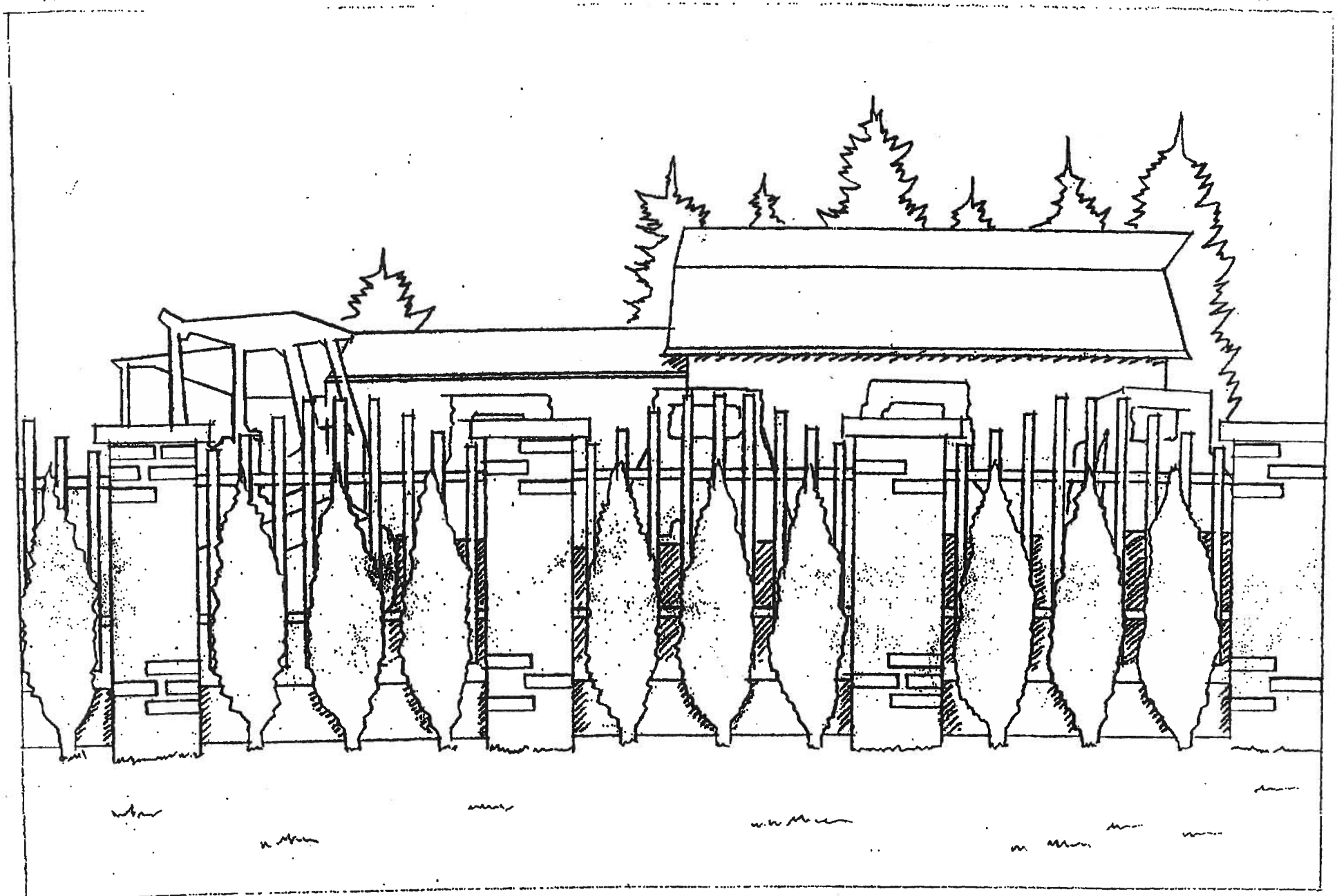
James F. Jacks, AICP
Planning Director

file: INT 88-01
address file: 8250 SW Tonka

c: D. Rux Jerry Wade Rich Spofford
Will Harper Kaaren Hofmann

wdocs\Cases\Int 88-01Ltr 2 Crouch United Rental 4-8-99

VIEW NORTH SIDE OF BARN LOOKING SOUTH FENCE OBSCURES YARD & BOB CATS PARKED JUST BEHIND FENCE



ATT: MIKE CROUCH
968-9239

3 May, 1999

Mr. Michael Crouch
District Manager
United Rentals, Inc.
8205 S.W. Hunziker Rd.
Tigard, Oregon 97223

Dear Mike:

This letter is written to memorialize Stan Sposito's position on the assumption of the lease on the property at 8250 S.W. Tonka by United Rentals. The lease with Anderson Oregon Rental and Mr. Moody commenced on March 1, 1989, for a five year term with three five year options. The second of the three options was exercised by Mr. Moody in his letter to me dated 30 January, 1998. The rent for the current term has not yet been negotiated. Mr. Moody and Anderson Oregon Rental, Inc., remain liable under the terms of the existing lease. All the terms of the existing lease were carefully negotiated to respect Mr. Sposito's interests, the interest of the lessee in building and selling the rental business at this location and the "grandfathered" use of the property. Mr. Sposito approves the assumption of the existing lease (which protects the "grandfathered" use) by United Rentals, Inc., subject to negotiation or arbitration of the rental for the present five year term, which is the sole issue for negotiation at this time. Mr. Sposito and I feel that $70,000 NNN is a fair rental for the property under the existing lease terms.

You have indicated that United Rentals, Inc., intends to make cosmetic and structural improvements to the building and land at its expense. As previously agreed, Mr. Sposito will permit United Rentals to make the improvements to his property which you have described, providing the improvements are acceptable and performed in a competent manner.

Mr. Sposito is willing to give two additional five year options in consideration of the payment of my attorney fees generated in connection with the work I performed with the City of Tualatin to protect the lessee's interest; my statement is enclosed.

Mr. Sposito desires that this matter be resolved within ten working days. I look forward to hearing from you or your representative soon. Please call me at 705-5150. We look forward to continuing to work cooperatively with you and United Rentals, Inc., in the future. It has been a pleasure working with you.

Yours truly,

GARY A. BISACCIO

Enclosure
cc: Mr. Stan Sposito
Ms. Catherine Shaw - attorney for Paul Moody

Valid Moody Contract of Addendums. Grandfather Clause

COMMERCIAL LEASE

This commercial lease, made and entered this 11 day of January, 1989, between Stan C. Sposito hereinafter "Landlord" and Andersen Oregon Rental, Inc. and Paul Moody hereinafter "Tenant".

Landlord leases to Tenant the following described property on the terms and conditions stated below:

> Tax lot 1700 on Washington County Assessors' map No. 2SL24CD; also known as 8250 S. W. Tonka Street, Tualatin Oregon.

1. OCCUPANCY

1.1 The term of this lease shall be March 1, 1989, through February 28, 1994.

1.2 Possession. Tenant's right to possession and obligations under the lease shall commence on March 1, 1989.

1.3 Option to Renew. If Tenant is not in default under the lease during the terms of the lease, Tenant shall have an option to renew the lease for three successive terms of five years each. Each of the renewal terms shall commence on the date following the date of termination of the preceding term.

The option may be exercised for each renewal term by serving written notice to Landlord six months prior to the last day of the expiring term. The giving of such notice shall be sufficient to make the lease binding for the renewal term without further act of the parties who shall then be bound to take steps required in connection with the determination of rent

as specified below.

The terms and conditions of the lease for each renewal term shall be identical with the original term except for rent which shall be set as specified below.

2. RENT

2.1 Basic Rent. Tenant shall pay to Landlord as rent the sum of $3,000 per month for the first three years of the rental term. Rent for the fourth and fifth years of the rental term shall be $3,500 per month. Rent shall be payable on the first day of each month in advance as such place as may be designated by Landlord except that rent for the first and last months shall be paid on March 1, 1989.

2.2 Additional Rent. All taxes, insurance costs, utility charges which Tenant is required to pay by this lease, and any other sum which Tenant is required to pay to Landlord or third party shall be additional rent.

2.3 Rent for Option Periods. The fair-market rent for any option period shall be negotiated by Landlord and Tenant within forty-five (45) days of Landlord receiving Tenant's notice of election to renew. If the parties cannot agree, the fair-market rent for the option period shall be determined by arbitration. If the parties cannot agree on a single arbitrator then each of the parties hereto shall select an arbitrator and the two arbitrators shall select a third.

3. USE OF PREMISES

3.1 Tenant shall use the leased premises during the term of this lease for the sale and rental of goods and equipment. No other use shall be made of the property without the written consent of Landlord. Landlord may not unreasonably withhold his consent.

3.2 The Tenant will not make any unlawful, improper or offensive use of said premises; he will not suffer any strip or waste thereof; he will not permit any objectionable noise or odor to escape or to be emitted from said premises or do anything or permit anything to be done upon or about said premises in any way tending to create a nuisance; he will not sell or permit to be sold any spirituous, vinous or malt liquors on said premises, excepting such as Tenant may be licensed by law to sell and as may be herein expressly permitted; nor will Tenant sell or permit to be sold any controlled substance on or about the premises.

3.3 The Tenant will not allow the lease premises at any time to fall into such a state of repair or disorder as to increase the fire hazard thereon nor shall Tenant install any power machinery in the building located on the premises except under the supervision and with written consent of the Landlord. Tenant will not use the premises in any way or for any purpose that would cause the fire insurance premiums to be increased.

3.4 Tenant shall comply at Tenant's own expense with all laws and regulations of any municipal, county, state, federal

and other public authority respecting the use of the leased premises.

3.5 The Tenant shall regularly occupy and use the premises for the conduct of Tenant's business and shall abandon or vacate the premises for more than ten (10) days without the written approval of Landlord.

4. UTILITIES

4.1 Tenant shall pay for all heat, light, water, power, and other services or utilities used in connection with the leased premises during the term of this lease and any extensions.

5. REPAIRS IMPROVEMENTS AND MAINTENANCE

5.1 The Landlord shall not be required to make any repairs, alterations, additions or improvements to upon the premises during the term of this lease. It is expressly understood that the Tenant accepts the leased premises as is and that all costs of repairs, maintenances, and improvements, if applicable, shall be the responsibility of Tenant. Tenant agrees to maintain and keep the leased premises including all interior and exterior doors, heating, ventilating and cooling systems, interior wiring, plumbing and drain pipes to sewer tank, in good order and repair during the entire term of this lease at Tenant's own cost and expense, and replace all glass which may be broken or damaged during the term hereof in the windows and doors of the premises with glass of as good or better quality as that now in use; Tenant further agrees that he will make no alterations,

additions or improvements to or upon the premises without the written consent of the Tenant first being obtained. Landlord shall not unreasonably withhold his consent.

5.2 The Tenant agrees to maintain in good order and repair during the term of this lease the exterior walls, roof and the gutters and downspouts if the Landlord replaces the gutters and downspouts.

6. TAXES

6.1 Tenant shall pay all personal and real property taxes when due and shall not allow such taxes to become in default. Tenant may contest the amount of any tax or assessment so long as such contest is conducted in a manner which does not cause any risk that Landlord's interest in the leased premises will be foreclosed for non-payment. Landlord shall cooperate in any reasonable manner with such contest by Tenant.

7. ASSIGNMENT

7.1 Tenant will not assign, transfer, pledge, hypothecate, surrender or dispose of this lease, or any interest herein, sublet, or permit any other person or persons whomsoever to occupy the leased premises without the written consent of the Landlord being first obtained in writing. This lease is personal to Tenant. Tenant's interest in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation of law, or under or by virtue of any execution or legal process, attachment or proceeding instituted against this Tenant, or under or by virtue of any bankruptcy or insolvency proceedings had in

regard to the Tenant, or any other manner, except as above mentioned.

8. LIENS

8.1 Tenant will not permit any lien of any kind, type or description to be placed or imposed upon the building in which the lease premises are situated or any part thereof, or the real estate on which it stands.

8.2 For the purposes of illustration only liens shall include, but not be limited to mechanics liens, construction liens, and tax liens.

9. ICE, SNOW AND DEBRIS

9.1 Tenant shall keep sidewalks in front or on the leased premises free and clear of ice, snow, rubbish, debris and obstruction. Tenant will not permit rubbish, debris, ice or snow to accumulate on the roof of the building so as to stop up or obstruct gutters or downspouts or cause damage to the roof, and will save harmless and protect the Landlord against injury whether to Landlord or to Landlord's property or to any other person or property caused by Tenant's failure in that regard.

10. OVERLOADING OF FLOORS

10.1 The Tenant will not overload the floors of the leased premises in such a way as to cause any undue or serious stress or strain upon the building in which the leased premises are located or any part thereof. The Landlord shall have the right, at any time, to call upon any competent engineer or architect, at the Landlord's expense, whom the Landlord may

choose to decide whether or not the floors of the leased premises or any part thereof are being overloaded so as to cause any undue or serious stress or strain on the building or any part thereof. The decision of the engineer or architect shall be final and binding upon the Tenant and in the event that the engineer or architect so called upon shall decide that in his opinion the stress or strain is such as to endanger or injure the building or any part thereof, then and in that event the Tenant agrees immediately to relieve such stress or strain either by reinforcing the building or by lightening the load which causes such stress or strain in a matter satisfactory to the Landlord.

11. INSURANCE

11.1 The Tenant agrees at all times during the term of this lease at his own expense to maintain, keep in effect, furnish and deliver to the Landlord liability insurance policies in form and with an insurer satisfactory to the Landlord, insuring both the Landlord and the lessee against all liability for damages to person or property in about the leased premises. The amount of the liability insurance shall not be less than $300,000 for injury to one person; $500,000 for injuries arising out of any one accident; and not less than $100,000 for property damage. Tenants agrees to and shall indemnify to hold Landlord harmless against any and all claims and demands arising from the negligence of the Tenant, his officer, agents, invitees, and/or employees, as well as those arising from Tenants failure to comply with any covenant of this lease on his part to be

performed, and shall at Tenant's own expense defend the Landlord against any and all suits, or actions arising out of such negligence, actual or alleged, and all appeals therefrom and shall satisfy and discharge any judgment which may be awarded against the Landlord in any such suit or action.

11.2 Tenant shall maintain at his own expense and keep in effect an insurance policy in the amount of $80,000 insuring the improvements on the leased property against fire and other risk covered by standard fire insurance policy with an endorsement for extended coverage. Proof of such insurance shall be provided to Landlord. Tenant shall bear the expense of any insurance insuring the property of Tenant on the premises against such risks, but shall not be required to insure.

11.3 Neither party shall be liable to the other for any loss or damage caused by fire or any other risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in event of insured loss neither parties' insurance company shall have a subrogated claim against the other.

12. DAMAGE AND DESTRUCTION

12.1 If the leased premises are damaged, the property shall be repaired by Tenant at Tenant's expense. Repairs shall be accomplished with all reasonable dispatch, subject to interruptions and delays from labor disputes and matters beyond control of Tenant. In the event of partial or total destruction of the improvements on the property there will be no abatement of

rent.

13. CONDEMNATION

13.1 In the case of condemnation or purchase of all or any substantial part of the leased premises by any public or private corporation with the power of condemnation this lease may be terminated effective on the date possession is taken, by either party hereto on written notice to the other, and in that case the Tenant shall not be liable for any rent after the termination date. Tenant shall not be entitled to or hereby expressly waives to any part of the condemnation award or purchase price, except for that portion of any award attributable to Tenant improvements.

14. RIGHT OF ENTRY

14.1 It shall be lawful for the Landlord, his agents and representatives, at any reasonable time during business hours, to enter into or upon the leased premises for the purposes of examining into the condition thereof, or any other lawful purposes.

15. ESTOPPEL CERTIFICATE

15.1 Either party will within twenty (20) days after notice from the other, execute and deliver to the other party a certificate stating whether or not this lease has been modified and is in full force and effect, and specifying any modifications or alleged breaches by the other party. Certificate shall also state the amount of monthly rent, the dates to which rent has been paid in advance, and the amount of

any security deposit or prepaid rent. Failure to deliver the certificate within the specified times shall be conclusive upon the party of whom certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate.

16. FIXTURES

16.1 All partitions, plumbing, electrical wiring, additions to or improvements upon the leased premises, whether installed by the Tenant or Landlord, shall be and become a part of the building as soon as installed and the property of the Landlord unless otherwise herein provided. All fixtures placed upon the leased premises during the term, other than Tenant's trade fixtures, shall, at Landlord's option, become the property of Landlord. If Landlord so elects, Tenant shall remove any or all fixtures which would otherwise remain in the property of Landlord and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures Landlord may do so and charge the cost to Tenant with interest at the legal rate from the date of expenditure. Tenant shall repair any damage to the leased premises that may be caused by Tenant's removal of trade fixtures.

17. DELIVERING UP PREMISES ON TERMINATION

17.1 At the expiration of this lease or upon any extensions thereof, the Tenant will quit and deliver said leased premises and all future erections or additions to or upon the same, broom-clean, to the Landlord or those having Landlord's

estate in the premises, peaceably, quietly, and in as good order and condition, reasonable use and wear thereof, damage by fire, unavoidable casualty and the elements alone excepted.

18. DEFAULT, BANKRUPTCY AND ATTACHMENT

18.1 THAT

(a) If the Tenant shall be in arrears in the payment of rent for a period of twenty (20) days after rent becomes due, or

(b) If the Tenant shall fail or neglect to do, keep, perform or observe any of the covenants and agreements contained herein on Tenant's part to be done, kept, performed and observed and such default shall continue for ten (10) days or more written notice of such failure or neglect shall be given to Tenant or

(c) If the Tenant shall be declared bankrupt or insolvent according to law, or

(d) If any assignment of Tenant's property shall be made for the benefit of creditors, or

(e) If on the expiration of this lease Tenant fails to surrender possession of the lease premises, then in either or any of these cases or events, Landlord or those having Landlord's estate in the premises, may terminate this lease and, lawfully, at Landlord's option immediately or at any time thereafter, without demand or notice, may enter into and upon the leased premises and every part thereof and repossess the premises as of Landlord's former estate, and expel the Tenant and those claiming by, through and under Tenant and remove Tenant's effects at

Tenant's expense, forcibly if necessary and store the same, all without being deemed guilty of trespass and without prejudice of any remedy which otherwise might be used for arrears of rent or proceeding breach of covenant.

Neither the termination of this lease by forfeiture nor the taking or recovery of possession of the premises shall deprive Landlord of any other action, right, or remedy against Tenant for possession, rent or damages, nor shall any omission by lessor to enforce any forfeiture, right or remedy to which lessor may be entitled bedeemed a waiver by lessor of the right to enforce the performance of all terms and conditions of this lease by Tenant.

In the event of any re-entry by Landlord, Landlord may lease or relet the premises in whole or in part to any Tenant or Tenants who may be satisfactory to Landlord, for any duration, and for the best rent, terms and conditions as Landlord may reasonably obtain. Landlord shall apply the rent received from any new Tenant first to the cost of retaking and reletting the premises, and then to any arrears of rent and future rent payable under this lease and any other damages to which Landlord may be entitled hereunder.

Any property which Tenant leaves on the premises after abandonment or expiration of the lease, or for more than twenty (20) days after any termination of the lease by Landlord, shall be deemed to have been abandoned, and Landlord may remove and sell said property at public or private sell as Landlord sees

fit, without being liable for any prosecution thereof or for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses of Landlord and rent as aforesaid, and the balance of such amounts, if any, shall be held for, and paid to the Tenant.

19. HOLDING OVER

19.1 In the event that Tenant for any reason shall hold over after the expiration of this lease, such holding over shall not be deemed to operate as a renewal or extension of the lease, but shall only create a tenancy from month to month which may be terminated at will at any time by the Landlord.

20. ATTORNEYS FEES AND COSTS

20.1 In case suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease, or to collect the rental which may be come due hereunder, or any portion thereof, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney fees to be allowed the prevailing party in such suit or action and in the event any appeal is taken from any judgment or decree in such suit or action, the losing party agrees to pay such further sum as the appellate court shall adjudge reasonable as prevailing parties' attorney fees on such appeal. The Tenant agrees to pay and discharge all Landlord's costs and expenses, including the Landlord's reasonable attorney fees that shall arise from enforcing any provision or covenants of this lease even though no suit or action in instituted.

21. WAIVER

21.1 Any waiver by Landlord of any breach any covenant herein contained to be kept and performed by the Tenant shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the Landlord from declaring a forfeiture for any succeeding breach, either the same condition or covenant or otherwise.

22. NOTICES

22.1 Any notices required by the terms of this lease to be given by one party hereto to the other or designated to be given shall be sufficient if in writing contained in a sealed envelope, deposited in the U.S. registered mails with postage fully prepaid and it is intended for the Landlord herein then if addressed to Landlord at 1243 S.W. Cheltenham, Portland, Or 97201 and if intended for the Tenant, then if addressed to the Tenant at 401 N.W. 4th Ave, Portland, Or 97209. Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in the U.S. registered mails.

23. RIGHT OF FIRST REFUSAL

23.1 Landlord shall not, during the term of this lease or any extensions, sell, contract to sell, transfer, exchange, grant an option to sell or lease, or otherwise dispose of the property to any one other than Tenant, unless Landlord shall have first communicated to Tenant by written notice, a written offer to sell the property to Tenant, which offer shall

specify in commercially reasonable detail the price, terms, and condition upon which the Landlord is willing to sell the property to a bona fide third party.

Tenant shall have a period of thirty (30) days, following the giving of the Landlord's offer notice, within which to accept the Landlord's offer by giving Landlord written notice of acceptance. If Landlord's offer is accepted, the parties shall be obligated to close the sale in accordance of the terms Landlord's offer.

If Tenant does not accept Landlord's offer, Landlord may sell the property to any other party provided that such a sale must be consummated within ninety (90) days following the earlier of the expiration of the acceptance period for the Landlord's offer or the date of any written rejection of Landlord's offer by Tenant and for and upon the same price, terms, and conditions, as those specified in Landlord's offer.

24. ~~ERRORS AND ASSIGNS~~ HEIRS

24.1 All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the ~~benefit of~~, and bind, as a circumstances may require, the ~~errors~~ HEIRS, ~~executors~~, administrators, successors and, so far as this lease is assignable by the term hereof to be assigns of such parties.

In construing this lease, it is understood that the Landlord or the Tenant may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean

and include the plural, the masculine the feminine and the neuter, and that generally grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to cooperations and individuals.

IN WITNESS WHEREOF, the respective parties have executed this lease in duplicate on this, the day and year first above written, any corporation signature being by authority of its Board of Directors.

STAN C. SPOSITO

PAUL MOODY

ANDERSEN OREGON RENTAL, INC.

By:

ADDENDUM TO LEASE

This is an addendum to the lease between Stan Sposito, Lessor, and Andersen Oregon Rental, Inc., dated 11 January, 1989. The parties agree as follows:

25. Lessee shall place and maintain large vehicles upon the premises of such kind as to allow the grandfathered uses maintained by Lessor to date to be preserved. If Lessee does not place and maintain such vehicles upon the premises, Landlord shall be permitted to do so for up to three days per year at reasonable times, in a reasonable manner and with reasonable notice to Lessee.

Stan Sposito

Paul Moody

Andersen Oregon Rental, Inc.

by

Paul Moody, President

503-629-2034 Office
503-629-2036 Fax
503-913-1276 Mobile

21254 NW Cannes Dr.
Portland, OR 97229
tentmakerman@verizon.net

TENTMAKER CONSTRUCTION, INC.

Bill Winchester
President

CCB# 148854

8250 SW Tonka Tennant Improvement Proposed Budget	
Item Description	**Total Cost**
Framing	$13,050.00
Roofing	$21,500.00
Rental Equipment	$5,625.00
HVAC	$28,000.00
Plumbing	$14,050.00
Concrete Patches	$1,687.50
Electrical	$30,478.00
Fire Sprinkler System	$14,687.00
Drywall	$12,127.50
Painting (interior)	$2,850.00
Painting (exterior)	$3,450.00
Doors	$7,875.00
Windows/Front Vestibule	$5,750.00
Toilet Partitions/Accessories	$1,575.00
Acoustical Tile Ceilings	$2,520.00
Cabinets/Counters	$7,000.00
Flooring	$12,600.00
General Labor	$16,875.00
Debris Removal/Continual-Final Clean-up	$6,250.00
Permits	$15,000.00
Fencing	$11,500.00
Landscaping	$12,500.00
Paving (including prep/sub base)	$135,000.00
Stucco	$4,800.00
Sub-Total	**$352,200.00**
General Contractor Markup(overhead/profit) 12.5%	**$44,025.00**
Grand Total	**$396,225.00**

AMENDMENT NO. 1 TO COMMERCIAL LEASE

THIS AMENDMENT NO. 1 TO COMMERCIAL LEASE (this **"Amendment"**) is made and entered into as of August 1, 1999, by and between UNITED RENTALS, INC., a Delaware corporation (**"Tenant"**) and STAN C. SPOSITO (**"Landlord"**), with reference to the following facts:

RECITALS

A. Tenant is the current tenant of that certain property located in the City of Tualatin, County of Washington, State of Oregon, commonly known as 8250 S.W. Tonka (the **"Property"** or **"Premises"**) pursuant to that certain Commercial Lease and Addendum thereto (the **"Lease"**) dated as of January 11, 1989, between Anderson Oregon Rental, Inc., and Paul Moody (Tenant's predecessors in interest), on the one hand, and Landlord, on the other hand.

B. The original term of the Lease was for five years, commencing March 1, 1989, and ending February 28, 1994. The tenant under the Lease was granted the option to extend the term of the Lease for three successive terms of five years each. The tenant exercised its first option to extend the term to February 28, 1999, and its second option to extend the term to February 28, 2004.

C. Landlord and Tenant desire to amend the terms and provisions of the Lease to establish the basic rent payable for the current term (March 1, 1999, to February 28, 2004), to provide for additional options to extend the term, and otherwise as set forth herein.

D. All capitalized terms used in this Amendment and not specifically defined herein shall have the meanings given them in the Lease.

AGREEMENT

NOW THEREFORE, for valuable consideration, Landlord and Tenant agree to amend the Lease as follows:

1. Confirmation of and Consent To Lease Assumption. Landlord hereby confirms its consent to Tenant assuming the Lease from Anderson Oregon Rental, Inc. and Paul Moody, and accepts Tenant as the tenant under the Lease. Tenant hereby confirms that it has assumed the rights and obligations as the tenant under the Lease from Anderson Oregon Rental, Inc. and Paul Moody.

2. Lease Term.

2.1 Current Term. Notwithstanding anything to the contrary in the Lease, the parties acknowledge and agree that the current term (**"Current Term"**) of the Lease commenced March 1, 1999, and, unless otherwise terminated or extended as provided herein or in the Lease, shall expire on February 28, 2004.

2.2 Options To Extend Term. Notwithstanding anything to the contrary in Section 1.3 of the Lease, Landlord hereby grants to Tenant the right and option to extend the Current Term of the Lease for three (3) additional terms of five (5) years, which extension terms (**"Extension Terms"**) shall commence on March 1, 2004, March 1, 2009 and March 1, 2014, respectively and, unless sooner terminated or extended, terminate five (5) years thereafter. Tenant may exercise each right and option under this Paragraph 2.2 to extend the Term of the Lease for five (5) years only by giving Landlord written notice of its exercise of such right no later than one (1) year prior to expiration of the then current term, and only if Tenant is not in default under this Lease at the time Tenant attempts to exercise such right. If Tenant exercises its right in accordance with this Paragraph 2.2, then the term of this Lease shall be extended for five (5) years subject to all of the agreements, covenants, conditions and provisions set forth in the Lease, as amended hereby. Rent for the Extension Terms shall be the then fair-market rent determined in accordance with Section 2.3

of the Lease,.

3. Rent.

3.1 Current Term. Section 2.1 of the Lease is amended to provide that the basic rent for the entirety of the Current Term shall be Five Thousand Six Hundred Fifty and No/100 Dollars ($5,650.00) per month, commencing on March 1, 1999, and ending February 28, 2004. Any difference between the basic rent actually paid from March 1, 1999, until the date of this Amendment, and the basic rent provided in this Paragraph 3.1 shall be paid by Tenant to Landlord within two (2) business days after full execution of this Amendment.

3.2 Extension Terms. As noted above, the basic rent payable by Tenant to Landlord during each Extension Term shall be determined in accordance with Section 2.3 of the Lease.

3.3 Address For Payment. All rent due and payable under the Lease shall be sent to Landlord at the address set forth for Landlord in Paragraph 6 hereof.

4. Tenant's Alterations. Landlord hereby consents to Tenant undertaking the remodel work and alterations at the Premises described in Exhibit A attached hereto and made a part hereof ("Tenant's Work"). Tenant shall perform the Tenant's Work at Tenant's sole cost and expense, shall promptly undertake and complete said Tenant's Work, and shall cause said Tenant's Work to be performed in a good and workmanlike manner, in accordance with applicable laws and the plans described in Exhibit A, and free of liens.

5. Use. The first sentence of Section 3.1 of the Lease is modified to provide that Tenant may use and occupy the Premises for retail sales and rentals of heavy and light equipment and construction, industrial, residential and various other tools and equipment; related shop and maintenance activities; related office activities; storage of equipment; provision of an employee break room; and any other directly related purposes.

6. Parties and Notices. Section 22.1 is amended in its entirety to read as follows:

"All notices, consents, approvals and other communications under this Lease shall be in writing and shall be deemed to have been duly given or made (1) upon delivery if hand delivered; (2) one (1) business day after delivery to any nationally recognized overnight courier service for next business day delivery, fee prepaid; (3) one business day after facsimile transmission, with transmission verified and a hard copy of the transmission promptly sent by U. S. Mail; or (4) three (3) days after deposit with the United States Postal Service as registered or certified mail, postage prepaid, and in each case addressed as follows:

To Tenant:	United Rentals, Inc. 8205 SW Hunziker Road Tigard, OR 97223 Attention: Mr. Michael Crouch
with a mandatory copy to:	United Rentals, Inc. 4 Greenwich Office Park Greenwich, CN 06830 Attention: Mr. John Milne
To Landlord:	Mr. Stan C. Sposito

of the Lease.

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with a mandatory copy to:	United Rentals, Inc. 4 Greenwich Office Park Greenwich, CN 06830 Attention: Mr. John Milne
To Landlord:	Mr. Stan C. Sposito 5283 S.W. 201 ST. ALOHA, OREGON 97007

with a mandatory copy to: Gary Bisaccio, Esq.
4112 S.W. Condor Avenue
Portland, OR 97201

7. Brokers. Landlord and Tenant each warrant and represent to the other that it has not retained, nor is it obligated to, any person for brokerage, finder's or similar services in connection with this Amendment, and that no commission, finder's fee or other brokerage or agent's compensation can be properly claimed by any person or entity based upon the acts of such party with regard to the transactions which are the subject matter of this Amendment. Each party hereto (as the indemnitor) shall indemnify and defend the other (as the indemnitee) against and hold the indemnitee harmless from all claims demands, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees, costs of expert witnesses, court costs and other litigation expenses) arising from or relating to any claim for a commission, fee or other compensation made by any brokers or parties with which the indemnitor has dealt in connection with this Amendment or the transactions contemplated hereby.

8. Claim For Attorney's Fees. Landlord has heretofore made a claim on Tenant for attorney's fees in connection with matters relating to the Lease (specifically including the negotiation of the basic rent for the Current Term and in connection with matters involving the City of Tualatin and the use of the Premises). Landlord hereby withdraws said claim and waives and releases Tenant from any claim for said attorney's fees incurred prior to the date of this Amendment or in connection with said matters.

9. Confirmation of Lease. Except as amended hereby, the Lease shall remain in full force and effect. If the provisions of this Amendment and the provisions of the Lease shall conflict, then the provisions of this Amendment shall control. Landlord represents and warrants that Landlord alone owns title to the Premises, that Landlord has full rights and authority to enter into this Amendment and to bind the Premises, that as of the date of this Amendment the Lease is in full force and effect, and that neither Tenant nor its predecessors in interest under the Lease is in default under the Lease, nor has any claim been made against Tenant or its predecessors in interest for same.

10. General. This Amendment may be executed in one or more counterparts with the same effect as if the parties executing several counterparts had executed one counterpart and all such executed counterparts shall together constitute one and the same instrument. The parties hereto each agree that their signature on a facsimile copy of this Amendment shall be binding upon them, with the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year hereinabove written.

"Landlord"

STAN C. SPOSITO

"Tenant"

UNITED RENTALS, INC., a Delaware corporation

By:_____
Name:_____
Its:_____

with a mandatory copy to:

Gary Bisaccio, Esq.
4112 S.W. Condor Avenue
Portland, OR 97201

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year hereinabove written.

"Landlord"

STAN C. SPOSITO

"Tenant"

UNITED RENTALS, INC., a Delaware corporation

By: William F Lockhart
Name: William F Lockhart
Its: V.P.

EXHIBIT A
DESCRIPTION OF TENANT'S WORK

That certain "Addition and Remodel" to be constructed by Keith Construction, Inc., P.O. Box 2561, White City, OR, 97503 (the "**Contractor**"), in accordance with and as described in plans prepared by DJ Architecture, 201 First St NW, Suite "B", Albany, OR 97321 ("**Architect**") under Project No. 99016. The engineer for the Addition and Remodel is PacWest Engineering, 1600 Ninth Avenue, Albany, OR 97321 ("**Engineer**"). The landscape architect for the project is Charles Mangum & Associates, 5144 - 36th Ave SE, Salem, OR 97301. Plans for the Addition and Remodel include the following:

Site Plan	A1.1	Issue Date: 6/17/99
Building Elevations	A1.2	Issue Date: 6/17/99
Landscape Plan	L1.2	
Irrigation Plan	L2.2	

GARY A. BISACCIO
Attorney at Law

2125 S.W. Fourth Ave., Suite 600
Portland, Oregon 97201
Phone: 503-222-2600
Facs.: 503-222-5405

21 January, 2004

Mr. Robert Metz
United Rentals
6221 Chappell Road, N. E.
Albuquerque, New Mexico 87113

Facsimile No. 505.344.1392

Facsimile No. 503.344.1392

Dear Bob:

To begin, I think it is important to understand Stan Sposito's attitude towards his property and the way he assumes his responsibilities as a property owner and landlord. Stan is a participating owner-landlord who always assumes ultimate responsibility for his property. Part of that responsibility is to help assure the success of the tenant, as demonstrated in the past.

Stan has assumed responsibility to notify and discuss with the manager from time to time the following issues pertaining to the property:

1. A parking problem was identified. Stan negotiated with the manager of the pizza restaurant next door for use of three parking spaces by United employees.

2. Stan suggested straightening, and United Straightened, then Stan prepped and painted the ballustrades which protect the brick columns.

3. Stan trimmed, seeded, and fertilized the dying grass to improve the attractiveness of the property and United's business.

4. Stan walked the property often, picking up trash, thereby making the property more appealing to United's customers.

5. Stan suggested cutting foliage for better visibility of building, equipment, and United's sign.

6. Stan noticed that several front panels on the building were discolored, informed the manager, then prepped, primed, and painted the panels for a more appealing building.

7. Stan has removed fallen fir tree limbs from the parking lot.

8. After discussion with the manager, Stan prepped, patched, and painted the damaged caps on all the brick columns to match the building color, resulting in more attractive, eye catching, columns.

9. The manager wanted the grass cut in the detention pond. City Hall said no. Stan obtained the Tualatin Fire Department's permission to cut the grass because the tall grass in the detention pond was close enough to the equipment to constitute a fire hazard.

10. Stan repaired, patched, and painted cracked stucco on the building.

11. Stan uncovered trespasser use of the stairwell during evenings.

12. Recently, Stan's initiative resulted in the present lease extension.

13. Stan has repeatedly acted as a genuine advocate for United Rentals in the community.

Mr. Sposito performs his promises and agreements, including and especially those made to you and Tim Rule. First and foremost of these was his agreement for a rent reduction together with a 5% annual rent increase the second two years. The 5% adjustments were not included in draft agreement prepared by United's legal department. I understand that the agreement was $5000 per month from 1 March, 2004, through 28 February, 2005, $5,250 per month from 1 March, 2005, to 28 February, 2006, and $5,512.50 per month from 1 March, 2006, to 28 February, 2007.

United has proposed that Mr. Sposito abandon the contract form and terms on which he has successfully relied in his business. Thus, Mr. Sposito requests that United reimburse his legal expenses.

Enclosed is United's contract form with Mr. Sposito's changes. I have had considerable difficulty with the interfacing word processing programs which print a page every fifteen minutes or so, and then incorrectly. Paragraph 16 poses three problems: (1) damage caused by Tenant or not caused by Landlord are not the responsibility of Landlord; (2) any damage must be significant enough to make impracticable obtaining business disruption insurance to cover the loss, and even significant damage can be repaired quickly and compensated for by fire/casualty insurance; and (3) the decision to terminate business must be made in good faith according to reasonable objective standards. Some changes have simply been crossed or lined out.

Mr. Sposito requests copies of the existing insurance policies and records pertaining to

the construction of the additions to the property about three years ago by Keith Construction.

I am available to work on this with you this week to get this wrapped up.

Yours truly,

GARY A. BISACCIO

c: Stan & Tracy Sposito

United Rentals, Inc.
Five Greenwich Office Park
Greenwich, CT 06830
Tel: 203 622-3131
Fax: 203 622-6080
www.unitedrentals.com

Allen J. Roberts III, Esq.
Real Estate Counsel
203-618-7331 (ph)
203-622-4325 (fax)
aroberts@ur.com

October 3, 2006

VIA OVERNIGHT MAIL
Mr. Stan C. Sposito
5283 S.W. 201st Avenue
Aloha, Oregon 97007

Re: Lease Agreement dated January 11, 1989 between Stan C. Sposito ("Landlord") and United Rentals Northwest, Inc., successor in interest to Andersen Oregon Rental, Inc. ("Tenant"), as amended by Amendment No. 1 to Commercial Lease dated August 1, 1999, as further amended by Letter Agreement dated January 30, 2004 (collectively, the "Lease") for real property and improvements thereon located at 8250 S.W.Tonka Street, Tualatin, Oregon [#368]

Dear Mr. Sposito:

This is a follow up to Tenant's letter dated July 27, 2006 whereby it exercised the first of five (5) three (3) year Renewal Terms under the Lease. This will confirm the mutual agreement by the parties that Basic Rent for this Renewal Term (i.e., from March 1, 2007 through February 28, 2010) shall be $66,600 per year, payable in equal monthly installments of $5,550.00.

As part of exercising this renewal term, Tenant shall use best efforts to install a new sign for the facility in compliance with all local sign ordinances and Tenant's corporate signage standards for the purpose of improving roadway visibility.

Please confirm Landlord's agreement to the Basic Rent terms set forth above by countersigning this letter and faxing a copy back to me at (203) 622-7342 and returning the original to me via mail.

If you have any questions, please contact Todd Carlson at (949) 809-0129 or me at (203) 618-7331. Thank you for your prompt attention to this matter.

Very truly yours,

Allen J. Roberts, III

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Phone

Date / Time

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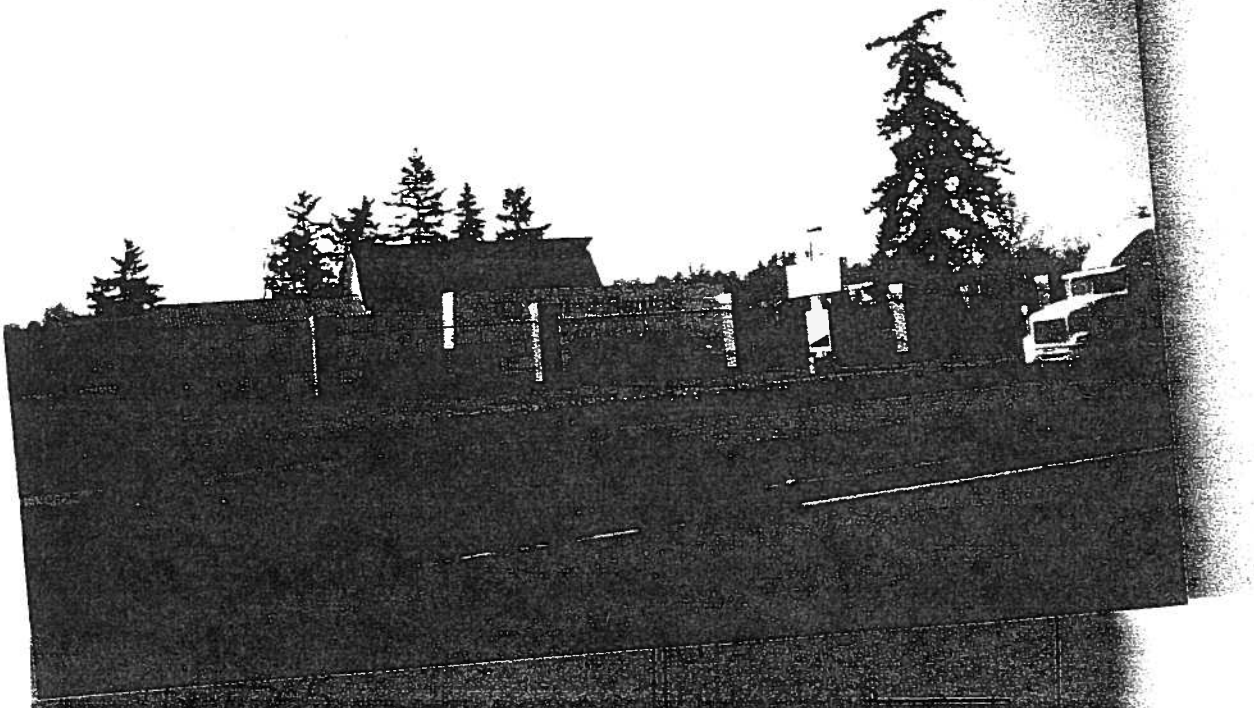

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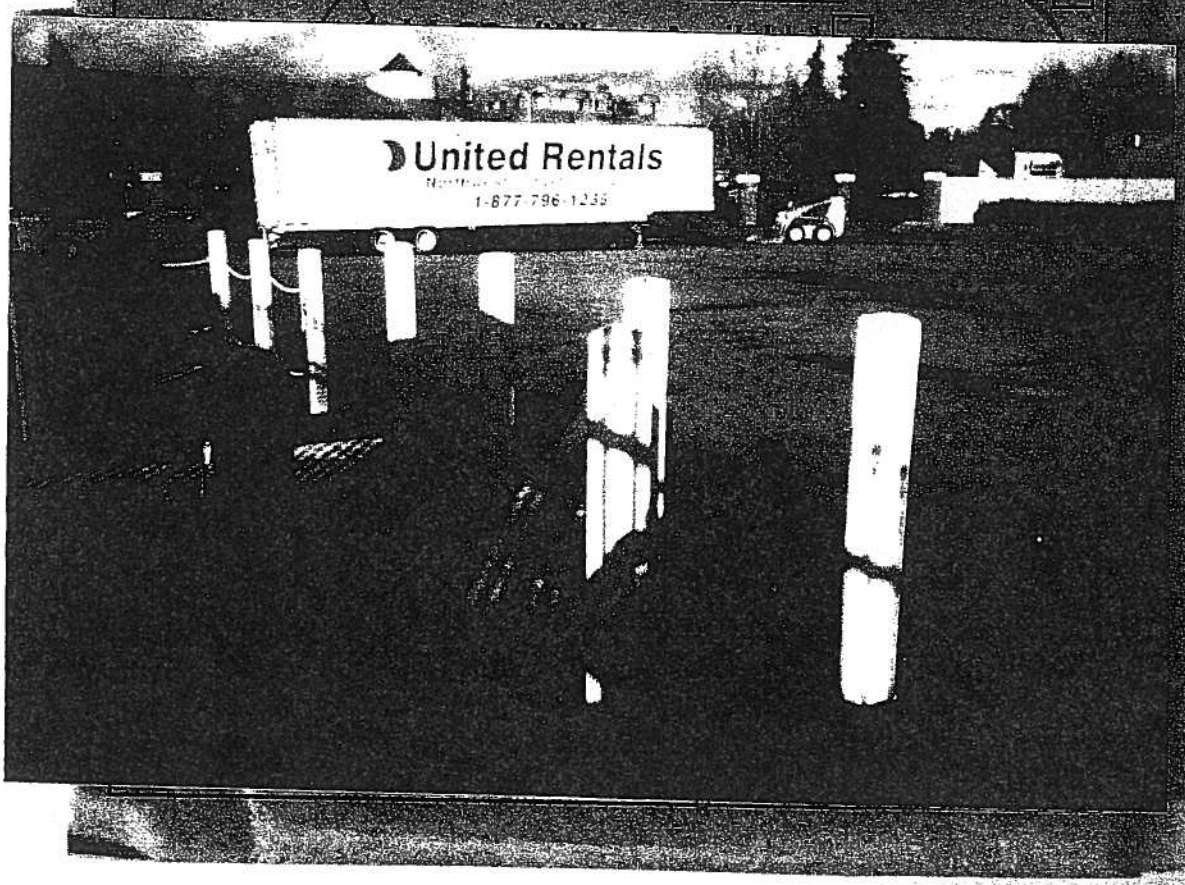

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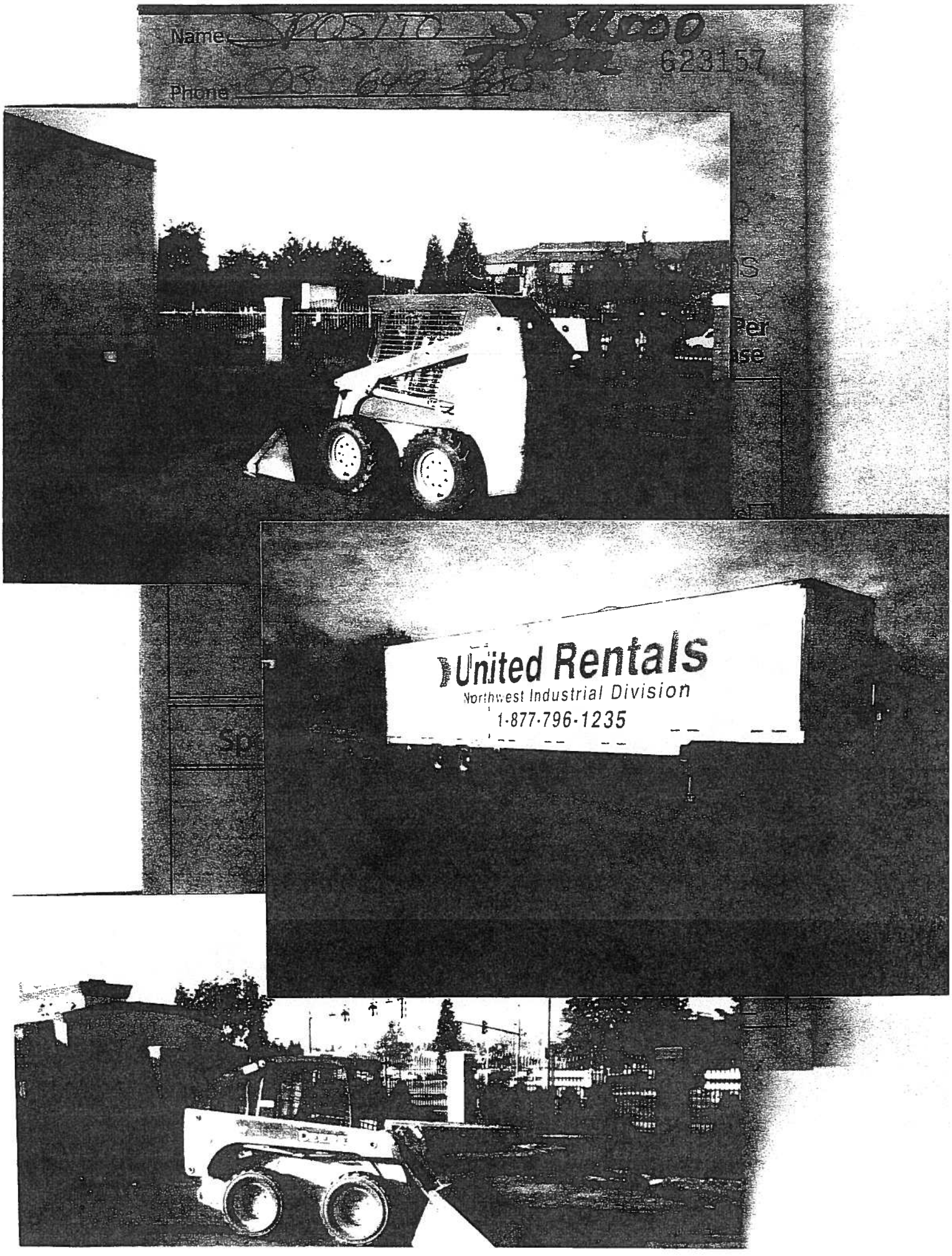
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Phone
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United Rentals
Northwest Industrial Division
1-877-796-1235

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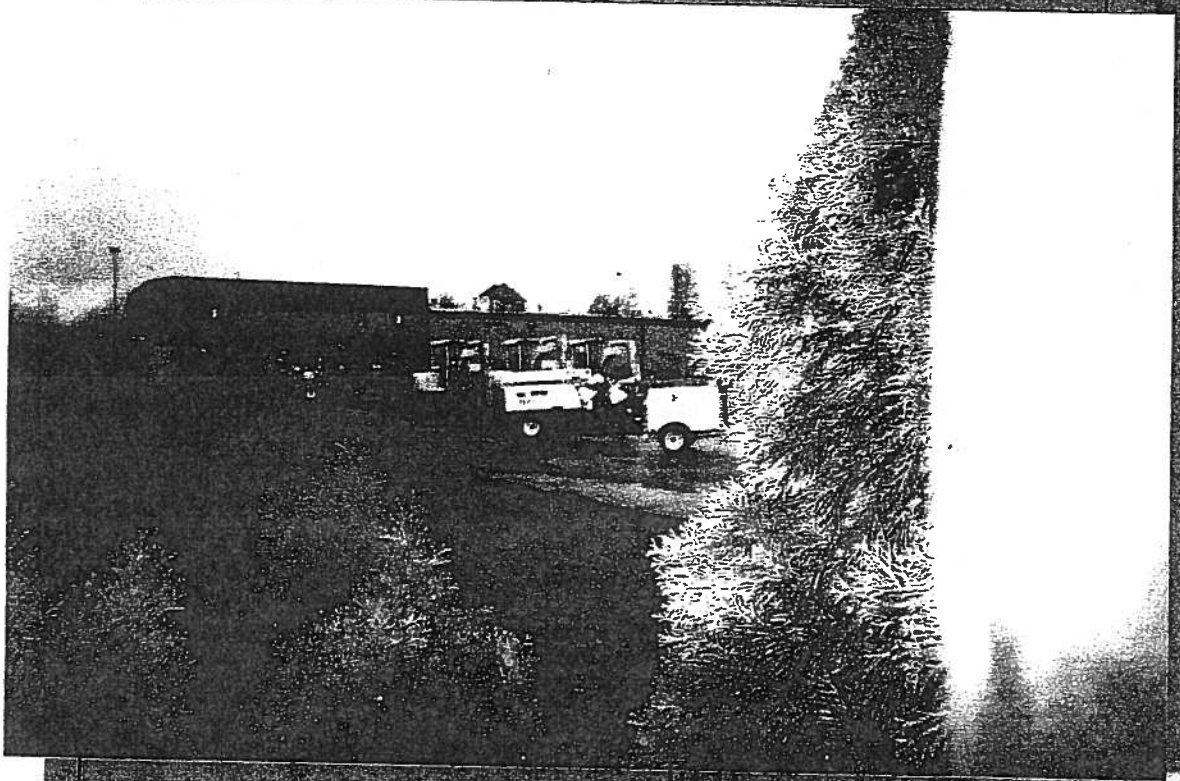

Greeting Cards/Other

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JAN
2008

866

United Rentals
TEREX
BT3400
United Rentals
1-800-UR-RENTS
www.ur.com

United Rentals
1-800-UR-RENTS

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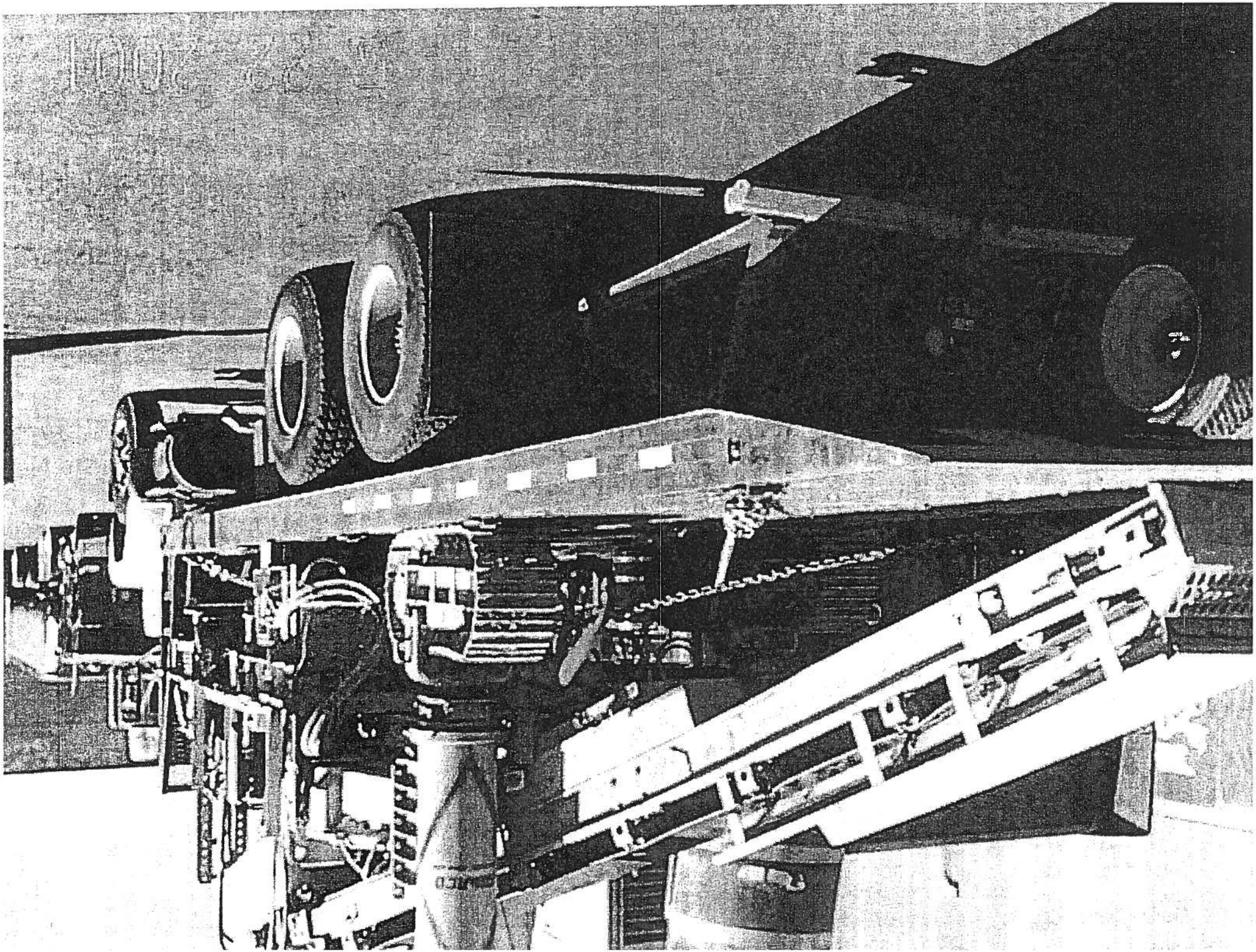

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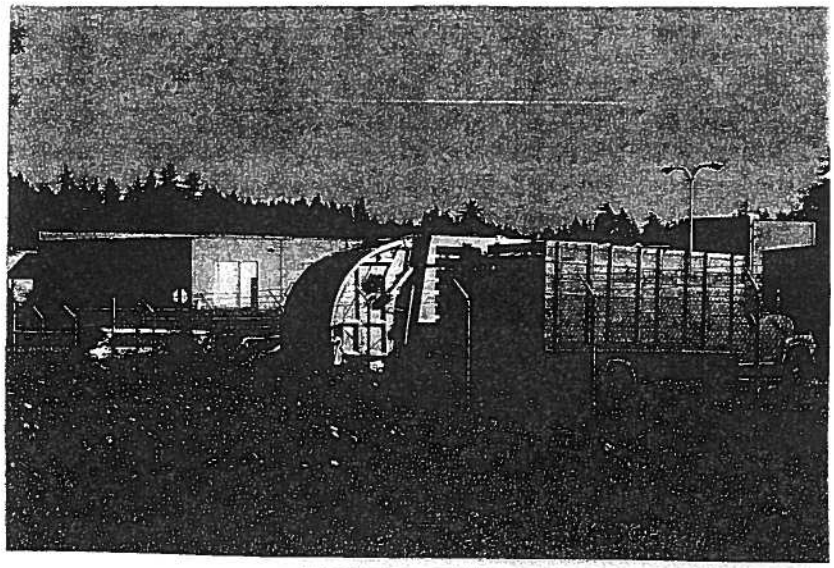

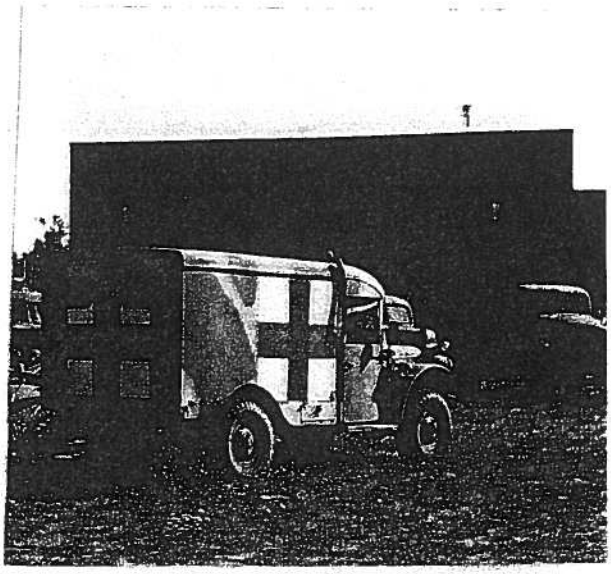

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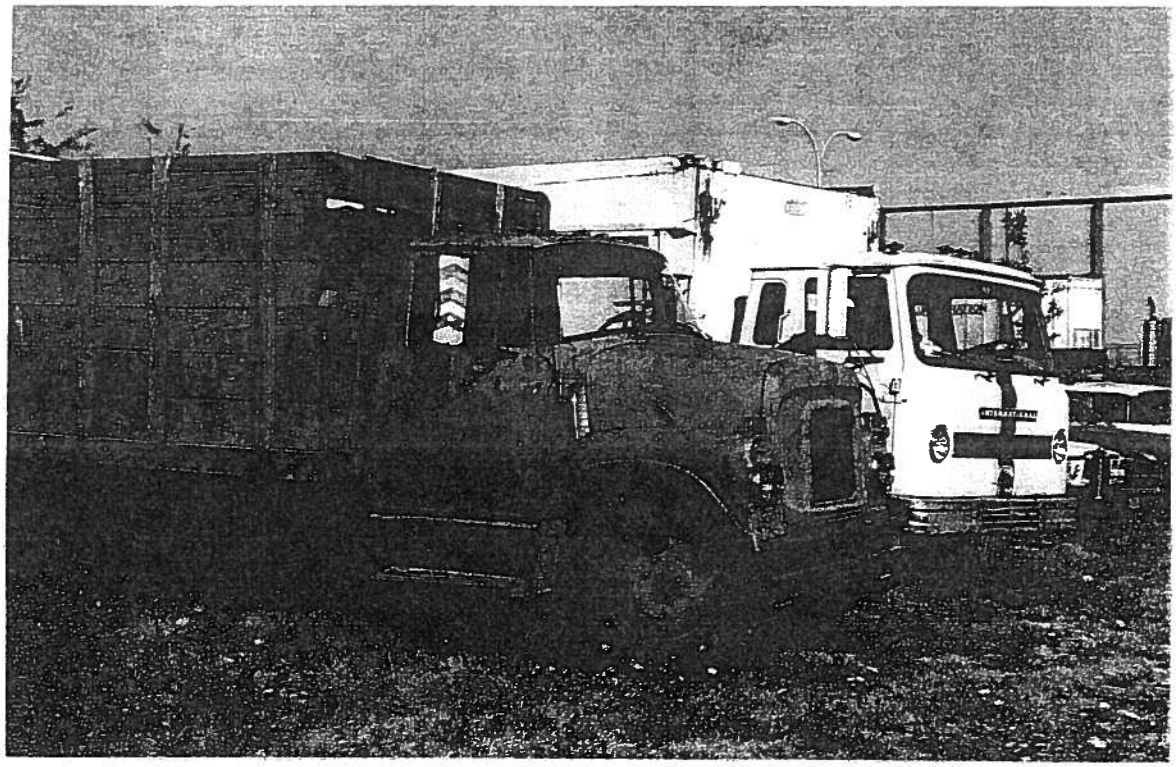
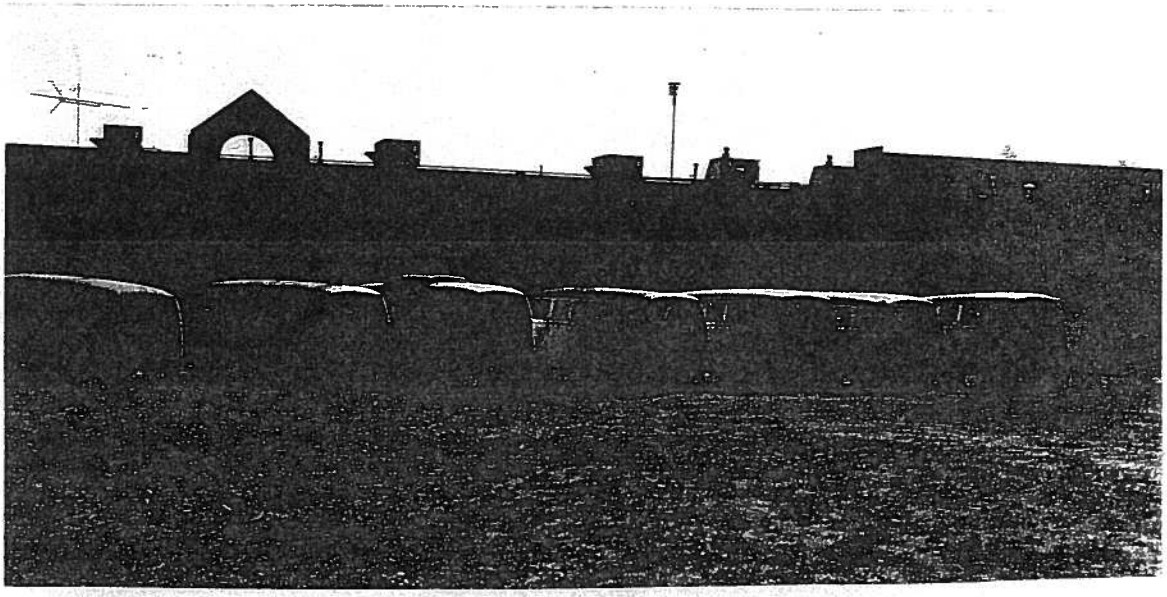
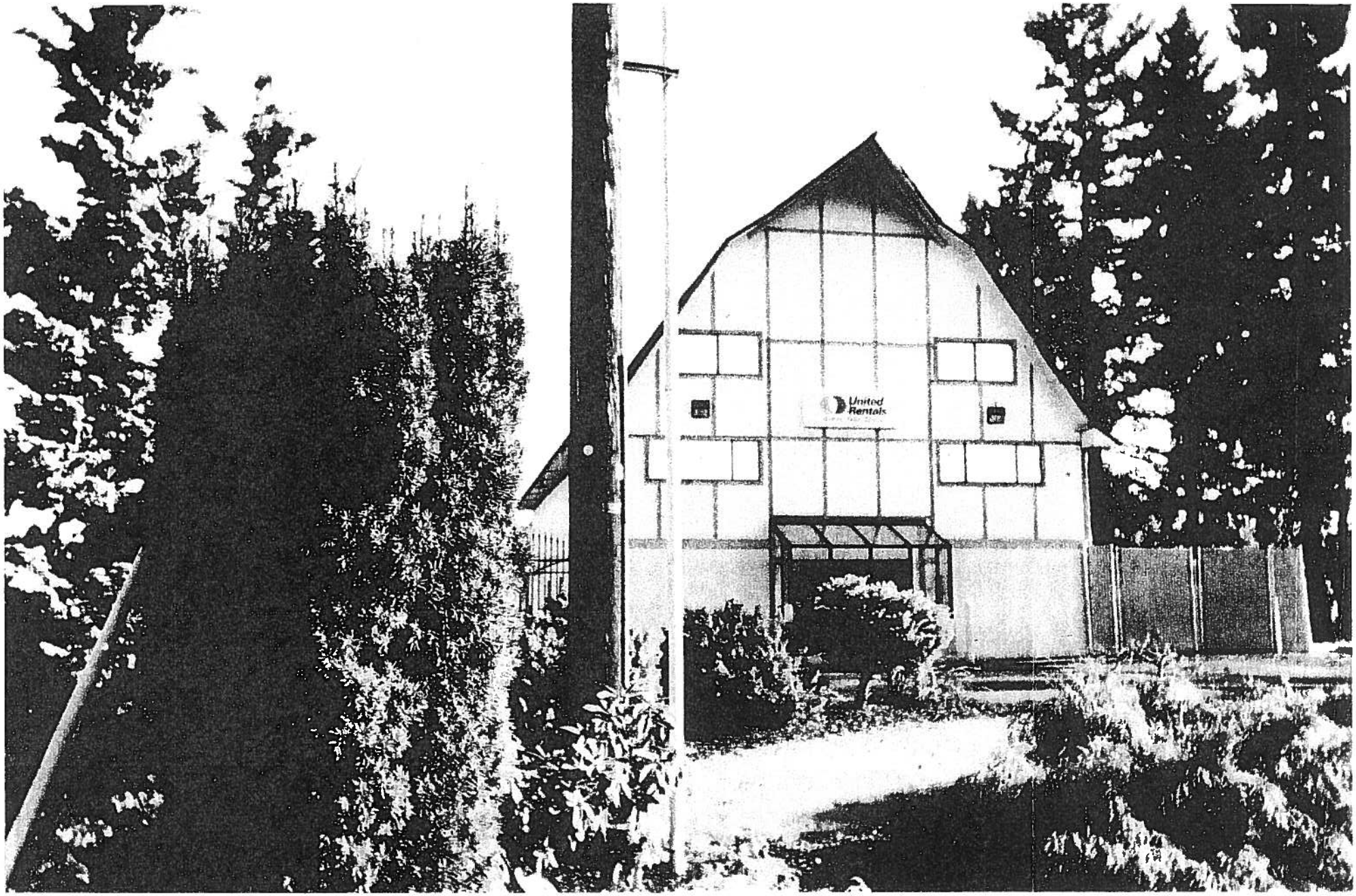





United
Rentals

CITY OF TUALATIN
18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

October 28, 1988

Ms. Sally Holt Caplan
One Main Place, Suite 600
101 SW Main
Portland, OR 97204-3235

RE: INT-88-01--REQUEST FOR INTERPRETATION--SECTION 54.020(2)(p), TUALATIN DEVELOPMENT CODE, RENTAL OF VARIOUS SMALL EQUIPMENT, TOOLS AND DEVICES IN GENERAL COMMERCIAL (CG) PLANNING DISTRICT

Thank you for your letter of September 21, 1988, wherein your client, Mr. Paul Moody of Anderson Oregon Rental (5413 NE Columbia, Portland 97218, 282-1313) attempts to "...clarify... the type of equipment, tools and devices he proposes to rent." Although the letter does not specifically state what Mr. Moody proposes to rent, it does indicate the rental of "...various small equipment, tools and devices" is desired. You have asked for an interpretation of the Tualatin Development Code and specifically whether your clients intended use is permitted.

BACKGROUND

The subject property is at 8250 SW Tonka Street. It is in the General Commercial (CG) Planning District. The owner is Mr. Stan Sposito.

A meeting occurred on September 15, 1988, attended by me, Janet Young and Messers. Sposito, Moody and Bisaccio. The meeting revolved around what the word "small" meant when used in Section 54.020(2)(p) to describe the permitted rental of equipment. It was agreed Mr. Moody would request an interpretation of the Code in writing and the Planning Department would respond.

This request does not involve the rental of cars or trucks as their rental is specifically permitted in the Light Manufacturing (ML) District. The rental of trailers is addressed in this interpretation as an item that is incidental to the rental of equipment.

Attachment 2
Copy of INT-88-01

REQUEST

What is meant by the word "small" in the permitted use of Rental of Various Small Equipment, Tools and Devices in the CG District [Section 54.020(2)(p)]? The focus is on the word "small" because the ML District allows as a permitted use the rental of any size of tools and equipment [60.020(17)] whereas the CG District limits the size to "small equipment, tools and devices."

DISCUSSION

Answering the question, What is small, is very difficult. Webster's New Collegiate Dictionary (G & C Merriam Co, 1977) defines small as "having comparatively little size or slight dimensions; and little in an objectively measurable aspect (as quantity, amount, or value).

Clearly, the dictionary does not provide an answer that can be directly related to equipment, tools and devices. Some knowledge of equipment, etc. and the rental industry is needed.

The rental service industry is very diverse. Individual tools such as hammers and socket sets as well as backhoe loaders weighing over 20,000 lbs. (10 tons) can be rented. The following is a list of the categories of rental items from U-Haul's 1986-87 catalog:

audio/video eq.
automotive & mechanical tools
builders tools & eq.
concrete & masonry eq.
floor & carpet eq.
guest, infant & pet eq.
heating & cooling eq.
heavy construction eq.
home health care eq.
ladders & scaffolding
lawn & garden eq.
materials handling eq.
painting & wallpaper eq.
party goods
plumbing & electrical tools
recreation equipment
trucks, trailers
cartop carriers
bumper hitches, tow bars

Within each category there can be great diversity in the size, weight, function and skill needed to operate each item. The automotive category, for example, includes 14" high jack stands to support a car as well as a towable engine hoist weighing over 350 lbs. with a lifting height of 96" (8') and capable of lifting a 2,000 lb. engine out of a vehicle. The concrete category includes a hand trowel as well as a towable concrete mixer. The heavy equipment category includes hand operated soil compactors and front end loader/backhoes up to 60 horsepower and tracked excavators (steam shovels).

What guidance is available to help answer the question, What is small? One obvious possibility is the Tualatin Development Code. There is no definition for the words, "equipment," "tools," "devices" or "small." There are three cases in the Code's definition section where the word small is used as an adjective.

Section 1.020 defines Small Lot as "Any lot with an area less then 7,000 square feet," and Small Lot Subdivision as "A subdivision containing lots of a size smaller than 7,000 sq.ft." Section 31.060 defines Small Animal as, "A domestic animal, such as a dog, cat, rabbit, or guinea pig, accepted by the American Veterinary Medical Association as a household pet." These definitions are not helpful because lot size and animal size do not logically relate to equipment, etc. rental.

There are several instances outside the definition sections where the word "small" is used. Section 53.050(11) of the Central Commercial District lists a conditional use, "Veterinary Clinic" with practice limited to small animals. Section 54.065(7)(f) of the General Commercial District lists a development standard for gas stations with the word "small" in it. It states:

> The storage and display of merchandise such as tires and batteries offered for sale shall be conducted in the station building. However, small items such as oil and windshield wiper blades may be displayed outside the building.

Section 60.020(13)(d & e) of the ML District lists two permitted uses with the word small (the manufacture of small generators and small electric motors). Also permitted are "Metal Casting (small)" [60.020(14)]; the "processing, assembly, packaging and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur..." [60.020(23)]; the "assembly and packaging of small electrical appliances, such as radios, televisions, photographs, office machines, and including the manufacture of small parts for such appliances" [60.020(24)]; and the "molding of small products from metal or plastic" [60.020(27)].

These Code sections give a general idea of what small is, but are only an approximation and they are not specifically related to, nor are they directly linked to tools, devices and equipment. There is some benefit, however, in looking at these references because they are examples from the Code of the use of the word small. Two of the references (small lots and animals) should be ignored because this interpretation does not deal with either land or animals. Most of the remaining references mention small electric generators and motors, castings and products, but there is no objective way to know what small means. Two references do list examples to show what is meant by small. Gas stations can display small items such as oil and wiper blades outdoors and small electrical appliances such as radios, TVs, photographs and office machines may be assembled in the ML District. These are the only specific references to the word small in the Code that give examples of what small is.

The Purpose Statement for the CG District states in part, "Automotive uses that use large amounts of land, such as automobiles, truck and machinery sales and rental, are not appropriate uses in this district" (54.010). Based on the purpose, new and used car and truck sales and rental are not

permitted in the CG District. They are permitted conditionally in the ML District [60.040(1) (a & r)]. It is clear that land expansive uses like auto-truck-machinery sales and rental are not permitted in the CG District. The rental of "small" equipment is consistent with the purpose statement, whereas the rental of large equipment is not.

In addition to the Purpose Statement, the CG District allows as a permitted use "Any use permitted outright in the Central Commercial Planning District as provided in Section 53.020 of the Planning District Standards" [54.020(1)]. Section 53.020 requires all permitted outright uses to be "...conducted wholly within a completely enclosed building." Further, the CG District allows as conditional use "Any conditional use permitted in a Central Commercial Planning District, as provided herein by Section 53.050" [54.030(1)]. Section 53.050 lists "Outside storage and sales" as a conditional use. It is a conditional use in the CG District also per 54.030(1).

The Code includes some additional guidance, although it is not as direct as the two examples above because the word small is not included. The CG District allows the retail sale of "lawn and garden tractors (not exceeding 25 h.p.)." No mention is made, however of whether or not lawn and garden tractors from 1-25 horsepower are considered small, medium or large, although one may infer that a lawn and garden tractor exceeding 25 h.p. would be larger than is permitted. It is not possible to directly transfer the 25 h.p. limit to the rental of devices, tools and equipment. It would appear that a 25 h.p. or larger lawn and garden tractor would be considered large and would not be consistent with small equipment.

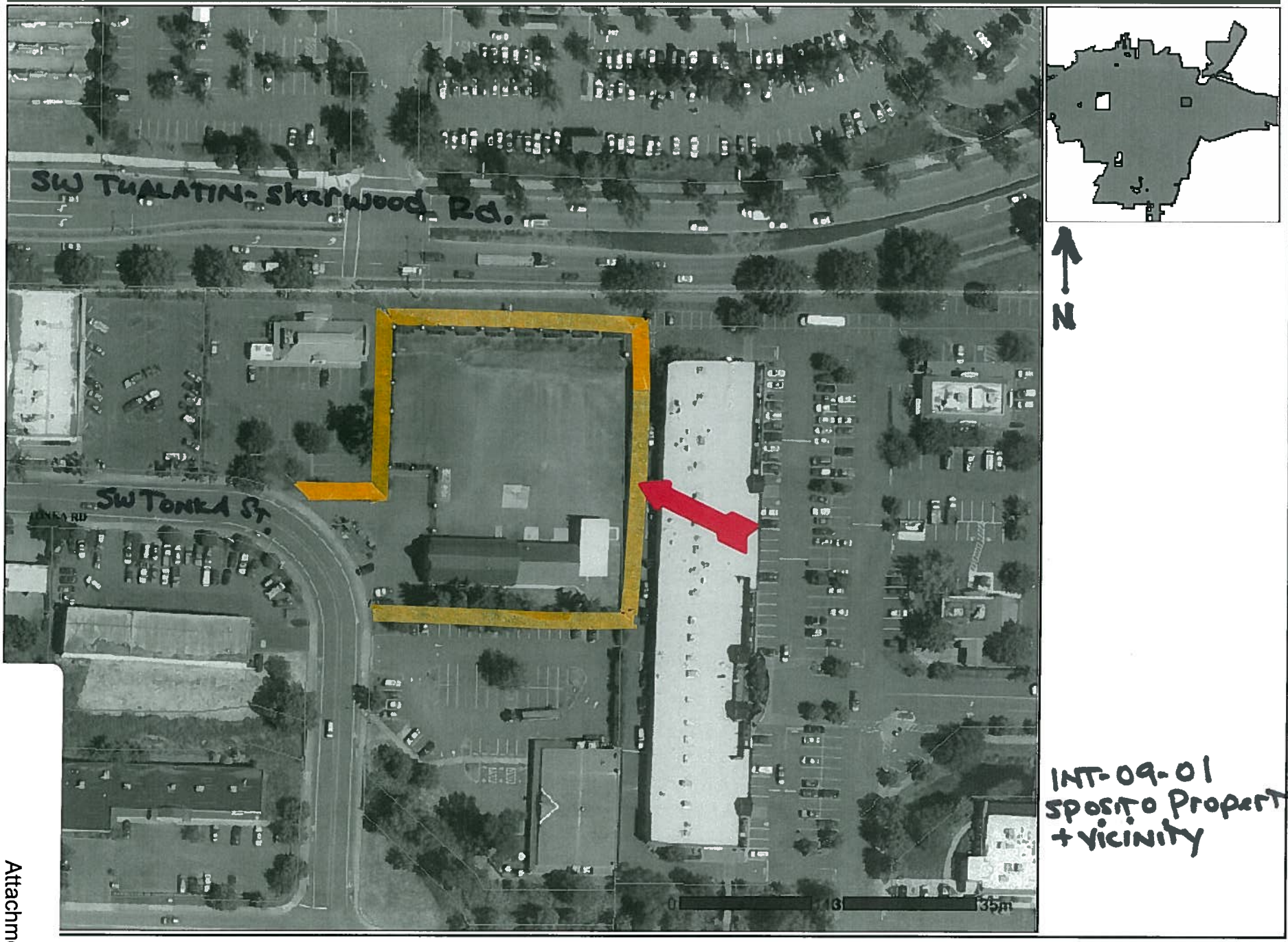
Sears lawn and garden tractors begin with lawn tractors at 10 - 14 h.p. and go up to yard tractors at 16 h.p. and top out with garden tractors at 18 and 20 h.p. Similarly, John Deere products begin with 6-12.5 h.p. riding mowers (400 lbs.) and go up to 9-17 h.p. lawn tractors (500 lbs.) and top out with 14-20 h.p. garden tractors (750 lbs.). The next step up for Deere is a farm tractor which is not in the same category as lawn and garden tractors.

The size of most lawn and garden tractors which I have examined tops-out at 20 h.p. This size, based on horsepower, provides a useful guide to help determine what constitutes small equipment and can be transferred to other types of equipment.

FACTORS TO CONSIDER

When considering what small is, some basis for the determination must be identified. Many factors have been reviewed. Height could be used, but it does not adequately address the diversity of items that can be rented. For example, if the height of a human is used, say 6 feet, then something as minor as a 7-foot stepladder could not be rented, but a piece of equipment such as a limited size steam roller of about 4 feet in height with

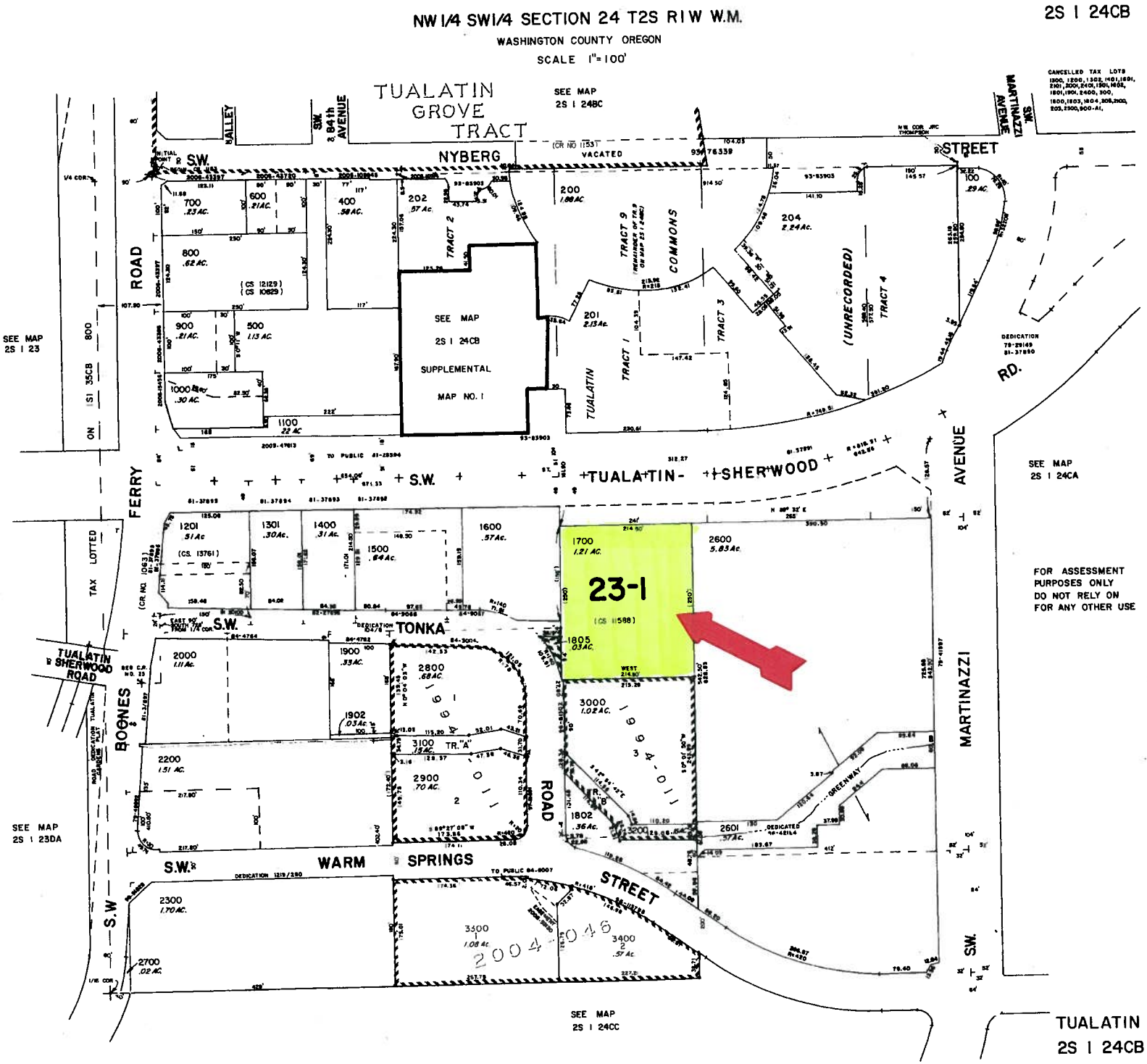
TualMap: Area of Interest Map



INT-09-01
Sposito Property
+ Vicinity

ATTACHMENT C

Attachment C
June 8, 2009 Aerial Photo of
Site & Vicinity Map



Attachment C
Tax Map

ATTACHMENT D

INT-09-01: BACKGROUND INFORMATION

Pertinent background information obtained from the submitted application and the Community Development Director's Interpretation Decision for INT-09-01 and other supporting documents are summarized in this section.

The subject of appeal is INT-09-01 and the Community Development Director's Interpretation dated July 23, 2009 addressing the status of non-conforming uses and auto & truck rental uses on the applicant/appellant's property at 8250 SW Tonka Street (Attachment B). A Request for Review of INT-09-01 (Attachment A) was filed on August 5, 2009 by Bill Campbell & Stan Sposito (applicants).

INT-09-01 is a Request for an Interpretation submitted by Stan Sposito and the Sposito Family Trust on June 23, 2009. The purpose of the Interpretation was to identify the legal non-conforming uses on the applicant's 8250 SW Tonka Street property and to address his belief that a proposed light truck or auto rental/leasing use is allowed on the property as a permitted or non-conforming use. With the departure of the former small equipment rental tenant, Mr. Sposito seeks to obtain an interpretation of non-conforming uses on the property and CG Planning District standards that would allow a prospective light truck/auto leasing & rental business (identified by Mr. Sposito as Enterprise Rent-a Car) to conduct their operation on the property.

The subject property is in the City of Tualatin, General Commercial (CG) Planning District and Central Urban Renewal District (CURD) Block 11, upon real property described by the Washington County Department of Assessment & Taxation as Tax Account 2S1 23CB, Tax Lot 1700. The property has frontage on both SW Tualatin-Sherwood Road (North) and SW Tonka Street (Southwest). The property was formerly the site of a United Rentals small equipment rental business and includes a 4,700 sq. ft. building and a paved and fenced outdoor storage yard. United Rentals operated the business on the property from 1999 to December 30, 2007 as a non-conforming use under the terms of Interpretation INT-88-01 (Copy provided as Attachment B-Attachment 2). A Tax Map and a Site Aerial are included with Attachment C.

ATTACHMENT E1

INT-09-01: STAFF RESPONSES TO APPEAL

The Interpretation process and Non-Conforming Use provisions of the Tualatin Development Code (TDC) 31.070 and 35.020-35.040 respectively and the allowed uses for the General Commercial (CG) Planning District in TDC Chapter 54 must be considered when deciding the Request for Review of the July 23, 2009 Community Development Director's Interpretation Decision for INT-09-01 (Attachment B). A Request for Review of the July 23, 2009 Decision was received by the 5 p.m. August 5, 2009 deadline (Attachment A1). The Request was submitted by Bill Campbell & Stan Sposito (applicants). The issues raised in the Request for Review that are relevant to the Interpretation question and the TDC, followed with a staff response are:

Reason #1 ""Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property." The on-site uses of the leaseholder have been changed, but have not been discontinued, terminated or abandoned." (Attachment A1, pp.1-3)

Staff Response: Reason #1 is statements by the applicants related to the INT-09-01 conclusions on discontinuance of a non-conforming use and is relevant to TDC 35.020-35.040.

> TDC 35.020 Continuation of Nonconforming Uses or Structures.
> (1) Any nonconforming use of a structure or land existing on the date of the adoption of the Tualatin Community Plan, or any use of a structure or land becoming nonconforming subsequent to the effective date of the adoption of said Plan, may be continued, used, occupied or maintained only in accordance with the provisions of this chapter.
>
> TDC 35.040 Discontinuance of a Nonconforming Use.
> (1) If a nonconforming structure or use of land is discontinued for more than 12 months, it shall not be re-established unless specifically approved by the City Council. Approval by the City Council shall be granted or denied only after a public hearing is conducted on the proposed continuance. Notice of such public hearing shall be given in the manner required in TDC 31.077.

The INT-09-01 Decision addressed this question as follows (Attachment B, pp.6-7):

> Based on the provisions of Non-conforming Uses in TDC Chapter 35 and the definitions of "use" and "non-conforming use", a lease agreement between a property owner and a tenant and the language of the document do not create a "use" and do not constitute, establish or serve to continue a non-conforming use. Mention and photos of a vehicle or vehicles on the site were cited in the Application, but the vehicles were parked on the site sometime after United Rentals vacated the site. The presence of a vehicle parked on the site absent a verifiable use does not serve

to continue a non-conforming use. When United Rentals closed the business at 8250 SW Tonka Avenue and vacated the small equipment rental business on the property on December 31, 2007, all legal non-conforming uses ceased on December 30, 2008 and no use or activity was re-established. There is no evidence that any legal non-conforming uses were continued since that date. While the lease between the property owner and United Rental may continue beyond that date, no legal non-conforming uses associated with United Rentals on the property continued and the discontinuance provisions of TDC 35.040(1) are applicable.

A 12-month time period beginning December 30, 2007 when United Rentals discontinued operations and use on the 8250 SW Tonka Street property, ended December 30, 2008. In accordance with TDC 31.040(1), any legal non-conforming use associated with the property discontinued over 12 months may not be re-established without the approval of the City Council.

Reason #1 restates the applicant's contention that non-conforming uses that existed on the 8250 SW Tonka Street property continue because: 1) the most recent non-conforming use activity, United Rentals, holds a lease on the property and because; 2) the applicant has documented photos of trucks with a United Rentals sign on the property. As repeated above, INT-09-01 concludes that a lease and photos of parked vehicles are not evidence of the continuation of a non-conforming use. The applicant/appellants do not provide substantive facts or evidence (either in the INT-09-01 application or Request for Review) that the non-conforming "use" or physical activities that constitute the non-conforming use remained on the property after December 30, 2008. As per TDC 35.040(1), the nonconforming use of land at 8250 SW Tonka was discontinued for more than 12 months, and shall not be re-established unless specifically approved by the City Council.

Reason #2 "We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks, and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008." "Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the permitted auto leasing in the General Commercial Zone." "The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans, and light trucks. The City ordinance does not define auto leasing, although the activity in general includes vans, light trucks up to 14 feet in length and related equipment." (Attachment A1, pg. 2)

Reason #2 re-states the applicants' claims that truck and auto leasing activities were part of, or the same as, the legal non-conforming use that United Rentals operated under at the 8250 SW Tonka property and in the CG Planning District. It is relevant to the requirements that apply when a non-conforming use is discontinued in TDC

35.040(1) (addressed under Reason #1 above), to the definitions and interpretations in INT-88-01 related to small equipment rental, and to the allowed uses in the CG Planning District listed in TDC 54.020(2). The INT-09-01 Decision addressed this question as follows (Attachment B, pg. 6):

> The interpretation of INT-08-01 requested for Anderson Oregon Rental (succeeding the Rabbit Hutch auto repair business) for this property and history of use specifically limited the Anderson and United activities on the Sposito property to rental of "small equipment, tools and devices" and restricted powered equipment and vehicles with motors greater than 20 h.p. There is no evidence that Anderson and United legally included rental or leasing of large machinery & equipment, light trucks or autos on the property. Staff finds that the United Rentals operation which ended in December 2007 did not create or continue large machinery & equipment and light truck/auto leasing/rental use as a legal non-conforming uses on the property in the CG Planning District.

Truck & auto leasing/rental were not legal non-conforming uses on the 8250 SW Tonka Avenue property during the tenure of Anderson Oregon Rental and United Rentals and therefore are not applicable to current allowed uses on the property. Rental and leasing of autos and light trucks is listed as a conditional use in the ML & MG (Light & General Manufacturing) Planning Districts (restricted within the Special Commercial Setback on SW Tualatin-Sherwood Road & SW 124th Avenue shown on TDC Map 9-5) but not listed in other Planning Districts. Truck leasing or rental is not an allowed use in the CG Planning District. Auto rental and auto leasing with more than five vehicles on the property are not allowed uses in the CG Planning District. The appellants do not provide any evidence to change a conclusion that truck leasing/rental or auto rental/leasing (greater than 5 vehicles) were not a legal non-conforming use on the 8250 SW Tonka Street property or allowed uses in the CG Planning District.

Reason #3 "...business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions." "The property owner has the right to a continuity of use under the provisions of the city ordinance and state law." "The property owner has the right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions." (Attachment A1, pp. 2-4)

Staff Response: The standards and requirements for continuing, altering, and enlarging non-conforming uses are provided in TDC 35.030(1) as follows:

> "TDC 35.030(1) A nonconforming structure or use of land may be continued, but shall not be altered or enlarged, except for warehouse and distribution center uses existing on April 12, 2000 in the Manufacturing Park District which can be altered and enlarged. "

While recognizing that the specific non-conforming use may continue as established through changes in business or property ownership, TDC 35.030(1) clearly requires that if the use is altered, the legal non-conforming status will be lost. The TDC does not have allowances or exceptions to allow "...expand, or to adjust or modify uses", for "changing market conditions" when determining the status of a legal non-conforming use. If the particular non-conforming use is enlarged, "altered", or changed into another use, then the non-conforming use is discontinued regardless of the business or property owner's reasons for changing it. The statements in Reason #3 are not consistent with the Non-conforming use provisions of TDC35.030(1) and do not lead to a conclusion that legal non-conforming use can be expanded, adjusted or modified.

Other issues that were raised by Mr. Campbell and Mr. Sposito (but not applicable to TDC 35 020-040 and TDC Chapter 54 CG Planning District) include:

> Reason #4. The history of leases on the property, the presence of a current lease on the property and the terms of leases.
>
> Reason #5. The investment and expense value of various building, stormwater, landscaping and other site improvements to the property by the owners and lessees.

Staff Response: As noted under Reason #1 above, the definition of a use and non-conforming use is associated with the "activity" and with the terms and standards of the allowed uses in a particular Planning District. A lease between a landowner and a tenant is a private agreement or contract that has no bearing on the TDC and does not define or determine whether a use is allowed or non-conforming. Improvements and investments on a property may be associated with the operation of a particular non-conforming use and compliance with TDC standards such as landscaping and stormwater management, but they do not exempt a property from the standards and requirements for continuing or discontinuing a non-conforming use.

Public notice and opportunity for comment were provided during the review of the Interpretation INT-09-01 and following the issuance of the Community Development Director's Decision.

ATTACHMENT E2

INT-09-01: STAFF RESPONSES TO APPEAL

The public hearing of the appeal of INT-09-01 was conducted before the City Council on September 28, 2009. At the request of the applicants/appellants, the hearing for INT-09-01 was continued to October 26, 2009. On October 7, 2009, Mr. Stan Sposito (Applicant/Appellant) submitted a letter granting an extension of 60 days toward the 120 day rule for a quasi-judicial land use decision and requesting a 2nd Continuance of INT-09-01 to November 9, 2009. The Council granted the 2nd Continuance.

In response to Council questions at the hearing, the applicants agreed to provide additional information regarding the establishment of legal non-conforming truck and auto leasing and rental activities on the subject property and evidence of the continuance of the uses in compliance with the Non-Conforming Use provisions of TDC Chapter 35. City staff was asked to research the City Ordinances and Resolutions for relevant actions and dates that apply to the Sposito property. The research was focused from the time Mr. Sposito first owned the property through 1983 when the Tualatin Development Code (in its current form) was adopted and changes or amendments to the CG Planning District Standards and Non-conforming Use provisions are listed and had been obtained. The Staff research was made available to the applicants on October 16, 2009.

The applicants/appellants submitted a packet of information on October 21, 2009 with Exhibits #4 & #5 on October 26 (Attachment A2). Staff prepared responses to the additional information submitted by the applicants on October 21, 2009 as follows:

DATES OF ORDINANCES

In a summary of the Staff research of Tualatin Ordinances & Resolutions from the 1960's thru the present, the table below lists the key dates associated with the subject property and its history of uses:

5-13-1968	City approves amendment changing zoning on subject property from Residential R-7500 to M-3 (predecessor to Light Manufacturing) and grants a Conditional Use Permit for Plastic Molding business on the subject property.
2-10-1969	Tualatin Zoning Ordinance allows Auto, truck sales & rental (C-2 & M-3) and Truck storage or rental in M-3 Zone as permitted uses.
8-22-1977	Ordinance 401-77 changes M-3 designation to ML (Light Manufacturing. Tool & equipment rental, Truck sales & service are permitted uses in ML.
10-24-1977	Ordinance 410-77 Rezones Sposito property from ML to C-G.
10-22-1979	Ordinance 491-79 Adopts Tualatin Community Plan & Development Standards. Truck sales & rental/Auto Sales & rental <u>not</u> an allowed use in G-G.
4-11-1983	Ordinance 590-83 Adopts Tualatin Development Code. Truck sales & rental/Auto Sales & rental <u>not</u> an allowed use in CG.
2-13-1994	Ordinance 913-94 adds auto leasing/less than 5 vehicles as permitted use in CG.

APPLICANTS/APPEALANTS ADDITIONAL DOCUMENTATION OF SPOSITO PROPERTY NON-CONFORMING USES AND TIMELINE (SUBMITTED OCTOBER 21 & 26, 2009)

The Applicants/Appellants submitted a packet of information on October 21 and 26, 2009 found in Attachment A2 and listed below.

Timeline Summary Matrix
Timeline Narrative
Exhibit 1 Copy of "Tualatin Plan" 2-page excerpt.
Exhibit 2 Copies of Tualatin Zoning Map from August, 1969.
Exhibit 3 Copy of Real Estate Appraisal of Quality Plastics 8250 SW Tonka.
Exhibit 4 Photo with Sposito Property in background 1-18-74 (during 1974 Flood).
Exhibit 5 Photo of Spostio Property 1-22-1975.
Exhibit 6 Photos of Sposito Property (no dates).
Exhibit 7 Copy of Planning Director Letter 1-19-87.
Exhibit 8 Copy of Planning Director Letter 1-19-87.
Exhibit 9 Copy of United Rentals Letter 2-1-99.
Exhibit 10 Copy of United Rentals Memo 2-26-99.
Exhibit 11 Copy of United Rentals Attorney Letters 3-3-99.
Exhibit 12 Copy of United Rentals Letter 3-29-99.
Exhibit 14 Copy of Sposito Attorney Letter to United Rentals 12-17-2003.
Exhibit 15 Copy of United Rentals Letters 7-27-2006.
Exhibit 16 Copy of Real Property Tax Statement for subject property 7/1/07-6/30/08.
Exhibit 17 Copy of United Rentals Billing Invoices for rentals billed from SW Tonka site. September 2007 thru 1-10-2008.
Exhibit 18 Copy of Christmas Tree Lot Proposal Letters 11-12-2008.
Exhibit 19 Copy of City of Tualatin staff Email and meeting notes 1-28-2008.
Exhibit 20 Copy of City of Tualatin staff meeting notes 1-20-2009.
Exhibit 21 Copy of 1999 & 2007 City of Tualatin Business Licenses for 8250 SW Tonka.

STAFF RESPONSE:
Based on the ordinance research by Staff and information submitted by the applicants/appellants listed above (Attachment A2), Staff finds that Truck Sales & Rental were no longer an allowed use on the subject property after 10-22-1979. Prior to October 1979, the primary uses on the site were the Plastic Molding business, the cabinet shop and the Rabbit Hutch auto service shop. From October 1979 to January 2008, the primary uses on the site were the Rabbit Hutch, PM Mechanix (small engine repair), Anderson Oregon Rentals (small equipment rental) and United Rentals (small equipment rental) and does not find evidence that truck leasing and rental was a legal non-conforming activity during the time period. After January 10, 2008 (considering United Rentals equipment rental transaction receipts for the SW Tonka location submitted in Attachment A2), United Oregon Rentals no longer occupied or conducted business on the property and there was no longer business activity associated with United Rentals or other similar business on the property.

Staff again does not agree with the applicants' contention that truck leasing and rental activities exist as a legal non-conforming use on the property. To support the contention, the applicant must show that the use was established on the property as a legal non-conforming use on a specific date and provide evidence that the use was continued from that date as a legal non-conforming use. There is no substantial documentary evidence in the record or in the applicants' submittals that shows:

1. Truck sales and rentals were established on the property prior to October 1979 and sustained on the property after that time as a legal non-conforming use during the Rabbit Hutch, PM Mechanix, Anderson Oregon Rental and United Rental operations. None of the letters, photos or other documents presented in the public hearing or in Attachments A1 or A2 are sufficient to show that truck leasing or rental was established and continued as a legal non-conforming use on the property from October 1979 when Ordinance 491-79 removed the activity as an allowed use in the CG Planning District.
2. Any legal non-conforming use or activity associated with the United Rentals operation on the site was continued beyond the documented date of January 10, 2008 to the present. The Non-conforming use provision of TDC 35.040 specifies that if a non-conforming use is discontinued for a 12 month period, it cannot be re-established unless reinstated by the City Council. The 12-month period of discontinuance for any non-conforming use or activity held by United Rentals on the Sposito property would have elapsed on January 10, 2009. None of the letters, photos or other documents presented in the public hearing or in Attachments A1 or A2 show that United Rentals or any successor continued any activity as a legal non-conforming use on the property after January 10, 2008.

RESOLUTION NO. _____

A RESOLUTION AFFIRMING THE APPEAL OF THE JULY 23, 3009 INTERPRETATION ANSWERING "WHAT IS THE STATUS OF THE NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA STREET?" (TAX MAP 2S124CB TAX LOT 1700). (INT-09-01)

WHEREAS, upon the request for review submitted by Stan Sposito and the Sposito Family Trust, and further described in the Staff Report dated November 9, 2009, a public hearing was held before the City Council of the City Of Tualatin on September 28, 2009 and continued on November 9, 2009.

WHEREAS notice of the initial 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, the appellant, and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in denial of the appeal and affirmation of the Community Development Director's decision as written, [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 staff responses to appeal in the City staff report, dated November 9, 2009, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has not provided sufficient evidence to demonstrate that the legal requirements for non-conforming uses set forth in the Tualatin Development Code have been satisfied.

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

Section 1. The appeal submitted by Stan Sposito and the Sposito Family Trust is denied.

Section 2. The Interpretation of the Community Development Director's Decision is affirmed and adopted as written.

INTRODUCED AND ADOPTED this 9th day of November, 2009.

CITY OF TUALATIN, Oregon

By_____
Mayor

ATTEST:

By_____
City Recorder

MEMORANDUM
CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

FROM: Brenda Braden, Legal Services BB

DATE: November 9, 2009

SUBJECT: Law regarding nonconforming uses, discontinuance of use, and burden of proof for the Sposito appeal in INT 09-01

During the public hearing for the appeal of the Community Development Director's Interpretation regarding whether truck and auto rental are allowed as nonconforming uses on the Sposito property, the Council asked for clarification of applicable law.

The code provision at issue is TDC 35.040, which provides in relevant part:

"(1) If a nonconforming structure or use of land is discontinued for more than 12 months, it shall not be reestablished unless specifically approved by the City Council. Approval by the City Council shall be granted or denied only after a public hearing is conducted on the proposed continuance..."

TDC 31.060 defines "nonconforming structure or use" as:

> "A lawfully existing structure or use at the time this Code or any amendment hereto becomes effective which does not conform to the requirements of the planning district in which it is located."

TDC 31.060 defines "use" as:

> "The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained." (Emphasis added.)

Question. The Council asked whether "use" means actual activity or whether a lease still in existence for a particular use is sufficient to meet the definition.

Although the definition in TDC 31.060, standing alone, can include both the actual and the intended use, "use" must be interpreted within the context of TDC 35.040, the nonconforming use section. Fortunately, the Oregon Court of Appeals has interpreted

nearly identical language in a county ordinance in Tigard Sand and Gravel v. Clackamas County, 149 Ore. App. 417 (1997).

In that case, the court upheld LUBA's decision that found that the use had been discontinued or abandoned by the absence of quarrying activities on the site for more than a two-year period. The quarry was still there, the owners indicated that they intended to use the site in the future as a quarry. Even so, the court concluded that the lack of activity caused the use to be discontinued and the nonconforming use status to be lost. LUBA reached a similar conclusion in determining "use" required actual activity, not just the intent of the property owners, when deciding whether a gun club use had been discontinued. Citizens for Responsibility v. Lane County, 51 Or. LUBA 588 (2006)

Therefore, "use" in TDC 35.040 means "activity", and not merely an intended use.

Question. How does Council determine whether a nonconforming use that allows for truck rental on the property exists?

The appellant has the burden of proving whether a nonconforming use exists.

RESOLUTION NO. _____

A RESOLUTION AFFIRMING THE APPEAL OF THE JULY 23, 3009 INTERPRETATION ANSWERING "WHAT IS THE STATUS OF THE NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA STREET?" (TAX MAP 2S124CB TAX LOT 1700). (INT-09-01)

WHEREAS, upon the request for review submitted by Stan Sposito and the Sposito Family Trust, and further described in the Staff Report dated November 9, 2009, a public hearing was held before the City Council of the City Of Tualatin on September 28, 2009 and continued on November 9, 2009.

WHEREAS notice of the initial 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, the appellant, and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in denial of the appeal and affirmation of the Community Development Director's decision as written, [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 staff responses to appeal in the City staff report, dated November 9, 2009, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has not provided sufficient evidence to demonstrate that the legal requirements for non-conforming uses set forth in the Tualatin Development Code have been satisfied.

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

Section 1. The appeal submitted by Stan Sposito and the Sposito Family Trust is denied.

Section 2. The Interpretation of the Community Development Director's Decision is affirmed and adopted as written.

INTRODUCED AND ADOPTED this 9th day of November, 2009.

CITY OF TUALATIN, Oregon

By_____
Mayor

ATTEST:

By_____
City Recorder

APPROVED AS TO LEGAL FORM

Brenda L. Braden
CITY ATTORNEY

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

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

That on the 9th day of September, 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

SUBSCRIBED AND SWORN to before me this 9th day of Sept., 2009.

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

OFFICIAL SEAL
CORTNEY RAE COX
NOTARY PUBLIC-OREGON
COMMISSION NO. 421300
MY COMMISSION EXPIRES SEPTEMBER 21, 2011

RE: INT-09-01—REQUEST FOR REVIEW APPEAL OF THE JULY 23, 2009 INTERPRETATION ANSWERING "WHAT IS THE STATUS OF THE NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA STREET?"

EXHIBIT A

Exhibit "A"

2S124CB02600
Martinazzi Square LLC
By API/Pichon VIII LLV
112 Third Street
Lake Oswego, OR 97034

2S124CB03300
Tualatin Valley Lodge #2780
PO Box 1535
Tualatin, OR 97062

2S124CB02800
J LO LLC
8340 SW Tonka Street
Tualatin, OR 97062

2S124CB01500
Portland Rose LLC
1801 NW Iowa
Bend, OR 97701

2S124CB00500
Harvey Clark & David Emami
3380 Barrington Drive
West Linn, OR 97068

2S124CB02900
Vandolay Properties LLC
8375 SW Warm Springs Street
Tualatin, OR 97062

2S124CC00102
KC Propco LLC
650 NE Holliday Street #1400
Portland, OR 97232

2S124CB01900
Melbo Land & Investment Co
PMB #123
1115 Madison Street NE
Salem, OR 97301

2S124CB03000
KOWBOY C LLC
DBA: Bushwackers
8200 Tonka Road
Tualatin, OR 97062

2S124CB03400
Warm Springs Crossing LLC
8220 SW Warm Springs Street
Tualatin, OR 97062

2S124CB01600
Oregon Village Pizza Associate LLC
Attn: Jake Matthews
121 Spear Street #250
San Francisco, CA 94105

2S124CB00201
Century Hotel LLC
4601 NE 78th Street, Suite 130
Vancouver, WA 98665

Exhibit "A"

Bill Campbell
Bill Campbell & Associates
PO Box 843
Manzanita, OR 97130

Stan Sposito
Sposito Family Trust
5283 SW 201 Avenue
Aloha, OR 97007

City Manager

City Attorney

Jay Harris
City Council

Monique Beikman
City Council

Donna Maddux
City Council

Ed Truax
City Council

Chris Barhyte
City Council

Joelle Davis
City Council

Community Development Director

Building Official

Exhibit "B"

City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING
CITY OF TUALATIN, OREGON

A public hearing will be held before the Tualatin City Council on **Monday, September 28, 2009** at 7:30 p.m. in the Council Building, Tualatin City Center, 18880 SW Martinazzi Avenue, Tualatin, Oregon to consider the following quasi-judicial action:

> Request for Review of INT-09-01 – Appeal of the July 23, 2009 Interpretation Answering "What is the Status of the Non-Conforming Use Rights of the Land and Structure located at 8250 SW Tonka Street?" (2S124CB1700).The property is in the General Commercial (CG) Planning District.

A Request for Review of the Community Development Director's Interpretation Decision determining that a "small equipment rental" non-conforming use on the 8250 SW Tonka Street property that was subject to the definitions and conclusions in Interpretation INT-88-01 was not retained after December 31, 2008; and determining that a light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not permitted uses nor previously established legal non-conforming uses and are not allowed uses on the property as permitted uses nor as non-conforming uses, along with written comments, was filed on August 5, 2009, during the appeal period. The issues raised in the Request for Review of the Interpretation Decision are:

> Reason #1. "Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property." The on-site uses of the leaseholder have been changed, but have not been discontinued, terminated or abandoned."
> Reason #2. "We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks, and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008." "Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the permitted auto leasing in the General Commercial Zone." " The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans, and light trucks. The City ordinance does not define auto leasing, although the activity in general includes vans, light trucks up to 14 feet in length and related equipment."
> Reason #3 "...business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions." "The property owner has the right to a continuity of use under the provisions of the city ordinance and state law." "The property owner has the right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions."

Other issues that were raised include:

- The history of leases on the property, the presence of a current lease on the property and the terms of leases.

18880 SW Martinazzi Avenue | Tualatin, Oregon 97062-7092 | 503.692.2000

- The investment and expense value of various building, stormwater, landscaping and other site improvements to the property by the owners and lessees.

Before affirming the July 23, 2009 Interpretation Decision with regard to the issues raised by Mr. Campbell and Mr. Sposito, the City Council must find that the requirements of the Tualatin Development Code (TDC) 35.020-040 relating to Non-Conforming Uses were correctly applied and the Community Development Director's interpretation of allowed uses for the General Commercial (CG) Planning District in TDC Chapter 54 is correct.

Persons are invited to attend and be heard upon the issues being appealed. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to allow the City Council an opportunity to respond to the issue precludes an 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 the proposed conditions of approval with sufficient specificity to allow the City Council to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to submit written comments may submit their comments to the Planning Division prior to the hearing, or they may present written or oral testimony to the City Council at the hearing. The Request for Review hearing will commence with a staff presentation, followed by testimony by proponents, testimony by opponents and rebuttal. The Council will consider only the issues raised in the Requests for Review. The time of individual testimony may be limited. If a participant requests before the hearing is closed, the record shall remain open for seven (7) days after the hearing.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost. **For information, contact Associate Planner Will Harper at 503.691-3027.**

Assisted Listening Devices for persons with impaired hearing can be scheduled for this meeting by calling 503.692.2000 (voice) or 503.692.9574 (telephone text) no later than 24 hours prior to the meeting.

The City will also, upon request, endeavor to arrange for a qualified sign language interpreter for persons with speech or hearing impairments. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. two working days prior to the meeting date at 503.692.2000 (voice) or 503.692.0574 (text telephone).

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

file: INT-09-01

Mailed: 9/9/2009

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

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

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted two copies of the Notice of Hearing on the 9th day of September, 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. City of Tualatin Police Department

2. City of Tualatin City Center Building

Dated this 9th day of September 2009.

Stacy Crawford

Subscribed and sworn to before me this 9th day of Sept., 2009.

OFFICIAL SEAL
CORTNEY RAE COX
NOTARY PUBLIC-OREGON
COMMISSION NO. 421300
MY COMMISSION EXPIRES SEPTEMBER 21, 2011

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

RE: INT-09-01—REQUEST FOR REVIEW APPEAL OF THE JULY 23, 2009 INTERPRETATION ANSWERING "WHAT IS THE STATUS OF THE NON-CONFORMING USE RIGHTS OF THE LAND AND STRUCTURE LOCATED AT 8250 SW TONKA STREET?"

EXHIBIT B

City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING
CITY OF TUALATIN, OREGON

A public hearing will be held before the Tualatin City Council on **Monday, September 28, 2009** at 7:30 p.m. in the Council Building, Tualatin City Center, 18880 SW Martinazzi Avenue, Tualatin, Oregon to consider the following quasi-judicial action:

> Request for Review of INT-09-01 – Appeal of the July 23, 2009 Interpretation Answering "What is the Status of the Non-Conforming Use Rights of the Land and Structure located at 8250 SW Tonka Street?" (2S124CB1700).The property is in the General Commercial (CG) Planning District.

A Request for Review of the Community Development Director's Interpretation Decision determining that a "small equipment rental" non-conforming use on the 8250 SW Tonka Street property that was subject to the definitions and conclusions in Interpretation INT-88-01 was not retained after December 31, 2008; and determining that a light truck leasing and rental use or an auto leasing and rental use with greater than five vehicles on site are not permitted uses nor previously established legal non-conforming uses and are not allowed uses on the property as permitted uses nor as non-conforming uses, along with written comments, was filed on August 5, 2009, during the appeal period. The issues raised in the Request for Review of the Interpretation Decision are:

> Reason #1. "Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property." The on-site uses of the leaseholder have been changed, but have not been discontinued, terminated or abandoned."
> Reason #2. "We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks, and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008." "Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the permitted auto leasing in the General Commercial Zone." " The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans, and light trucks. The City ordinance does not define auto leasing, although the activity in general includes vans, light trucks up to 14 feet in length and related equipment."
> Reason #3 "...business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions." "The property owner has the right to a continuity of use under the provisions of the city ordinance and state law." "The property owner has the right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions."

Other issues that were raised include:

- The history of leases on the property, the presence of a current lease on the property and the terms of leases.

18880 SW Martinazzi Avenue | Tualatin, Oregon 97062-7092 | 503.692.2000

- The investment and expense value of various building, stormwater, landscaping and other site improvements to the property by the owners and lessees.

Before affirming the July 23, 2009 Interpretation Decision with regard to the issues raised by Mr. Campbell and Mr. Sposito, the City Council must find that the requirements of the Tualatin Development Code (TDC) 35.020-040 relating to Non-Conforming Uses were correctly applied and the Community Development Director's interpretation of allowed uses for the General Commercial (CG) Planning District in TDC Chapter 54 is correct.

Persons are invited to attend and be heard upon the issues being appealed. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to allow the City Council an opportunity to respond to the issue precludes an 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 the proposed conditions of approval with sufficient specificity to allow the City Council to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to submit written comments may submit their comments to the Planning Division prior to the hearing, or they may present written or oral testimony to the City Council at the hearing. The Request for Review hearing will commence with a staff presentation, followed by testimony by proponents, testimony by opponents and rebuttal. The Council will consider only the issues raised in the Requests for Review. The time of individual testimony may be limited. If a participant requests before the hearing is closed, the record shall remain open for seven (7) days after the hearing.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a reasonable cost. **For information, contact Associate Planner Will Harper at 503.691-3027.**

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The City will also, upon request, endeavor to arrange for a qualified sign language interpreter for persons with speech or hearing impairments. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. two working days prior to the meeting date at 503.692.2000 (voice) or 503.692.0574 (text telephone).

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

file: INT-09-01

Mailed: 9/9/2009

ATTACHMENT E1

INT-09-01: STAFF RESPONSES TO APPEAL

The Interpretation process and Non-Conforming Use provisions of the Tualatin Development Code (TDC) 31.070 and 35.020-35.040 respectively and the allowed uses for the General Commercial (CG) Planning District in TDC Chapter 54 must be considered when deciding the Request for Review of the July 23, 2009 Community Development Director's Interpretation Decision for INT-09-01 (Attachment B). A Request for Review of the July 23, 2009 Decision was received by the 5 p.m. August 5, 2009 deadline (Attachment A). The Request was submitted by Bill Campbell & Stan Sposito (applicants). The issues raised in the Request for Review that are relevant to the Interpretation question and the TDC, followed with a staff response are:

Reason #1 ""Activities on the subject property may have changed but they have not been terminated or abandoned and United Rentals has maintained a visible presence on the property." The on-site uses of the leaseholder have been changed, but have not been discontinued, terminated or abandoned." (Attachment A, pp.1-3)

Staff Response: Reason #1 is statements by the applicants related to the INT-09-01 conclusions on discontinuance of a non-conforming use and is relevant to TDC 35.020-35.040.

> TDC 35.020 Continuation of Nonconforming Uses or Structures.
> (1) Any nonconforming use of a structure or land existing on the date of the adoption of the Tualatin Community Plan, or any use of a structure or land becoming nonconforming subsequent to the effective date of the adoption of said Plan, may be continued, used, occupied or maintained only in accordance with the provisions of this chapter.
>
> TDC 35.040 Discontinuance of a Nonconforming Use.
> (1) If a nonconforming structure or use of land is discontinued for more than 12 months, it shall not be re-established unless specifically approved by the City Council. Approval by the City Council shall be granted or denied only after a public hearing is conducted on the proposed continuance. Notice of such public hearing shall be given in the manner required in TDC 31.077.

The INT-09-01 Decision addressed this question as follows (Attachment B, pp.6-7):

> Based on the provisions of Non-conforming Uses in TDC Chapter 35 and the definitions of "use" and "non-conforming use", a lease agreement between a property owner and a tenant and the language of the document do not create a "use" and do not constitute, establish or serve to continue a non-conforming use. Mention and photos of a vehicle or vehicles on the site were cited in the Application, but the vehicles were parked on the site sometime after United Rentals vacated the site. The presence of a vehicle parked on the site absent a verifiable use does not serve

EXHIBIT C

to continue a non-conforming use. When United Rentals closed the business at 8250 SW Tonka Avenue and vacated the small equipment rental business on the property on December 31, 2007, all legal non-conforming uses ceased on December 30, 2008 and no use or activity was re-established. There is no evidence that any legal non-conforming uses were continued since that date. While the lease between the property owner and United Rental may continue beyond that date, no legal non-conforming uses associated with United Rental on the property continued and the discontinuance provisions of TDC 35.040(1) are applicable.

A 12-month time period beginning December 30, 2007 when United Rentals discontinued operations and use on the 8250 SW Tonka Street property, ended December 30, 2008. In accordance with TDC 31.040(1), any legal non-conforming use associated with the property discontinued over 12 months may not be re-established without the approval of the City Council.

Reason #1 restates the applicant's contention that non-conforming uses that existed on the 8250 SW Tonka Street property continue because 1) the most recent non-conforming use activity, United Rentals, holds a lease on the property and because; 2) the applicant has documented photos of trucks with a United Rentals sign on the property. As repeated above, INT-09-01 concludes that a lease and photos of parked vehicles are not evidence of the continuation of a non-conforming use. The applicant/appellants do not provide substantive facts or evidence (either in the INT-09-01 application or Request for Review) that the non-conforming "use" or physical activities that constitute the non-conforming use remained on the property after December 30, 2008. As per TDC 35.040(1), the nonconforming use of land at 8250 SW Tonka was discontinued for more than 12 months, and shall not be re-established unless specifically approved by the City Council.

Reason #2 "We provided photographic evidence United Rental equipment rented/leased from the property that included vans, light trucks, tanker trucks, and related equipment. These activities continued until United Rentals began a transition in use in 2007-2008." "Photos of the site and the United Rentals equipment and rental vehicles corroborate the statement, which in turn supports the rights of the property owner and United Rentals to sublet the property for truck and auto leasing to include vans and light trucks while exceeding the five vehicle limitation of the permitted auto leasing in the General Commercial Zone." "The uses proposed by Enterprise Rent-a-Car and The Sposito Family Trust limits proposed uses to vehicle rental to include autos, vans, and light trucks. The City ordinance does not define auto leasing, although the activity in general includes vans, light trucks up to 14 feet in length and related equipment." (Attachment A, pg. 2)

Reason #2 re-states the applicants' claims that truck and auto leasing activities were part of, or the same as, the legal non-conforming use that United Rentals operated under at the 8250 SW Tonka property and in the CG Planning District. It is relevant to the requirements that apply when a non-conforming use is discontinued in TDC

35.040(1) (addressed under Reason #1 above), to the definitions and interpretations in INT-88-01 related to small equipment rental, and to the allowed uses in the CG Planning District listed in TDC 54.020(2). The INT-09-01 Decision addressed this question as follows (Attachment B, pg. 6):

> The interpretation of INT-08-01 requested for Anderson Oregon Rental (succeeding the Rabbit Hutch auto repair business) for this property and history of use specifically limited the Anderson and United activities on the Sposito property to rental of "small equipment, tools and devices" and restricted powered equipment and vehicles with motors greater than 20 h.p. There is no evidence that Anderson and United legally included rental or leasing of large machinery & equipment, light trucks or autos on the property. Staff finds that the United Rental operation which ended in December 2007 did not create or continue large machinery & equipment and light truck/auto leasing/rental use as a legal non-conforming uses on the property in the CG Planning District.

Truck & auto leasing/rental were not legal non-conforming uses on the 8250 SW Tonka Avenue property during the tenure of Anderson Oregon Rental and United Rental and therefore are not applicable to current allowed uses on the property. Rental and leasing of autos and light trucks is listed as a conditional use in the ML & MG (Light & General Manufacturing) Planning Districts (restricted within the Special Commercial Setback on SW Tualatin-Sherwood Road & SW 124th Avenue shown on TDC Map 9-5) but not listed in other Planning Districts. Truck leasing or rental is not an allowed use in the CG Planning District. Auto rental and auto leasing with more than five vehicles on the property are not allowed uses in the CG Planning District. The appellants do not provide any evidence to change a conclusion that truck leasing/rental or auto rental/leasing (greater than 5 vehicles) were not a legal non-conforming use on the 8250 SW Tonka Street property or allowed uses in the CG Planning District.

Reason #3 "...business activities that constitute a nonconforming use are allowed to expand, or to adjust or modify uses in response to changing market conditions." "The property owner has the right to a continuity of use under the provisions of the city ordinance and state law." "The property owner has the right to adjust the business operations on the site, in accordance with the local ordinance and changing market conditions." (Attachment A, pp. 2-4)

Staff Response: The standards and requirements for continuing, altering, and enlarging non-conforming uses are provided in TDC 35.030(1) as follows:

> "TDC 35.030(1) A nonconforming structure or use of land may be continued, but shall not be altered or enlarged, except for warehouse and distribution center uses existing on April 12, 2000 in the Manufacturing Park District which can be altered and enlarged. "

While recognizing that the specific non-conforming use may continue as established through changes in business or property ownership, TDC 35.030(1) clearly requires that if the use is altered, the legal non-conforming status will be lost. The TDC does not have allowances or exceptions to allow "...expand, or to adjust or modify uses", for "changing market conditions" when determining the status of a legal non-conforming use. If the particular non-conforming use is enlarged, "altered", or changed into another use, then the non-conforming use is discontinued regardless of the business or property owner's reasons for changing it. The statements in Reason #3 are not consistent with the Non-conforming use provisions of TDC35.030(1) and do not lead to a conclusion that legal non-conforming use can be expanded, adjusted or modified.

Other issues that were raised by Mr. Campbell and Mr. Sposito (but not applicable to TDC 35 020-040 and TDC Chapter 54 CG Planning District) include:

> Reason #4. The history of leases on the property, the presence of a current lease on the property and the terms of leases.
>
> Reason #5. The investment and expense value of various building, stormwater, landscaping and other site improvements to the property by the owners and lessees.

Staff Response: As noted under Reason #1 above, the definition of a use and non-conforming use is associated with the "activity" and with the terms and standards of the allowed uses in a particular Planning District. A lease between a landowner and a tenant is a private agreement or contract that has no bearing on the TDC and does not define or determine whether a use is allowed or non-conforming. Improvements and investments on a property may be associated with the operation of a particular non-conforming use and compliance with TDC standards such as landscaping and stormwater management, but they do not exempt a property from the standards and requirements for continuing or discontinuing a non-conforming use.

Public notice and opportunity for comment were provided during the review of the Interpretation INT-09-01 and following the issuance of the Community Development Director's Decision.

ATTACHMENT E2

INT-09-01: STAFF RESPONSES TO APPEAL

The public hearing of the appeal of INT-09-01 was conducted before the City Council on September 28, 2009. At the request of the applicants/appellants, the hearing for INT-09-01 was continued to October 26, 2009. On October 7, 2009, Mr. Stan Sposito (Applicant/Appellant) submitted a letter granting an extension of 60 days toward the 120 day rule for a quasi-judicial land use decision and requesting a 2nd Continuance of INT-09-01 to November 9, 2009. The Council granted the 2nd Continuance.

In response to Council questions at the hearing, the applicants agreed to provide additional information regarding the establishment of legal non-conforming truck and auto leasing and rental activities on the subject property and evidence of the continuance of the uses in compliance with the Non-Conforming Use provisions of TDC Chapter 35. City staff was asked to research the City Ordinances and Resolutions for relevant actions and dates that apply to the Sposito property. The research was focused from the time Mr. Sposito first owned the property through 1983 when the Tualatin Development Code (in its current form) was adopted and changes or amendments to the CG Planning District Standards and Non-conforming Use provisions are listed and had been obtained. The Staff research was made available to the applicants on October 16, 2009.

The applicants/appellants submitted a packet of information on October 21, 2009 with Exhibits #4 & #5 on October 26 (Attachment A2). Staff prepared responses to the additional information submitted by the applicants on October 21, 2009 as follows:

DATES OF ORDINANCES

In a summary of the Staff research of Tualatin Ordinances & Resolutions from the 1960's thru the present, the table below lists the key dates associated with the subject property and its history of uses:

5-13-1968	City approves amendment changing zoning on subject property from Residential R-7500 to M-3 (predecessor to Light Manufacturing) and grants a Conditional Use Permit for Plastic Molding business on the subject property.
2-10-1969	Tualatin Zoning Ordinance allows Auto, truck sales & rental (C-2 & M-3) and Truck storage or rental in M-3 Zone as permitted uses.
8-22-1977	Ordinance 401-77 changes M-3 designation to ML (Light Manufacturing. Tool & equipment rental, Truck sales & service are permitted uses in ML.
10-24-1977	Ordinance 410-77 Rezones Sposito property from ML to C-G.
10-22-1979	Ordinance 491-79 Adopts Tualatin Community Plan & Development Standards. Truck sales & rental/Auto Sales & rental not an allowed use in G-G.
4-11-1983	Ordinance 590-83 Adopts Tualatin Development Code. Truck sales & rental/Auto Sales & rental not an allowed use in CG.
2-13-1994	Ordinance 913-94 adds auto leasing/less than 5 vehicles as permitted use in CG.

APPLICANTS/APPEALANTS ADDITIONAL DOCUMENTATION OF SPOSITO PROPERTY NON-CONFORMING USES AND TIMELINE (SUBMITTED OCTOBER 21 & 26, 2009)

The Applicants/Appellants submitted a packet of information on October 21, 2009 found in Attachment A2 and listed below.

Timeline Summary Matrix
Timeline Narrative
Exhibit 1 Copy of "Tualatin Plan" 2-page excerpt.
Exhibit 2 Copies of Tualatin Zoning Map from August, 1969.
Exhibit 3 Copy of Real Estate Appraisal of Quality Plastics 8250 SW Tonka.
Exhibit 4 Photo with Sposito Property in background 1-18-74 (during 1974 Flood).
Exhibit 5 Photo of Spostio Property 1-22-1975.
Exhibit 6 Photos of Sposito Property (no dates).
Exhibit 7 Copy of Planning Director Letter 1-19-87.
Exhibit 8 Copy of Planning Director Letter 1-19-87.
Exhibit 9 Copy of United Rentals Letter 2-1-99.
Exhibit 10 Copy of United Rentals Memo 2-26-99.
Exhibit 11 Copy of United Rentals Attorney Letters 3-3-99.
Exhibit 12 Copy of United Rentals Letter 3-29-99.
Exhibit 14 Copy of Sposito Attorney Letter to United Rentals 12-17-2003.
Exhibit 15 Copy of United Rentals Letters 7-27-2006.
Exhibit 16 Copy of Real Property Tax Statement for subject property 7/1/07-6/30/08.
Exhibit 17 Copy of United Rentals Billing Invoices for rentals billed from SW Tonka site. September 2007 thru 1-10-2008.
Exhibit 18 Copy of Christmas Tree Lot Proposal Letters 11-12-2008.
Exhibit 19 Copy of City of Tualatin staff Email and meeting notes 1-28-2008.
Exhibit 20 Copy of City of Tualatin staff meeting notes 1-20-2009.
Exhibit 21 Copy of 1999 & 2007 City of Tualatin Business Licenses for 8250 SW Tonka.

STAFF RESPONSE:
Based on the ordinance research by Staff and information submitted by the applicants/appellants listed above (Attachment A2), Staff finds that Truck Sales & Rental were no longer an allowed use on the subject property after 10-22-1979. Prior to October 1979, the primary uses on the site were the Plastic Molding business, the cabinet shop and the Rabbit Hutch auto service shop. From October 1979 to January 2008, the primary uses on the site were the Rabbit Hutch, PM Mechanix (small engine repair), Anderson Oregon Rentals (small equipment rental) and United Rentals (small equipment rental) and does not find evidence that truck leasing and rental was a legal non-conforming activity during the time period. After January 10, 2008 (considering United Rentals equipment rental transaction receipts for the SW Tonka location submitted in Attachment A2), United Oregon Rentals no longer occupied or conducted business on the property and there was no longer business activity associated with United Rentals or other similar business on the property.

Staff again does not agree with the applicants' contention that truck leasing and rental activities exist as a legal non-conforming use on the property. To support the contention, the applicant must show that the use was established on the property as a legal non-conforming use on a specific date and provide evidence that the use was continued from that date as a legal non-conforming use. There is no substantial documentary evidence in the record or in the applicants' submittals that shows:

1. Truck sales and rentals were established on the property prior to October 1979 and sustained on the property after that time as a legal non-conforming use during the Rabbit Hutch, PM Mechanix, Anderson Oregon Rental and United Rental operations. None of the letters, photos or other documents presented in the public hearing or in Attachments A1 or A2 are sufficient to show that truck leasing or rental was established and continued as a legal non-conforming use on the property from October 1979 when Ordinance 491-79 removed the activity as an allowed use in the C-G Planning District.
2. Any legal non-conforming use or activity associated with the United Rental operation on the site was continued beyond the documented date of January 10, 2008 to the present. The Non-conforming use provision of TDC 35.040 specifies that if a non-conforming use is discontinued for a 12 month period, it cannot be re-established unless reinstated by the City Council. The 12-month period of discontinuance for any non-conforming use or activity held by United Rentals on the Sposito property would have elapsed on January 10, 2009. None of the letters, photos or other documents presented in the public hearing or in Attachments A1 or A2 show that United Rentals or any successor continued any activity as a legal non-conforming use on the property after January 10, 2008.

**Continued to Jan 25, 2010

Approved By Tualatin City Council
Date 11-9-09
Recording Secretary M Smith

STAFF REPORT
CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager

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

DATE: November 9, 2009

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

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

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

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

EXECUTIVE SUMMARY:

- This matter is a proposed Plan Map Amendment to the Community Plan Map 9-1 of the Tualatin Development Code (TDC).
- The City Council will consider the matter in a quasi-judicial public hearing.
- The applicant is Ms. Thomasina Gabriele of Gabriele Development Services on behalf of the property owner, Legacy Health System (LHS). Mr. Larry Hill represents Legacy Health System.

- The subject properties are two undeveloped parcels totaling 19.6 acres located at 6001, 6021, 6031, 6041 SW Borland Road in the RL (Low-Density Residential) Planning District (Clackamas County Assessors Map 21E 19C 1700 & 2000). The subject parcels have frontage on the north side of SW Borland Road and adjoin the east property line of the Legacy Meridan Park Medical Center (LMPMC) campus located in the MC Planning District. On the east property line, the subject properties are bordered by single-family residential development in the Fox Hills neighborhoods in the RL (Low Density Residential) Planning District. Staff recommends also changing the designation of the approximately 0.25 acres of abutting public ROW of SW Borland Road (RL changed to MC to the street centerline). A Vicinity Map, a Tax Map and a Site Map are included as Attachments A, B and C respectively. The applicant's materials are included as Attachment D.
- Legacy Health Systems purchased the subject property in 2004 for future expansion of the 46 acre Legacy Meridian Park Medical Center campus and facilities. LHS does not have plans for buildings or other improvements on the property at this time.
- The subject property includes the former Grimitt farmhouse with outbuildings on the northern Parcel 2000. On Parcel 1700 adjoining SW Borland Road is a small vacant house identified as the "Minnie Skog House", listed in the City's Historic Preservation Chapter 68 as a historic landmark. No application for alteration, relocation or demolition of the historic structure has been submitted.
- The (existing) RL Planning District allows detached single-family residential dwelling development as a permitted use [TDC 40.020(1)] and allows a hospital or sanitarium as a conditional use [TDC 40.030(4)(h)]. The MC Planning District which currently encompasses the LMPMC campus allows various hospital and healthcare service uses including a primary care hospital, medical and healthcare professional offices, clinics and laboratories and supporting retail commercial uses (pharmacy, small bank or credit union branch, gift store, salon, etc.) as permitted uses. The MC District also allows residential facilities such as congregate care, assisted living, nursing and convalescent homes as permitted uses.
- Changing the designation on 19.6 acres to MC would allow the LMPMC campus to expand with buildings, parking and landscaping onto the subject properties in the future, subject to the specific list of allowed uses, minimum lot size and setback provisions, and building height provisions of the MC Planning District [TDC Chapter 56] and the Community Design Standards, Public Improvement Requirements & Access Management on Arterial Streets provisions in TDC Chapters 73, 74 & 75. LHS seeks the Map Amendment to change the designation to MC. Development and improvements on the property will be subject to Architectural Review. Alteration, relocation or demolition of the historic house will be subject to approval of a Historic Landmark Certificate of Appropriateness under TDC Chapter 68.
- The submitted traffic analysis (Attachment D, Transportation Planning Rule Analysis – Kittelson & Associates, Inc.) and Supplemental Information (Dated October 1, 2009) analyzes Reasonable Worst Case scenarios for existing RL

and changing the Planning District designation of the subject parcels from RL to MC for three scenarios: RL, single family homes; a Hospital Conditional Use in RL; and a Medical Offices/Hospital development in MC. The analysis assumes a new SW Borland Road access (see discussion in Attachment F, pp. 9-10). The Engineering Division Memorandum (Attachment G, pp. 1-3) provides the following summary of Trip Generation figures comparing RL single family residential with MC medical office:

Estimated Trip Generation

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

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

In regard to Oregon Statewide Planning Goal 12-Transportation and the Transportation Planning Rule (OAR-660-012), the Kittelson Memorandums find that the proposed plan amendment satisfies all of the requirements of the TPR. An October 27, 2009 comment from the Oregon Department of Transportation requests additional information from the applicants regarding the I-5/Nyberg Street interchange. The applicant is preparing the requested information for ODOT and the Engineering Division will provide the results for the Council's public hearing as soon as it is available.

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

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

- The Applicant has prepared a narrative that addresses the Plan Map Amendment approval criteria (Attachment D) and staff has reviewed the Applicant's material

and included pertinent excerpts in the Analysis and Findings section of this report (Attachment F). TPAC Chairman Paul Sivley submitted a list of questions to be addressed at the October 8 TPAC meeting. Due to lack of a quorum, PMA-09-03 was not reviewed by TPAC and Mr. Sivley's questions were not addressed. A copy of Mr. Sivley's questions are included as Attachment J with responses to the questions by the Applicants and Staff.

- The applicable policies and regulations that apply to the proposal include: TDC 1.032-Amendments; TDC 5.030 Residential Planning District Objectives; TDC 8.050-Churches, Retirement Homes, Residential Facilities & Hospitals (Objectives); TDC Chapter 40-Low-Density Residential Planning District, and; Chapter 56 Medical Center Planning District. The Metro (Regional Government) Functional Plan Title III has policies for housing. The Statewide Land Use Planning Goals Goal 10-Housing (Metropolitan Housing Rule) and Goal 12 (Transportation Planning Rule) are applicable. The Analysis and Findings section of this report (Attachment F) considers the applicable policies and regulations.
- The 120th day within which the City Council must make a decision in the quasi-judicial process is January 26, 2010. The scheduled November 9, 2009 public hearing before the City Council is on the 42nd day.
- Before granting the proposed PMA, the City Council must find that the criteria listed in TDC 1.032 are met. The Analysis and Findings section of this report (Attachment F) examines the application with respect to the criteria for a Plan Amendment.

OUTCOMES OF DECISION:

Approval of the PMA request will result in the following:

1. Changes the Planning District designation of 19.6 acre Tax Lots 1700 & 2000 (and .25 acres of abutting public ROW) on Assessors Map 21E19C from RL to MC. The MC Planning District allows a primary care hospital, medical offices, clinics and laboratories, limited supporting/on-site retail uses and congregate care, assisted living, nursing and convalescent homes residential facilities as permitted uses.
2. Allows the applicant to develop the property in the MC Planning District with the medical, health care and residential facilities consistent with the existing LMPMC campus. Architectural Review will be required for development on the site.

Denial of the PMA request will result in the following:

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

ALTERNATIVES TO RECOMMENDATION:

The alternatives to the staff recommendation for Council are:

- Deny the proposed PMA.

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

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

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

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

Attachments:
A. Vicinity Map
B. Tax Map
C. Site Map showing Existing Buildings
D. Applicant's Materials and Supporting Information
E. Background Information
F. Analysis and Findings
G. Engineering Division Memorandum
H. Draft Ordinance
I. Comments from Notice Respondents
J. Paul Sivley Questions--October 6, 2009 Email

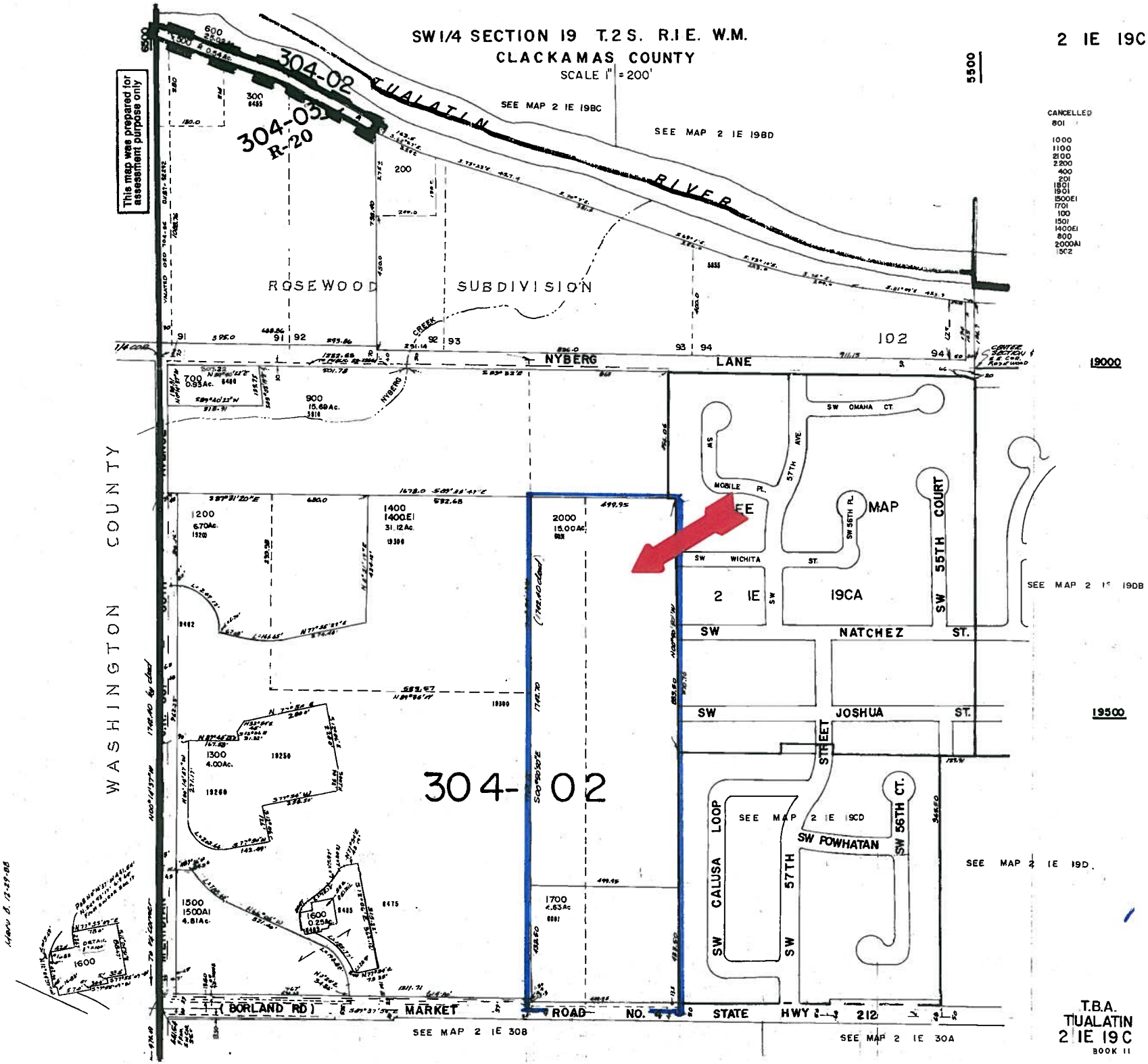
N

Site Plan

Scale 1" = 300'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER
Tualatin, OR

Attachment A
Vicinity Map



Attachment B
Tax Map

Attachment C
Site Map Showing Existing Buildings

APPLICATION FOR PLAN ***MAP*** AMENDMENT

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

Case No. PMA-09-03
Fee Rec'd. $2000.00
Receipt No. 739062
Date Rec'd. 8.28.09
By _____

PLEASE PRINT IN BLACK INK OR TYPE

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

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

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

Applicant's Signature Thomasina Gabriele

Applicant's Name THOMASINA GABRIELE Phone 503-312-8002
GABRIELE DEVELOPMENT SERVICES 971-252-1363
Applicant's address 2424 NW NORTHRUP PORTLAND OR 97210
(street) (city) (state) (zip)

Applicant is: Owner _____ Contract Purchaser _____ Developer __ Agent _____

Other CONSULTANT

If the request is for a specific property:

County CLACKAMAS Map # 21E 19C Tax Lot #(s) 21E19C 2000 AND 21E19C 1700

Owner's Name LEGACY HEALTH SYSTEM

Owner's Address _____
(street) (city) (state) (zip)

Owner recogntion of application: _____

Larry Hull 8-27-09
(signature of owner(s))

Attachment D
Applicant's Materials and Supporting Documents

WRITTEN STATEMENT

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

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

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

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

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

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

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

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

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

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

1. The various characteristics of the area.

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

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

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

3. Trends in land improvement and development.

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

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

4. Property values.

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

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

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

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

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

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

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

There are no natural resources on the subject property nor on the existing hospital campus.
While the river and its associated wetlands is to the north, there are buildable parcels of land between these natural resources and northern boundary of the existing campus. The required 50 foot buffer to the wetlands currently extends approximatly 15 feet inside the northeast corner of the subject property. See attached sketch. However, the property to the north currently has proposed to mitigate for filling some of the existing wetland as part of developing that site for a fitness club. Should this development and mitigation proceed, the buffer will change and no longer extend into the subject property.(mitigation plan attached for convenience) Legacy will comply with any environmental buffer requirements as part of the design of future development.

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

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

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

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

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

Goal 1 Citizen Involvement.
This request is following the procedure for citizen involvement, including conducting a neighborhood/developer meeting, posting the property and sending written notice to owners within 300 feet of the property, as outlined in the Tualatin Community Plan.

Goal 2 Land Use Planning.
The City of Tualatin prepared a Comprehensive Plan that was acknowledged by the State in 1981 and has since conducted numerous post acknowledgment processes. This Plan Map amendment request is following the procedures and addressing the approval criteria contained in the Tualatin Community Plan.

Goal 3 Agricultural Lands.
Not applicable. The subject property is not classified as agricultural land.

Goal 4. Forest land.
Not applicable. The subject property is not classified as forest land.

Goal 5. Natural Resources, Scenic and Historic Areas and Open Space.
The buffer requirements contained in the environmental resource chapter of the Tualatin Development Code address preserving this resource. Clean Water Services (CWS), the agency that regulates protection of sensitive areas, has reviewed Legacy's Sensitive Area Pre-Screening Site Assessment and determined that Sensitive Areas potentially exist within 200 feet of the subject property. CSA has provided a a Pre-Screening Site Assessment form that functions as a Service Provider Letter since no development is proposed at this time. This form is attached. Pacific Habitat, an environmental consultant, located the required 50 foot buffer to the sensitive area: a small portion of which currently extends approximately 15 feet inside the northeast corner of the subject property. The location of this buffer will change and not extend into the property should the proposed Fitness Club development and its related wetlands modification occur to the north of the subject property. Legacy will incorporate this current buffer if still present when future development is designed.

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

Goal 6 Air, Water, and Land Resources Quality.

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

Goal 7. Areas subject to natural hazards.
The subject property is not located in a earthquake or flood plain zone.

Goal 8. Recreational needs.
Neither the current or proposed Plan Map designation reserves the subject property for recreational needs.

Goal 9. Economic development.
The Portland Vancouver Regional Business Plan prepared by the Portland Business Alliance (PBA) identifies the Medical Service sector as a key industry cluster for the region. Amending the Plan Map will support the growth and expansion of the hospital and related medical services that contribute to Tualatin's competitive position in this cluster. Having land for expansion supports Legacy's ability to provide heath care services to other area employers, to continue to increase the opportunities for jobs at a range of wage and salary levels, and to build the infrastructure and buildings needed to house others providing services in this important economic sector.

Goal 10. Housing.
The City of Tualatin currently complies with Metro's Functional Plan that establishes targets for the amount of housing to be accommodated in each local jurisdiction. Tualatin has calculated how much residentially zoned land it needs to meet this target with a variety of single family and multifamily units built at different density levels. City staff have estimated that there will be sufficient land to accommodate the targeted amount of housing units based on current and assumed build out rates after removing the subject property from the lands available for housing. In addition, the proposed Plan Map designation allows housing such as congregate care and assisted living facilities as a permitted use.

Goal 11. Public facilities and services.
Tualatin has an acknowledged public utilities plan. The subject property is located in a predominantly built out area of the city that is already served with water, sewer, police and fire prevention services. Granting the proposed Plan Map designation adjacent to the existing medical campus allows for efficient delivery of services to the same location.

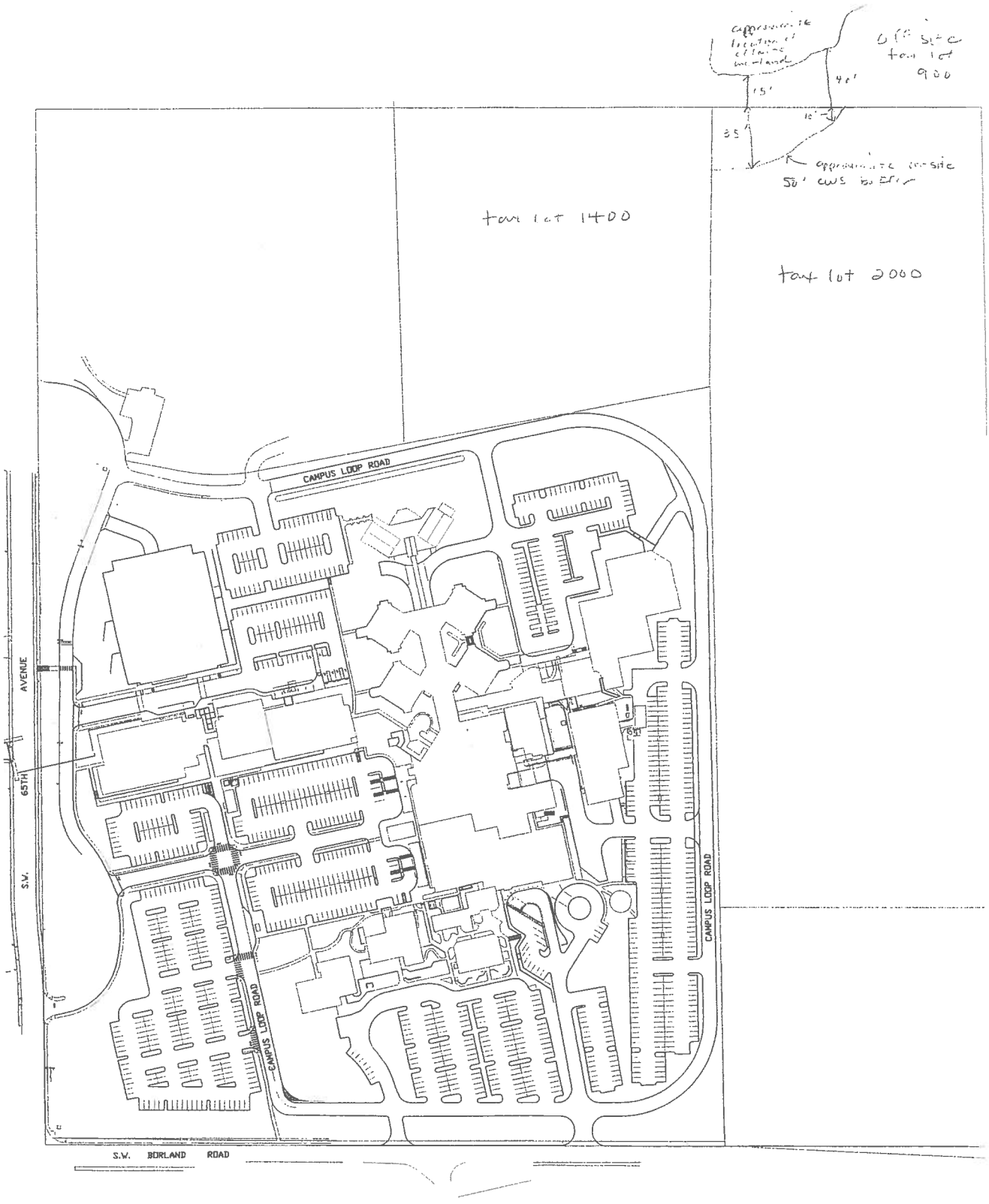
Goal 12. Transportation.
In accordance with the Plan Map amendment process, Legacy engaged traffic engineers, Kittelson & Associates, to prepare an analysis of existing and "worst case scenario" traffic conditions to determine the impact and any mitigation measures needed to support the anticipated development should the Plan Map amendment be approved. To establish the "worst case scenario" ZGF, project architects, analyzed the buildable capacity of the site. Assuming the most likely use is medical office

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

Goal 13. Energy Conservation.
Allowing expansion of the existing medical campus promotes conservation by minimizing number and length of trips for a variety of medical services, for delivery of goods and services and for efficient staffing and administration. In addition, as an employer of a concentration of employees and owner of a larger facility, conservation measures such as recycling and employee commuter program can benefit from efficiencies of scale.

Goal 14. Urbanization.
The subject property is within the urban growth boundary for the City of Tualatin, is governed by an acknowledged comprehensive plan and is in compliance with the Metro Functional Plan.

Goal 15. Willamette River Greenway
Goal 16. Estuarine Resources
Goal 17. Coastal Shoreline
Goal 18. Beaches and Dunes
Goal 19. Ocean Resource
None of these goals applies because the subject property is not located in any of these planning area types.



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

MEMORANDUM

Date: August 21, 2009 **Project #: 9760.0**

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

From: Mark A. Vandehey, P.E.

Project: Legacy Health System - Meridian Park Property Rezone

Subject: Transportation Planning Rule Analysis

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

SUMMARY OF FINDINGS

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

COMPARISON OF TRIP GENERATION POTENTIAL

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

TRANSPORTATION PLANNING RULE COMPLIANCE

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

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

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

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

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

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

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

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

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

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

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

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

MEMORANDUM

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

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

From: Mark Vandehey, P.E.

Project: Legacy Meridian Park Plan Map Amendment

Subject: Transportation Analysis – Supplemental Information

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

Trip Generation Comparison

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

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

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

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

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

Table 1
Estimated Trip Generation

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

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

Comparison of Year 2028 Traffic Conditions

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

Table 2 Comparison of Intersection LOS Results

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

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

ATTACHMENT E

PMA-09-03: BACKGROUND INFORMATION

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

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

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

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

ATTACHMENT F

PMA-09-03: ANALYSIS AND FINDINGS

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

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

A. 1. Granting the amendment is in the public interest.

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

As identified by staff, the public interest is to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Criterion "2" is met.

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

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

General Growth Objectives:

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

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

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

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

Semi-Public Land Uses--Objectives:

TDC 8.050 Objective (2) Allow uses such as churches, retirement homes and hospitals in commercial and residential planning districts, subject to conditional use approval, and allow congregate care facilities, assisted living facilities and residential care facilities and hospitals as permitted uses in the Medical Center District..
TDC 8.050 Objective (4) Locate uses such as churches, retirement homes and hospitals that are in residential planning districts adjacent to arterial or collector streets and close to the City's park areas.

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

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

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

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

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

Criterion "3" is met.

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

The various characteristics of areas in the City.

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

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

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

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

Trends in land improvement and development.

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

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

Property values.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proof of a change in a neighborhood or area.

The Applicant states: "...changing the designation to MC specifically governs and permits medical center and related uses and applies the development standards need to buffer these uses from adjacent uses." "...the area is primarily built out and the subject property is the best remaining parcel for medical center expansion." Attachment D, pg. 4)

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

A mistake in the plan map or text.

No mistake is alleged or found.

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

Criterion "4" is met.

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

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

Criterion "5" was considered.

F. Oregon Statewide Planning Goals

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

The Applicant addresses these Goals as follows:
Goal 1: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.
Goal 2: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

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

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

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

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

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

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

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

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

Table 2A

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

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

Table 2B

PMA-09-02 Metro Housing Rule New Construction Mix

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

10/2/2009

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

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

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

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

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

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

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

No comment was received from Metro.

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

Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The PMA proposes to change the low density residential (RL) planning district which supports 1-6.4 dwelling units per acre to MC which allows care facilities with a minimum of 16 dwelling units per development area acre [56.080(6)]. Depending if the uses established on the property include a care facility with a minimum 16 dwelling units per acre of development, the proposed change to an MC Planning District and Employment Area designation may change the City's ability to attain the housing capacity target number set by Metro. A similar analysis applies to the Title 7 (Affordable Housing) provisions. While the property is proposed to leave a residential designation,

the MC District allows needed care facility housing that can be more affordable housing than if typical RL Planning District is developed as single family subdivisions.

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

The submitted traffic information (Attachment D, Kittelson & Associates August 21, 2009 & October 1, 2009 memorandums) analyzes Reasonable Worst Case scenarios for existing RL conditional uses and changing the Planning District designation of the subject parcel from RL to MC for three scenarios. Under the worst case scenarios for the current RL zone and proposed MC zone in the 2029 analysis, except for SW 65th & Sagert which is F/F under all scenarios, the study intersections are forecasted to have a LOS within the E/E prescribed in the TDC during the weekday p.m. peak hour & a.m. peak hour respectively.

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

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

MEMORANDUM

DATE: October 28, 2009

TO: Will Harper, AICP
Associate Planner

FROM: Dayna Webb, PE
Project Engineer

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

On August 31, 2009 the Engineering Division received Plan Map Amendment Application Notice PMA-09-03 for two properties adjacent to Meridian Park Hospital. The properties are located at 6001, 6021, 6031 & 6041 SW Borland Road and are 4.97 acres and 14.62 acres, respectively. The applicant is requesting a Planning District designation change from Low Density Residential (RL) to Medical Center (MC).

The requested Plan Map Amendment includes a total of 19.59 acres. A reasonable worst-case scenario of trips based on the existing and proposed zoning indicates an additional 545 AM Peak Hour Trips (470 In and 75 Out) and 830 PM Peak Hour Trips (190 In and 640 Out).

The applicant submitted a Memorandum – Transportation Planning Rule Analysis from Kittelson & Associates, dated August 21, 2009. The analysis summary of findings states the following:

- The TPR institutes criteria under which the transportation impacts of a post-acknowledgment plan amendment and zoning map amendment must be evaluated under OAR 660-12-0060(1). Based on the analysis results presented in this memorandum, the proposed zone change satisfies all of the requirements set forth in the TPR.

The applicant also submitted a Memorandum – Transportation Analysis – Supplemental Information from Kittelson & Associates, dated October 1, 2009. The supplemental information includes figures for trip generation and information to support TDC 1.032(8).

SW Borland Road
Clackamas County designates SW Borland Road as a Minor Arterial. The function of an Arterial is described as connecting collectors to higher order roadways. They carry moderate volumes at moderate speeds.

The City of Tualatin designates SW Borland Road as a Major Arterial (Eb&t) which includes four travel lanes, a center turn lane, bike lane, planter strip & sidewalk within a

right-of-way width of 98-102 feet. Our TSP states, "Primary function is to serve both local and through traffic as it enters and leaves the urban area; connects the minor arterial and collector street system to freeways and expressways; provides access to other cities and communities; serves major traffic movements; access control through medians and/or channelization; restricted on-street parking; sidewalks and bicycle facilities required; may allow a right-turn pocket if warranted; will be used by public transit."

Following are the trip generation estimates, provided by Kittelson & Associates, Inc based on Trip Generation, 7th Edition:

Estimated Trip Generation

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

TDC 1.032 Burden of Proof (6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Because the proposed land use action will result in an amendment to the City of Tualatin's zoning map, Section 660-012-0060 of the State's Transportation Planning Rule applies. Division 12 of the State's Transportation Planning Rule (OAR 660-012) gives the Oregon Department of Land Conservation and Development (DLCD) and the City of Tualatin the power to interpret and implement Statewide Planning Goal 12 (Transportation). Section 660-012-0060 of the TPR provides specific language on how to deal with amendments to adopted plans and land use regulation.

OAR 660-012-0060 (1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

(a) Change the functional classification of an existing or planned transportation facility
(b) Change standards implementing a functional classification system

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

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

Based on the results presented in the Memorandum – Transportation Planning Rule Analysis, Kittelson & Associates believes the proposed zone change satisfies all of the requirements set forth in the TPR.

TDC Section 1.032 Burden of Proof: (8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area. Based on TDC Map 9-4 the site is located in the IN (Inner Neighborhood) Design Type.

The submitted Supplemental Information states "this standard is met during all time periods for each development scenario, with the exception of the SW 65th/SW Sagert intersection. The SW Sagert/SW 65th Avenue intersection meets warrants for signalization under any scenario".

The City of Tualatin TSP Appendix C – Detailed Intersection Operations Results (Existing Conditions), completed in June 2001, shows the 65th/Sagert intersection as an all-way stop controlled intersection operates at a v/c of 1.14 and a LOS F. The TSP also identifies the intersection for a future traffic signal.

Comments Received:
No comments were received from Washington County or Clackamas County regarding the proposed Plan Map Amendment.

We received comments from ODOT (see attached) on October 27, 2009 requesting additional information before they can make a determination on the potential effect on the I5/Nyberg interchange. The applicant is working on the requested information. It will be provided once it is available.

Please let me know if you have questions, I can be reached at extension 3036.

Oregon
Theodore R. Kulongoski, Governor

Oregon Department of Transportation
ODOT Region 1
123 NW Flanders St
Portland, OR 97209 - 4037
Telephone (503) 731-8200
FAX (503) 731-8259

ODOT Case No: 1284

October 26, 2009

Will Harper
City of Tualatin
18880 SW Martinazzi Ave
Tualatin, OR 97062

Attn: Will Harper, Associate Planner

Re: PMA-09-03: RL Change to MC
I-5 / SW Nyberg St Interchange

Dear Mr. Will Harper,

We have reviewed the applicant's proposal to amend TDC Community Plan Map 9-1 changing a 20 acre parcel from Low-density Residential (RL) planning district designation to Medical Center (MC). The site is in the vicinity of the I-5 / SW Nyberg St Interchange. ODOT has jurisdiction of this State highway facility and an interest in assuring that the proposed comprehensive plan amendment is consistent with the identified function, capacity and performance standard of this facility. According to the 1999 Oregon Highway Plan (OHP), this facility is classified an Interstate Highway and the performance standard on ramp terminals is 0.85 volume to capacity (v/c) ratio.

For zone changes and comprehensive plan amendments local governments must make findings that the proposed amendment complies with the Transportation Planning Rule (TPR) OAR 660-012-0060. There must be substantial evidence in the record to either make the finding of "no significant effect" on the transportation system, or if there is a significant effect assurance that the allowed land uses are consistent with the identified function, capacity, and performance standard of the transportation facility.

The applicant provided a traffic memo prepared by Kittelson & Associates dated August 21, 2009. The memo presented the argument that the "'reasonable worst case' development scenario for the proposed zoning is equivalent to the existing zoning" because Hospitals are a conditional use under the existing zoning. However, transportation system plans typically utilize allowed uses for analysis purposes and conditional uses have a higher level of adequacy criteria, therefore it is common practice not to utilize conditional uses for "reasonable worst case scenarios" in traffic analysis for TPR findings. ODOT does not consider conditional uses appropriate for the purpose of traffic analysis in making TPR findings.

In order to determine whether or not there will be a significant effect on the State transportation system, ODOT staff requested further analysis including a comparison between the land use with the highest trip generation rate allowed outright under the proposed comp plan designation

(Medical Center) with the land use with the highest trip generation rate allowed outright under the existing comprehensive plan designation (low-density residential).

Kittelson provided a follow-up traffic memo dated October 1, 2009, which compared the trip generation from 94 Single Family Residential units with 250,000 sq ft of Medical Office. The analysis showed a net increase of 830 trips in the weekday PM peak hour. This is a substantial amount of additional trips and ODOT can not currently make a determination of no significant effect. Therefore, ODOT requests additional analysis to determine the potential effect on the I5/Nyber interchange.

1. The analysis should focus on both I5/Nyberg St ramp terminals including queuing analysis.

2. The analysis can rely on existing and planned transportation improvements in which a funding mechanism is in place including but not limited to projects identified in:
   - State Transportation Improvement Program (STIP),
   - local/county capital improvement plans (CIP),
   - financially constrained Regional Transportation System Plan (RTP)
   - Washington County Major Streets Transportation Improvement Program MSTIP. (OAR 660-012-0060)

3. The analysis should apply the 0.85 highway mobility standard (volume-to-capacity ratio) identified in the OHP over a planning horizon of the adopted local transportation system plan or 15 years from the proposed date of amendment adoption, whichever is greater (OHP Action 1F2).

4. In situations where the highway facility is operating above the OHP mobility standard and transportation improvements are not planned within the planning horizon to bring performance to standard, the performance standard is to avoid further degradation. If the comprehensive plan amendment increases the volume-to-capacity ratio further, it will significantly affect the facility (OHP Action 1F6).

Prior to commencing the TIS, the applicant should contact Doug Baumgartner, ODOT Region 1 Traffic Analyst at (503) 731-8225 to obtain ODOT concurrence with the scope of the study. Thank you for providing ODOT the opportunity to participate in this land use review. If you have any further questions regarding this matter, please contact me at (503) 731-8234.

Sincerely,

Seth Brumley

Seth Brumley
Development Review Planner

C: Doug Baumgartner, ODOT Region 1 Traffic

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

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

INTRODUCED AND ADOPTED this 9th day of November, 2009.

CITY OF TUALATIN, Oregon

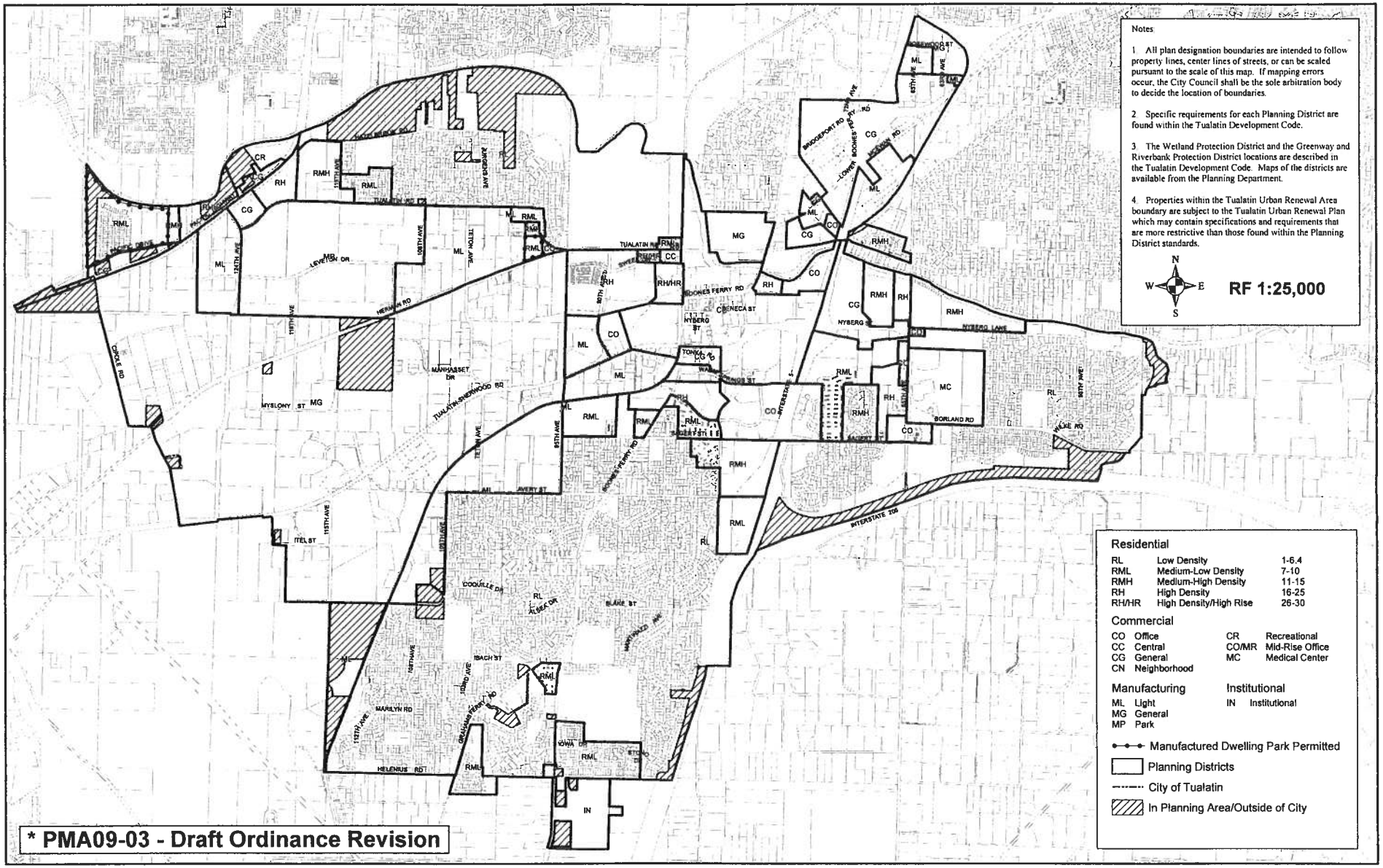
By_____
Mayor

ATTEST:

By_____
City Recorder

Map 9-1 Community Plan Map

TUALGIS



ATTACHMENT J

PMA-09-03
Paul Sivley-Tualatin Planning Advisory Committee (Acting Chairman)
-Questions for Applicants and Staff-

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

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

Applicant Response. Legacy wants to be sure that the entire parcel of land that is already purchased and adjacent to the existing campus will be available for medical center development regardless of the outcome with Metro about the amount of land Tualatin needs to have available to meet housing targets.
Staff Response. Tualatin uses a "one map system" that combines a "Comprehensive Plan" and a "Zoning Map" into one Map 9-1, showing the location and designation of all property within Tualatin's Planning Area. The Plan Map Amendment process is focused on consideration of the change in Planning District at the "Plan" level and consideration of the uses and physical development issues are in land use decisions such as Conditional Use, Subdivision, Partition and Architectural Review. The Plan Amendment level will look at "worst case" scenarios, but is not intended to assess specific "impact" issues of a particular development.

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

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

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

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

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

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

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

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

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

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

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

I received this comment.

Stacy

From: Marie Fromme [mailto:mfromme1@yahoo.com]
Sent: Wednesday, October 21, 2009 10:10 AM
To: STACY CRAWFORD
Subject: Re: Meridian Park Hospital Plan Map Amendment Courtesy Notice

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

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

From: STACY CRAWFORD <SCRAWFORD@ci.tualatin.or.us>
Subject: Meridian Park Hospital Plan Map Amendment Courtesy Notice
To: "Adam Pettitt" <tallperson23@yahoo.com>, "Agnela and Philip Hansen" <AHAN618@aol.com>, "Alan Somervell" <somervell@Verizon.net>, "Alice Gydesen"
<gydesenfamily@comcast.net>, "Alisha Coppedge" <alishadyan@gmail.com>, "Angela Wrahtz"
<angela.wrahtz@comcast.net>, "Anthony Caflen"
<webmaster@foxhillsoregon.com>, "Anthony
Laflen" <anthony@cnwre.com>, "Barbara Archer"
<barcher1@email.phoenix.edu>, "Becky
Luther" <becky.luther@comcast.net>, "Bev Marlett"
<bevmarlett@verizon.net>, "Bill and Joy
Wilson" <williamewilson@comcast.net>, "Bob Dove" <Bob_dove@mentor.com>, "Brad Helm"
<brad.helm.77@comcast.net>, "Brian" <stephenson5635@comcast.net>, "Briana Currey"
<bkcurrey2002@yahoo.com>, "Bryan and Dianne Yates"
<banddy8s@comcast.net>, "Burton
Silverman" <burtonsilverman@comcast.net>, "Chad Sourthards"
<scourthards@hotmail.com>,
"Charles Brod" <cubrod@gmail.com>, "Cheri Collins" <collinscsk@msn.com>, "Cheri Emahiser"
<cemahise@earthlink.net>, "Chris Pries" <jetmoney737@gmail.com>, "Christen Depweg"
<cjkdepweg@verizon.net>, cindy.oubre@verizon.net, "Dana Terhune"
<dmterhune@verizon.net>, "Danielle Ricca" <danielle@cincodesign.com>, "Dave and Diane
Burnette" <BBdaveburnette@cs.com>, "Derek Plank" <dplank@meacon.com>, "Diana Gowen"

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

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

1. If the roads adjoining the property (Joshua, Wichita, Nachez) are connected as through streets, I have concerns about the additional traffic that would travel through the Fox Hill neighborhood. With the recent approval of the Stafford Hills Racquet & Fitness Club (SHRFC) traffic increase, I would ask that the city consider not extending the above streets so that no additional commercial traffic will come through a residential neighborhood.

2. When the property eventually has buildings and parking lots built, I have concerns about the water runoff. With the recent approval of the SHRFC build-out to pave over the property directly below the Hospital, water runoff down to Nyberg Lane is already a concern. If mass amounts of impervious surface are added to the hospital property, the below properties (including mine) and Nyberg Lane will be impacted to an even greater extent than they are now.

Thank you for considering these concerns.

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

THE CITY OF TUALATIN, OREGON ORDAINS AS FOLLOWS:

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

INTRODUCED AND ADOPTED this 9th day of November, 2009.

CITY OF TUALATIN, Oregon

By_____
Mayor

ATTEST:

By_____
City Recorder

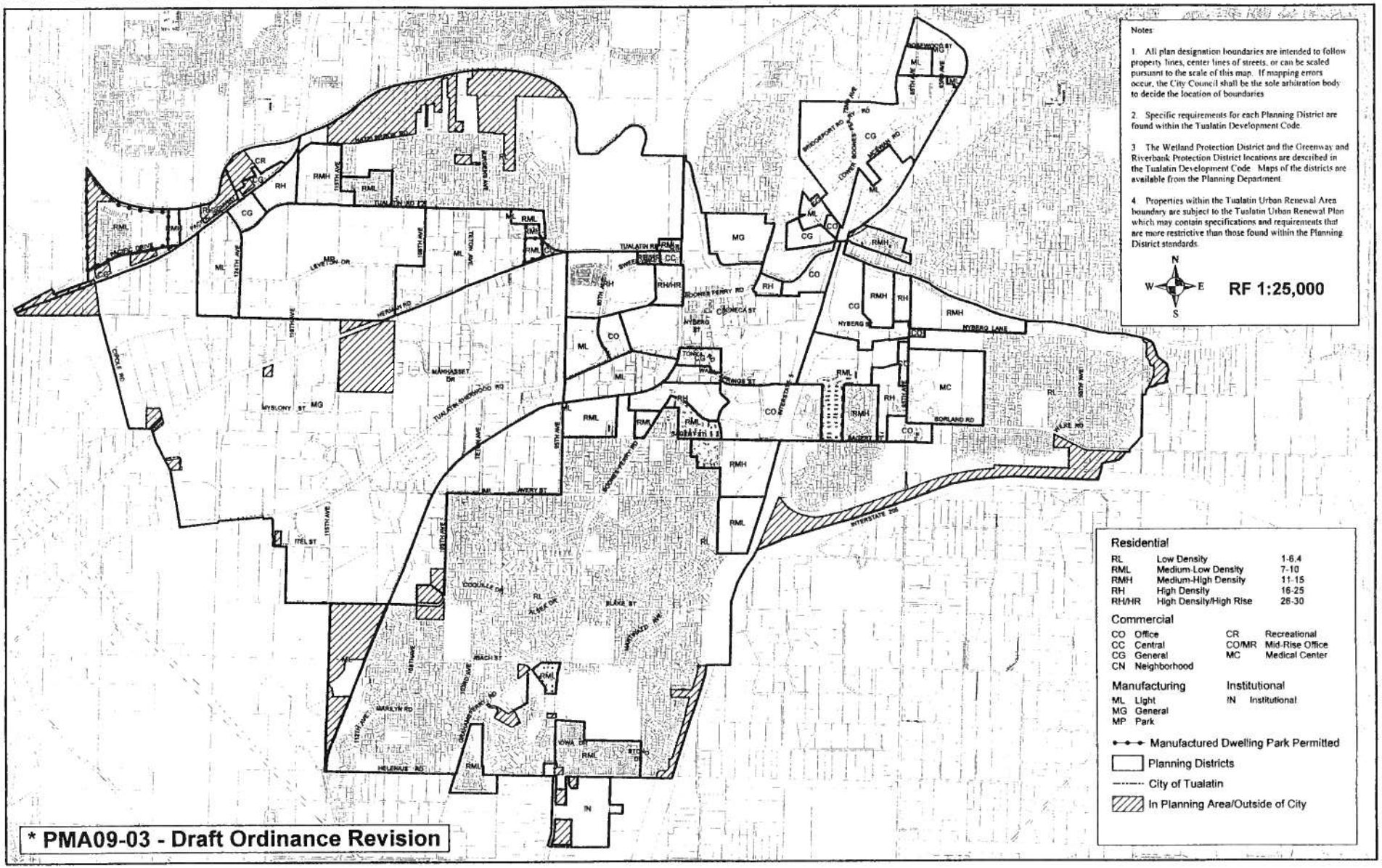
APPROVED AS TO LEGAL FORM

Brenda L. Braden

CITY ATTORNEY

Map 9-1 Community Plan Map

TUALGIS



COMMUNITY NEWSPAPERS
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Phone: 503-684-0360 Fax: 503-620-3433
Email: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, SS
I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of *The Times* (serving Tigard, Tualatin & Sherwood), a newspaper of general circulation, published at Beaverton, in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

City of Tualatin
Notice of Hearing/PMA09-03
TT11376

A copy of which is hereto annexed, was published in the entire issue of said newspaper for
1
week in the following issue:
October 22, 2009

Charlotte Allsop

Charlotte Allsop (Accounting Manager)

Subscribed and sworn to before me this October 22, 2009.

Suzette D. Curran

NOTARY PUBLIC FOR OREGON
My commission expires NOV. 28, 2011

Acct #108462
Attn: Stacy Crawford
City of Tualatin
18880 SW Martinazzi Ave
Tualatin, OR 97062

C
SUZ
NOTAR
COMM
MY COMMISSION EXP

Size: 2 x 8.25
Amount Due $149.33 *
*Please remit to address above.

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, November 9, 2009, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN MAP AMENDMENT (PMA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) 6001, 6021, 6031, 6041 SW BORLAND ROAD (TAX MAP 21E 19C, TAX LOTS 1700 & 2000), AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-03)

Before granting the proposed Quasi-judicial amendments, the City Council must find that:
(1) Granting the amendment is in the public interest; (2) The public interest is best protected by granting the amendment at this time; (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan is considered; (6) The amendment is consistent with Statewide Planning Goals; (7) The amendment is consistent with Metro's Urban Growth Management Functional Plan; and (8) granting the amendment is consistent with Level of Service E/E for the 2040 Design Type EA.

Individuals wishing to comment may do so in writing to the Community Development Department prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity for the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the applications, all documents and evidence relied upon by the applicant (the City of Tualatin) and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff reports will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper at 503-691-3027 or wharper@ci.tualatin.or.us**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

Publish 10/22/2009. TT11376

EXHIBIT A

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 16th day of October, 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. City of Tualatin - Police Department
2. City of Tualatin - City Center Building
3. City of Tualatin - Community Development
4. City of Tualatin - Library

Dated this 16th day of October 2009.

Stacy Crawford
Stacy Crawford

Subscribed and sworn to before me this 16 day of OCTOBER, 2009.

OFFICIAL SEAL
MAUREEN A SMITH
NOTARY PUBLIC-OREGON
COMMISSION NO. 438788
MY COMMISSION EXPIRES JULY 4, 2013

Maureen A Smith
Notary Public for Oregon
My Commission expires: July 4, 2013

RE: PMA-09-03—PLAN MAP AMENDMENT CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) AT 6001, 6021, 6031, AND 6041 BORLAND ROAD (TAX MAP 21E19C, TAX LOTS 1700 & 2000) AND AMENDING THE COMMUNITY PLAN MAP 9-1

EXHIBIT B

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, November 9, 2009, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN MAP AMENDMENT (PMA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) 6001, 6021, 6031, 6041 SW BORLAND ROAD (TAX MAP 21E 19C, TAX LOTS 1700 & 2000), AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-03)

Before granting the proposed Quasi-judicial amendments, the City Council must find that: (1) Granting the amendment is in the public interest; (2) The public interest is best protected by granting the amendment at this time; (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan is considered; (6) The amendment is consistent with Statewide Planning Goals; (7) The amendment is consistent with Metro's Urban Growth Management Functional Plan; and (8) granting the amendment is consistent with Level of Service E/E for the 2040 Design Type EA.

Individuals wishing to comment may do so in writing to the Community Development Department prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity for the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the applications, all documents and evidence relied upon by the applicant (the City of Tualatin) and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff reports will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper at 503-691-3027 or wharper@ci.tualatin.or.us**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on (October 22, 2009)

Mailed: 10/16/2009

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

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

That on the 16th day of October, 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 16th day of OCTOBER, 2009.

OFFICIAL SEAL
MAUREEN A SMITH
NOTARY PUBLIC-OREGON
COMMISSION NO. 438788
MY COMMISSION EXPIRES JULY 4, 2013

Maureen A Smith
Notary Public for Oregon
My commission expires: July 4, 2013

RE: PMA-09-03—PLAN MAP AMENDMENT CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) AT 6001, 6021, 6031, AND 6041 BORLAND ROAD (TAX MAP 21E19C, TAX LOTS 1700 & 2000) AND AMENDING THE COMMUNITY PLAN MAP 9-1

EXHIBIT C

Exhibit "A"

21E19CD04200
Richard & Nola Ackerman
5785 SW Calusa Loop
Tualatin, OR 97062

21E30B 80B21
Paul Ash
19260 SW 65th Ave #280
Tualatin, OR 97062

21E19CA11600
Steven & Renee Balsiger
5885 SW Wichita St
Tualatin, OR 97062

21E19CD04900
Barbara Bentz
5737 SW Calusa Loop
Tualatin, OR 97062

21E19CA11200
John Brandes
19280 SW Mobile Pl
Tualatin, OR 97062

21E19CA06300
Robert & Sarah Burke
5738 SW Joshua St
Tualatin, OR 97062

21E19CA10200
Mark Coolican
19050 SW Mobile Pl
Tualatin, OR 97062

21E19CA11300
Anne & Robert Creasey
5725 SW Wichita St
Tualatin, OR 97062

21E30BA07500
Coleen Davis
5795 SW Sequoia Dr
Tualatin, OR 97062

21E30B 90C01
Dean & Marcia Delavan
985 SW Long Farm Rd
West Linn, OR 97068

21E19CA05900
Todd Allison
5753 SW Joshua St
Tualatin, OR 97062

21E19CA10100
Kip & Laurel Aszman
19080 SW Mobile Pl
Tualatin, OR 97062

21E19CD04600
Nicki Barrett
5763 SW Calusa Loop
Tualatin, OR 97062

21E19CA04900
Scott & Keri Bickley
5740 SW Natchez St
Tualatin, OR 97062

21E19CA06200
Harold Brazier
5744 SW Joshua St
Tualatin, OR 97062

21E19CD03600
Ryan Cain
5746 SW Calusa Loop
Tualatin, OR 97062

21E19CD02900
Nancy Cooper
19683 SW 57th Ave
Tualatin, OR 97062

21E19CD05300
David & Paige Cummings
5716 SW Calusa Loop
Tualatin, OR 97062

21E30BA07400
Dechaine & Dechaine & Leonard
5775 SW Sequoia Dr
Tualatin, OR 97062

21E30B 80B19
Dean Irvin & Marcia Delavan
985 SW Long Farm Rd
West Linn, OR 97068

21E30B 80B20
Paul Ash
19260 SW 65th Ave #280
Tualatin, OR 97062

21E19CD05200
Andrew & Michelle Axelson
5719 SW Calusa Loop
Tualatin, OR 97062

21E30BA08100
Cheri & Charles Benson
5915 SW Sequoia Dr
Tualatin, OR 97062

21E19CD02600
Michael & Kathleen Bies
19631 SW 57th Ave
Tualatin, OR 97062

21E30BA02400
Robert Brock
19955 SW 60th Ave
Tualatin, OR 97062

21E30BA08000
Martin Cavassa
5885 SW Sequoia Dr
Tualatin, OR 97062

21E19CA11500
Michael Cooper
5845 SW Wichita St
Tualatin, OR 97062

21E19CA06400
Michael & Michelle Davidson
5722 SW Joshua St
Tualatin, OR 97062

21E19CA11800
Timothy Allen Dedlow
4806 NE 39th Ave
Portland, OR 97211

21E30B 90C03
John & Lori Dipaola
17809 Kelok Rd
Lake Oswego, OR 97034

Exhibit "A"

21E30B 90C04
John & Lori Dipaola
17809 Kelok Rd
Lake Oswego, OR 97034

21E19CA10700
Robert & Janice Dove
19135 SW Mobile Pl
Tualatin, OR 97062

21E19CA04800
Curtis Faus Jr.
5752 SW Natchez St
Tualatin, OR 97062

21E19CD03300
Douglas Allen Grassman
Po Box 371
West Linn, OR 97068

21E19CD03100
Michael Griffy
5703 SW Calusa Loop
Tualatin, OR 97062

21E19CA11700
James & Laurie Harris
5870 SW Wichita St
Tualatin, OR 97062

21E30B 80D02
Jimmy & Michelle Huebert
19660 SW 48th Ave
Tualatin, OR 97062

21E30BA05000
Karen Johnson
19930 SW 59th Ter
Tualatin, OR 97062

21E19CD02700
John Karpowicz
19645 SW 57th Ave
Tualatin, OR 97062

21E19CA06100
Martha Leckband
5756 SW Joshua St
Tualatin, OR 97062

21E19CD03400
Aaron & Christina Doerr
5734 SW Calusa Loop
Tualatin, OR 97062

21E30BA08200
Jill Annette Engle
5955 SW Sequoia Dr
Tualatin, OR 97062

21E19CA04700
Neil & Renee Gillenwater
5755 SW Natchez St
Tualatin, OR 97062

21E30B 80B05
Mark Griffith
6464 SW Borland Rd #b1
Tualatin, OR 97062

21E19CD03000
John & Kimberly Grimes
19717 SW 57th Ave
Tualatin, OR 97062

21E30BA05100
Jeremy Hayter
19910 SW 59th Ter
Tualatin, OR 97062

21E30B 80D04
Jimmy Md & Michelle Huebert
1508 Division St #15
Oregon City, OR 97045

21E30BA07800
Nathan & Kelly Johnson
5845 SW Sequoia Dr
Tualatin, OR 97062

21E19CD05500
Kathleen Kimmy
5706 SW Calusa Loop
Tualatin, OR 97062

21E19CD04000
Hugh Trste Lineweaver
5793 SW Calusa Loop
Tualatin, OR 97062

21E19CA11100
Jake & Sarah Douglas
7 Windsor Ct
Lake Oswego, OR 97034

21E19CD02800
Paul & Tamara Eulberg
19669 SW 57th Ave
Tualatin, OR 97062

21E19CD03900
James & Patricia Gingo
5790 SW Calusa Loop
Tualatin, OR 97062

21E30B 80B07
Mark Griffith
6464 SW Borland Rd #b1
Tualatin, OR 97062

21E30BA08300
Kimberly Guard
5995 SW Sequoia Dr
Tualatin, OR 97062

21E19CD03700
Joseph Frederick Co-E Herzig
5758 SW Calusa Loop
Tualatin, OR 97062

21E30BA07700
Douglas & Tiffany Jahnke
5825 SW Sequoia Dr
Tualatin, OR 97062

21E19CA05000
Ernest & Younghae Kalilimoku
5736 SW Natchez St
Tualatin, OR 97062

21E19C 00900
Joseph & Anita Kozlowski
5916 SW Nyberg Ln
Tualatin, OR 97062

21E19CD03500
David & Ricky Looper
5740 SW Calusa Loop
Tualatin, OR 97062

Exhibit "A"

21E30AB00100
Debra Kemp Lowe
5741 SW Sequoia Dr
Tualatin, OR 97062

21E30BA00100
Larry & Anita Matlock
6005 SW Sequoia Dr
Tualatin, OR 97062

21E30BA00200
Todd & Judith Miller
6015 SW Sequoia Dr
Tualatin, OR 97062

21E30BA00300
Kathe Monroe
6025 SW Sequoia Dr
Tualatin, OR 97062

21E30B 80B06
Mary Nogeire
6464 SW Borland Rd
Tualatin, OR 97062

21E30BA07600
Chad & Tracy Normoyle
5805 SW Sequoia Dr
Tualatin, OR 97062

21E30B 80B03
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 80B14
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 80B17
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 00400
Gen Elec Co Portland
621 SW Alder St
Portland, OR 97205

21E19CD04300
Thomas Magee
5783 SW Calusa Loop
Tualatin, OR 97062

21E19CD04100
Arthur & Bonnie McGee
5789 SW Calusa Loop
Tualatin, OR 97062

21E30BA02200
Joann Miller
14084 Goodall Rd
Lake Oswego, OR 97034

21E19CA04600
Henry & Jeanette Muehleck
5749 SW Natchez St
Tualatin, OR 97062

21E30B 90C05
Mary Nogeire
6464 SW Borland Rd #c5
Tualatin, OR 97062

21E19CA09700
Gunnar Olson
19075 SW 57th Ave
Tualatin, OR 97062

21E30B 80B12
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 80B15
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 80B18
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30BA05300
Michele Rahler
19935 SW 58th Ter
Tualatin, OR 97062

21E30BA03600
Cooper Maixner
5980 SW Sequoia Dr
Tualatin, OR 97062

21E30BA00400
Todd & Stacy Mickey
6035 SW Sequoia Dr
Tualatin, OR 97062

21E19CD04800
Michael Leo Monahan
5743 SW Calusa Loop
Tualatin, OR 97062

21E19CA12000
Thomas Wai Hau Ng
5700 SW Wichita St
Tualatin, OR 97062

21E30B 90C06
Mary Nogeire
6464 SW Borland Rd #c5
Tualatin, OR 97062

21E19CA10600
Marajen Oneil
19095 SW Mobile Pl
Tualatin, OR 97062

21E30B 80B13
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E30B 80B16
Cheryl Ann Co-E Owings
5780 SW Homesteader Rd
Wilsonville, OR 97070

21E19CA09900
Kyle & Theresa Petersen
19275 SW Mobile Pl
Tualatin, OR 97062

21E19CA04500
William & Cordelia Rashid
5733 SW Natchez St
Tualatin, OR 97062

Exhibit "A"

21E19CA10900
Michael & Deborah Reiss
19185 SW Mobile Pl
Tualatin, OR 97062

21E19CD04700
Behnaz Sadeghy
5751 SW Calusa Loop
Tualatin, OR 97062

21E30B 80B10
Judy Rn Ms Sandilands
695 NE Dallas Dr
Dallas, OR 97338

21E19CA10500
Robert & Julie Sepp
19065 SW Mobile Pl
Tualatin, OR 97062

21E19CA06000
Robert & Kim Spalding
5769 SW Joshua St
Tualatin, OR 97062

21E19CA05800
William Holden & Joyce Stewart
5741 SW Joshua St
Tualatin, OR 97062

21E30B 80D03
David Tenhulzen
6464 SW Borland Rd #d2
Tualatin, OR 97062

21E30B 90A04
Imaging Pc Tualatin
6464 SW Borland Rd #a4
Tualatin, OR 97062

21E19C 00700
Donald Waterman
18342 NW Gillihan Rd
Portland, OR 97231

21E19CA05600
Gerald & Janice Westfall
5719 SW Joshua St
Tualatin, OR 97062

21E30BA03700
Cecile Rife
5940 SW Sequoia Dr
Tualatin, OR 97062

21E30B 00300
Gerald Sagert
21030 SW 65th Ave
Tualatin, OR 97062

21E30BA03500
Kent Schnepp
19960 SW 60th Ave
Tualatin, OR 97062

21E19CD03800
Robert Shangraw
5776 SW Calusa Loop
Tualatin, OR 97062

21E30BA07900
David & Christina Stamey
5865 SW Sequoia Dr
Tualatin, OR 97062

21E30BA02300
Timothy Sullivan
19925 SW 60th Ave
Tualatin, OR 97062

21E19CD05100
Marylee Tolley
5725 SW Calusa Loop
Tualatin, OR 97062

21E30BA03800
Michael & Nancy Vandyke
19945 SW 59th Ter
Tualatin, OR 97062

21E19CD04400
Eric & Barbara Weaver
5777 SW Calusa Loop
Tualatin, OR 97062

21E19CA11000
Ryan & Brenna White
19220 SW Mobile Pl
Tualatin, OR 97062

21E19CD05400
Laurie Ryan-Day
5712 SW Calusa Loop
Tualatin, OR 97062

21E19CA10000
William & Helene Sanders
19120 SW Mobile Pl
Tualatin, OR 97062

21E19CA05100
Richard & Diana Schurman
5728 SW Natchez St
Tualatin, OR 97062

21E19CD05000
Gregory & Cheryl Shelby
5731 SW Calusa Loop
Tualatin, OR 97062

21E19CA05200
David & Sonja Steves
5714 SW Natchez St
Tualatin, OR 97062

21E19CA11900
Kevin & Anne Sweeney
5750 SW Wichita St
Tualatin, OR 97062

21E30BA05200
Ha Tran
19905 SW 58th Ter
Tualatin, OR 97062

21E19CD04500
Mark & Carol Ward
5773 SW Calusa Loop
Tualatin, OR 97062

21E19CA11400
Scott & Alyssa Weglinski
Po Box 1606
Tualatin, OR 97062

21E19CA05700
Thomas & Sheila Wilcox
5727 SW Joshua St
Tualatin, OR 97062

Exhibit "A"

21E19CD03200
Ken Wong
5709 SW Calusa Loop
Tualatin, OR 97062

21E19C 01400
Meridian Park Hospital
19300 SW 65th Ave
Tualatin, OR 97062

21E19C 01600
Legacy Health System
6489 SW Borland Rd
Tualatin, OR 97062

21E30B 00500
Mei Holding LLC
445 NW Skyline Blvd
Portland, OR 97229

21E30B 80B04
Gorin Plastic Surgery
Investments LLC
6464 SW Borland Rd #b4
Tualatin, OR 97062

21E30B 80D01
Gps II Properties LLC
6464 SW Borland Rd #d1
Tualatin, OR 97062

21E30B 90A03
Rowin Properties LLC
7550 NE Dog Ridge Rd
Newberg, OR 97132

21E19CA09800
Federal National Mortgage Assn
unavailable

21E30BA08600
City Of Tualatin
18880 SW Martinazzi Ave
Tualatin, OR 97062

21E19CA10800
Walter & Angela Wrahtz
19155 SW Mobile Pl
Tualatin, OR 97062

21E19C 01500
Mpg Partnership-Dr Tongue
6485 SW Borland Rd #a
Tualatin, OR 97062

21E19C 02000
Legacy Health System
1919 NW Lovejoy St
Portland, OR 97209

21E30B 80B01
Gorin Plastic Surgery
Investments LLC
6464 SW Borland Rd #b4
Tualatin, OR 97062

21E30B 80B08
Ajr Real Estate Holdings LLC
2427 Woodhaven Ct
West Linn, OR 97068

21E30B 90A01
Rowin Properties LLC
7550 NE Dog Ridge Rd
Newberg, OR 97132

21E30B 90C02
Rowin Properties LLC
6464 SW Borland Rd #c1
Tualatin, OR 97062

21E19C 01500A1
Mpg Partnership
6485 SW Borland Rd #a
Tualatin, OR 97062

21E30BA08700
City Of Tualatin
18880 SW Martinazzi Ave
Tualatin, OR 97062

21E19CA04400
Brian & Kazuko Yarbrough
5705 SW Natchez St
Tualatin, OR 97062

21E19C 01300
Legacy Health System
1919 NW Lovejoy St
Portland, OR 97209

21E19C 01700
Legacy Health System
1919 NW Lovejoy St
Portland, OR 97209

21E30B 80B02
Ajr Real Estate Holdings LLC
2427 Woodhaven Ct
West Linn, OR 97068

21E30B 80B09
Gorin Plastic Surgery
Investments LLC
6464 SW Borland Rd #b4
Tualatin, OR 97062

21E30B 90A02
Rowin Properties LLC
6464 SW Borland Rd #c2
Tualatin, OR 97062

21E19C 01200
Tualatin Senior Care LLC
Po Box 3006
Salem, OR 97302

21E30B 90000
Tualatin Prof Center Condo
6464 SW Borland Rd
Tualatin, OR 97062

21E19C 01400E1
Meridian Park Hospital
19300 SW 65th Ave
Tualatin, OR 97062

Exhibit "B"

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, November 9, 2009, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN MAP AMENDMENT (PMA) CHANGING THE PLANNING DISTRICT DESIGNATION FROM LOW-DENSITY RESIDENTIAL (RL) TO MEDICAL CENTER (MC) 6001, 6021, 6031, 6041 SW BORLAND ROAD (TAX MAP 21E 19C, TAX LOTS 1700 & 2000), AND AMENDING THE COMMUNITY PLAN MAP 9-1 (PMA-09-03)

Before granting the proposed Quasi-judicial amendments, the City Council must find that: (1) Granting the amendment is in the public interest; (2) The public interest is best protected by granting the amendment at this time; (3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan is considered; (6) The amendment is consistent with Statewide Planning Goals; (7) The amendment is consistent with Metro's Urban Growth Management Functional Plan; and (8) granting the amendment is consistent with Level of Service E/E for the 2040 Design Type EA.

Individuals wishing to comment may do so in writing to the Community Development Department prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity for the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the applications, all documents and evidence relied upon by the applicant (the City of Tualatin) and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff reports will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper at 503-691-3027 or wharper@ci.tualatin.or.us**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on (October 22, 2009)

Mailed: 10/16/2009

Linda Odermott

From: STACY CRAWFORD
Sent: Wednesday, October 21, 2009 8:20 AM
To: Adam Pettitt; Agnela and Philip Hansen; Alan Somervell; Alice Gydesen; Alisha Coppedge; Angela Wrahtz; 'Anthony Caflen'; Anthony Laflen; Barbara Archer; Becky Luther; Bev Marlett; Bill and Joy Wilson; 'Bob Dove'; Brad Helm; Brian; Briana Currey; Bryan and Dianne Yates; Burton Silverman; Chad Sourthards; Charles Brod; Cheri Collins; Cheri Emahiser; Chris Pries; Christen Depweg; 'cindy.oubre@verizon.net'; 'Dana Terhune'; Danielle Ricca; Dave and Diane Burnette; Derek Plank; Diana Gowen; Don Fromme; Donna Barton; 'Doug and Marjene Freiley'; 'Doug Rassmussen'; Gail Patterson; Heidi Bowen; 'Hilary Bissell'; 'Janice Dove'; Jeffry McCulloch; Jessica Wilson; Jim and Julie Fisher; Jim Belan; John Biniewski; John Gardner; Jon Hinrichs; Julie Park; 'Julie Sepp'; Karen Faus; Kathy McCulloch; 'Kevin'; Kevin Miskimins; Kimberly Hultgren; Kimberly Williams; 'Kip Aszman'; 'Kristi Allen'; 'Laurel Aszman'; Lee Williamson; 'LuAnne WELLS'; Mann Tong; Marie Fromme; Michelle Stevens; Miriam Pinoli; Molly Schray; Nancy Heck; Randy Johnson; Randy Leonard; Renee Balsiger; Robert Spadling; Robin Monahan; Roger Nilsen; Ronn Rhodes; Roy Hanash; Sally Ackley; Sharon Erkson; 'Sherri Hauke'; Shirley ONeil; Staci Ball; Stecy James; Steve Balsiger; Steve Bourque; Steve Otos; Steve Stewart; 'suewilcock@gmail.com'; Susan James; Susanne Nelson; 'tallie@macadamsbarandgrill.com'; 'Teri Smith'; 'Terrie Petersen'; 'the5blocks@yahoo.com'; Thor and Judy Thorson; Tim Thornburg; 'Tobi O'Neil'; Todd Graves; 'Tom and Debra Conchuratt'; Tony Ricca; Tori Alderman; Tyler Brown; 'Valeri Cottrell'; 'waltw51@comcast.net'; 'wanalawn@verizon.net'
Cc: gabdevs@teleport.com; Sherilyn Lombos; Doug Rux; Will Harper
Subject: Meridian Park Hospital Plan Map Amendment Courtesy Notice
Attachments: Legacy MPH Vicinity Aerial.pdf; PMA-09-03 Notice of Hearing.pdf

Tualatin Residents:

This email message is from the City of Tualatin Community Development Department regarding Plan Map Amendment PMA-09-03. This message is being provided as a courtesy notice to residents in the east Tualatin area in addition to the City's required notification of property owners within 300 ft. of the proposed land use action.

On November 9, 2009, the Tualatin City Council will hold a public hearing to consider a request by Legacy Health Systems to change the Planning District designation (zoning) of the undeveloped 19.6 acre property east of Legacy Meridian Park Hospital from Low-Density Residential (RL) to Medical Center (MC). The addresses of the property are 6001, 6021, 6031, 6041 SW Borland Road. A pdf format copy of the Notice of Hearing for Plan Map Amendment PMA-09-03 and a Vicinity Map are attached to this message.

The (existing) RL Planning District allows detached single-family residential dwelling development as a permitted use and allows a hospital as a conditional use (subject to City Council approval). The MC Planning District which currently encompasses the Meridian Park Hospital campus allows various hospital and healthcare service uses including a primary care hospital, medical and healthcare professional offices, clinics and laboratories and supporting retail commercial uses (pharmacy, small bank or credit union branch, gift store, salon, etc.) as permitted uses. The MC District also allows residential facilities such as congregate care, assisted living, nursing and convalescent homes as permitted uses.

Changing the designation on 19.6 acres to MC would allow the Meridian Park Hospital campus to expand with buildings, parking and landscaping onto the Legacy Health Systems property in the future, subject to the specific list of allowed uses, minimum lot size and setback provisions, and building height provisions of the MC Planning District.

EXHIBIT D

As a resident or property owner in the Fox Hills, Sequoia Ridge and Venetia residential neighborhoods that border the Legacy Health Systems property on the east and south, you are invited to comment on the proposed change to the MC Planning District or to testify before the City Council at the November 9 public hearing. A copy of the PMA-09-03 application is available on the City's Web site at: http://www.ci.tualatin.or.us/departments/communitydevelopment/planning/.

Email, letter or fax comments will be accepted through Friday November 6 at Noon, to allow for the comments to be provided to the City Council prior to the public hearing. A copy of the PMA-09-03 Staff Report to the City Council will be available on Monday, November 2. You can download the e-packet for the November 9 Council Meeting at the following link: http://www.ci.tualatin.or.us/government/CouncilPackets.cfm.

If you have questions about this message or the proposed PMA-09-03, you may contact the Community Development Department at the following addresses: drux@ci.tualatin.or.us.

Cordially,

Doug Rux
Community Development Director

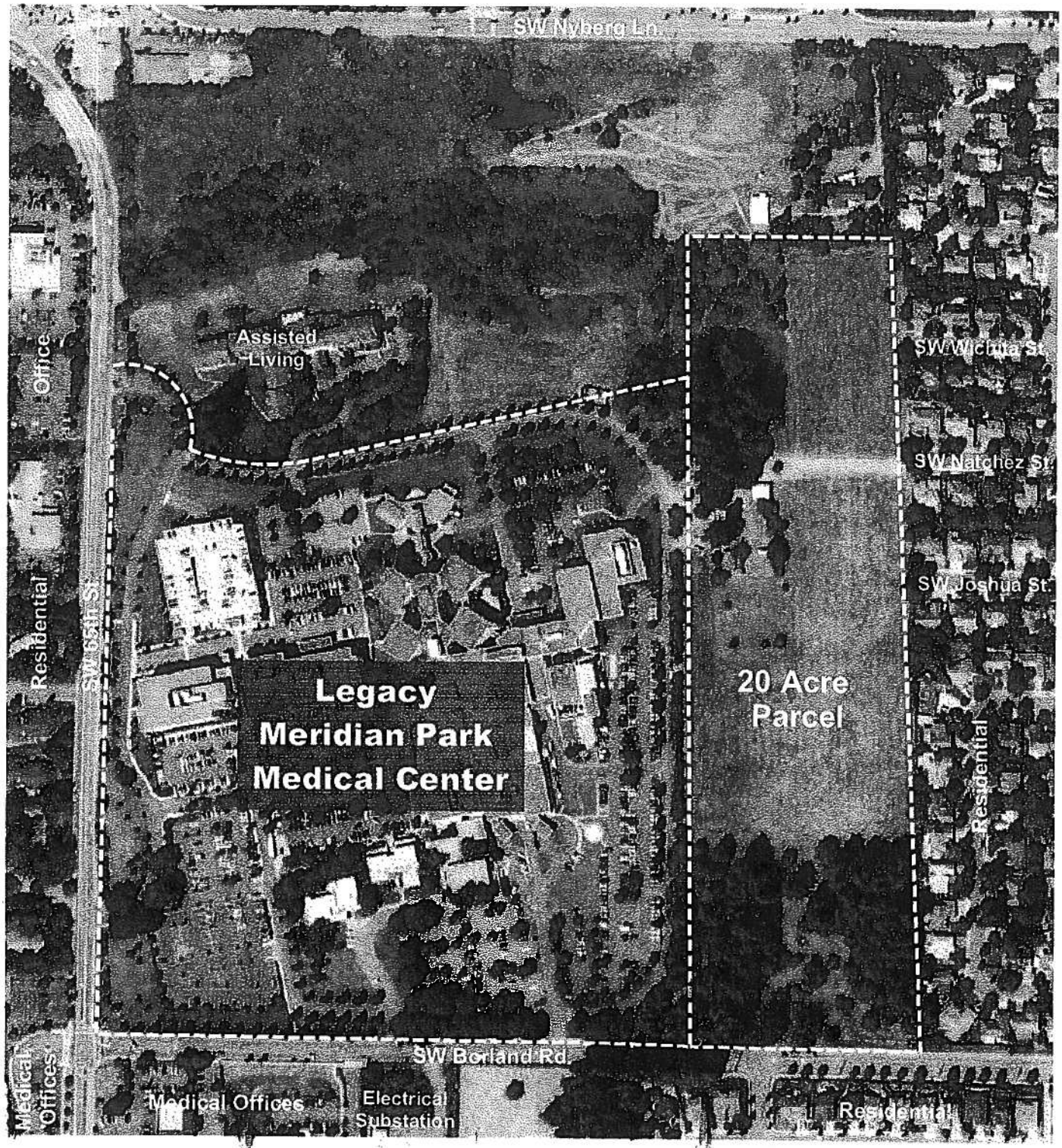
CITY OF TUALATIN
Community Development
18880 SW Martinazzi Avenue
Tualatin, OR 97062
Direct: (503) 691-3018
Fax: (503) 692-0147

Tracking:

Recipient	Read
Adam Pettitt	
Agnela and Philip Hansen	
Alan Somervell	
Alice Gydesen	
Alisha Coppedge	
Angela Wrahtz	
'Anthony Caflen'	
Anthony Laflen	
Barbara Archer	
Becky Luther	
Bev Marlett	
Bill and Joy Wilson	
'Bob Dove'	
Brad Helm	
Brian	
Briana Currey	
Bryan and Dianne Yates	
Burton Silverman	
Chad Sourthards	
Charles Brod	
Cheri Collins	
Cheri Emahiser	
Chris Pries	
Christen Depweg	
'cindy.oubre@verizon.net'	
'Dana Terhune'	
Danielle Ricca	
Dave and Diane Burnette	
Derek Plank	
Diana Gowen	
Don Fromme	
Donna Barton	
'Doug and Marjene Freiley'	
'Doug Rassmussen'	
Gail Patterson	
Heidi Bowen	
'Hilary Bissell'	
'Janice Dove'	
Jeffry McCulloch	
Jessica Wilson	
Jim and Julie Fisher	
Jim Belan	
John Biniewski	
John Gardner	
Jon Hinrichs	
Julie Park	
'Julie Sepp'	
Karen Faus	

Recipient	Read
Kathy McCulloch	
'Kevin'	
Kevin Miskimins	
Kimberly Hultgren	
Kimberly Williams	
'Kip Aszman'	
'Kristi Allen'	
'Laurel Aszman'	
Lee Williamson	
'LuAnne WELLS'	
Mann Tong	
Marie Fromme	
MIchelle Stevens	
Miriam Pinoli	
Molly Schray	
Nancy Heck	
Randy Johnson	
Randy Leonard	
Renee Balsiger	
Robert Spadling	
Robin Monahan	
Roger Nilsen	
Ronn Rhodes	
Roy Hanash	
Sally Ackley	
Sharon Erkson	
'Sherri Hauke'	
Shirley ONeil	
Staci Ball	
Stecy James	
Steve Balsiger	
Steve Bourque	
Steve Otos	
Steve Stewart	
'suewilcock@gmail.com'	
Susan James	
Susanne Nelson	
'tallie@macadamsbarandgrill.com'	
'Teri Smith'	
'Terrie Petersen'	
'the5blocks@yahoo.com'	
Thor and Judy Thorson	
Tim Thornburg	
'Tobi O'Neil'	
Todd Graves	
'Tom and Debra Conchuratt'	
Tony Ricca	

Recipient	Read
Tori Alderman	
Tyler Brown	
'Valeri Cottrell'	
'waltw51@comcast.net'	
'wanalawn@verizon.net'	
gabdevs@teleport.com	
Sherilyn Lombos	
Doug Rux	Read: 10/21/2009 10:32 AM
Will Harper	Read: 10/21/2009 8:24 AM



N

Site Plan

Scale 1" = 300'-0"

LEGACY MERIDIAN PARK MEDICAL CENTER
Tualatin, OR

Attachment A
Vicinity Map

City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING
CITY OF TUALATIN, OREGON

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Individuals wishing to comment may do so in writing to the Community Development Department prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity for the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the applications, all documents and evidence relied upon by the applicant (the City of Tualatin) and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff reports will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper at 503-691-3027 or wharper@ci.tualatin.or.us**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on (October 22, 2009)

Mailed: 10/16/2009

ATTACHMENT F

PMA-09-03: ANALYSIS AND FINDINGS

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

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

A. 1. Granting the amendment is in the public interest.

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

As identified by staff, the public interest is to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Criterion "2" is met.

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

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

General Growth Objectives:

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

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

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

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

Semi-Public Land Uses--Objectives:

TDC 8.050 Objective (2) Allow uses such as churches, retirement homes and hospitals in commercial and residential planning districts, subject to conditional use approval, and allow congregate care facilities, assisted living facilities and residential care facilities and hospitals as permitted uses in the Medical Center District..
TDC 8.050 Objective (4) Locate uses such as churches, retirement homes and hospitals that are in residential planning districts adjacent to arterial or collector streets and close to the City's park areas.

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

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

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

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

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

Criterion "3" is met.

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

The various characteristics of areas in the City.

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

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

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

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

Trends in land improvement and development.

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

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

Property values.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proof of a change in a neighborhood or area.

The Applicant states: "...changing the designation to MC specifically governs and permits medical center and related uses and applies the development standards need to buffer these uses from adjacent uses." "...the area is primarily built out and the subject property is the best remaining parcel for medical center expansion." Attachment D, pg. 4)

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

A mistake in the plan map or text.

No mistake is alleged or found.

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

Criterion "4" is met.

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

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

Criterion "5" was considered.

F. Oregon Statewide Planning Goals

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

The Applicant addresses these Goals as follows:
Goal 1: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.
Goal 2: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

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

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

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

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

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

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

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

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

Table 2A

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

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

Table 2B

PMA-09-02 Metro Housing Rule New Construction Mix

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

10/2/2009

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

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

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

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

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

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

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

No comment was received from Metro.

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

Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The PMA proposes to change the low density residential (RL) planning district which supports 1-6.4 dwelling units per acre to MC which allows care facilities with a minimum of 16 dwelling units per development area acre [56.080(6)]. Depending if the uses established on the property include a care facility with a minimum 16 dwelling units per acre of development, the proposed change to an MC Planning District and Employment Area designation may change the City's ability to attain the housing capacity target number set by Metro. A similar analysis applies to the Title 7 (Affordable Housing) provisions. While the property is proposed to leave a residential designation,

the MC District allows needed care facility housing that can be more affordable housing than if typical RL Planning District is developed as single family subdivisions.

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

The submitted traffic information (Attachment D, Kittelson & Associates August 21, 2009 & October 1, 2009 memorandums) analyzes Reasonable Worst Case scenarios for existing RL conditional uses and changing the Planning District designation of the subject parcel from RL to MC for three scenarios. Under the worst case scenarios for the current RL zone and proposed MC zone in the 2029 analysis, except for SW 65th & Sagert which is F/F under all scenarios, the study intersections are forecasted to have a LOS within the E/E prescribed in the TDC during the weekday p.m. peak hour & a.m. peak hour respectively.

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

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

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

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

1. If the roads adjoining the property (Joshua, Wichita, Natchez) are connected as through streets, I have concerns about the additional traffic that would travel through the Fox Hill neighborhood. With the recent approval of the Stafford Hills Racquet & Fitness Club (SHRFC) traffic increase, I would ask that the city consider not extending the above streets so that no additional commercial traffic will come through a residential neighborhood.

2. When the property eventually has buildings and parking lots built, I have concerns about the water runoff. With the recent approval of the SHRFC build-out to pave over the property directly below the Hospital, water runoff down to Nyberg Lane is already a concern. If mass amounts of impervious surface are added to the hospital property, the below properties (including mine) and Nyberg Lane will be impacted to an even greater extent than they are now.

Thank you for considering these concerns.

PMA-09-03

Doug Rux

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

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

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

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

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

Sincerly,

Mark Coolican
19050 SW Mobile Pl
Tualatin, OR