



**TUALATIN CITY COUNCIL
AND
TUALATIN DEVELOPMENT COMMISSION**
Monday, January 28, 2008

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 Ed Truax
Councilor Chris Barhyte
Councilor Monique Beikman

Councilor Bob Boryska
Councilor Jay Harris
Councilor Donna Maddux

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 8380 SW Nyberg Street, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011 (voice) or 503.692.0574 (TDD). Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised "live" on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at www.tvctv.org.

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

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 10 minutes**, subject to the right of the Mayor to amend or waive the time limits.

EXECUTIVE SESSION INFORMATION

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

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



A. CALL TO ORDER
Pledge of Allegiance

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

C. CITIZEN COMMENTS

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

D. CONSENT AGENDA (Item Nos. 1 – 7)

Page #

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

- 1. Approval of Minutes for the Special Work Session Meeting of January 9, 20085
- 2. Approval of Change of Ownership Liquor License Application for PacWest LLC dba Jacksons #553..... 11
- 3. Resolution No. 4745-08 Authorizing an Intergovernmental Agreement (IGA) Between the City of Tualatin ("Tualatin") and Washington County Broadband Users Group 13
- 4. Resolution No. 4746-08 Supporting a Clackamas County Order to Initiate the Formation of the Clackamas County Extension Service and 4-H District28
- 5. Resolution No. 4747-08 Authorizing the Killarney Lane Sewer Project30
- 6. Resolution No. 4748-08 Authorizing Deed of Dedication and Public Utility Easement Associated with the Library and City Offices Expansion Project (Tax Map 2S1 24B, tax lot 1900 & 2001)34
- 7. Resolution No. 4749-08 Authorizing a Settlement, Property Acquisition, and Right-of-Way Agreement with Franklin Business Park, LLC 46

E. PUBLIC HEARINGS – Legislative or Other

- 1. PTA-07-06 – Amending the Multi-Family Design Standards in TDC 72.130 and 73.190 For Lands Within the Mixed Use Commercial Overlay District (MUCOD)72

F. PUBLIC HEARINGS – Quasi-Judicial
None.

G. GENERAL BUSINESS (Item Nos. 1 – 2)

- 1. Ordinance No. 1251-08 Related to Amending the Industrial Business Park Overlay Planning District (IBPOD) to Allow a Child Day Care Center Use in an IBPOD Development Greater than 10 Acres in Size; Amending TDC 69.020 and 69.065 (PTA 07-05) 131
- 2. Commuter Rail Train Horn Noise Mitigation Update..... 183

H. ITEMS REMOVED FROM CONSENT AGENDA

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

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION


K. ADJOURNMENT



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: January 28, 2008

SUBJECT: APPROVE MEETING MINUTES OF THE SPECIAL WORK SESSION OF JANUARY 9, 2008

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes for the City Council Special Work Session on January 9, 2008.

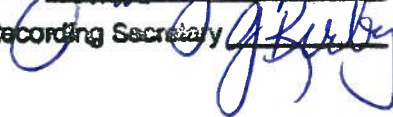
RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

Attachments: A. Minutes

Approved By Tualatin City Council
Date January 28, 2008
Recording Secretary 



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

Approved By Tualatin City Council
Date January 28, 2008
Recording Secretary G. Kirby

TUALATIN CITY COUNCIL SPECIAL WORK SESSION MINUTES OF JANUARY 9, 2008

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Bob Boryska, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Carina Christensen, Assistant to the City Manager; Dan Boss, Operations Director; Paul Hennon, Community Services Director; Eric Underwood, Program Coordinator; Ginny Kirby, Recording Secretary

ABSENT: [*denotes excused]

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

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 6:05 p.m.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Transportation Funding & Priorities

Ms. Lombos noted there would be a brief presentation and then she wanted to get an idea on how Council wants to allocate the MSTIP4 dollars and, secondly, start a discussion about Council's transportation priorities.

Michael McKillip, City Engineer, gave a PowerPoint presentation on transportation. He explained MSTIP's purpose and how funds are allocated. The purpose - to relieve the current "pain and suffering" due to traffic and the limits of the current transportation systems, and System Development Charges (SDCs) to deal with future growth. Funds allocated - property taxes allocated through the Washington County General Fund.

Mr. McKillip reviewed past MSTIP projects, which include Tualatin-Sherwood Road, Tualatin Road, 124th Avenue, Boones Ferry Road; Local funds: 15 to 99W and Commuter Rail.

Funding sources/options include: MSTIP, TIF/SDC, Urban Renewal, MTIP, gas tax, new development, and Local improvement districts. Mayor Ogden asked if a sales tax was possible; it was noted that it would be. Mr. McKillip said that potential new projects must be mindful of environmental impacts/concerns, which is currently something taken into great consideration with projects.

Transportation System Plan (TSP) was the next topic. Ms. Lombos reiterated that Council discussed this item at their recent retreat. The information is provided tonight to give Council a chance to step back and examine exactly what it is. TSP is a plan to develop roads in response to existing and proposed land uses that will result in the adopted levels of service being met. It was last adopted in 2001. It will be reviewed again beginning in 2009 as part of a periodic review. It could be partly amended as part of I5-99W Connector Study, UGB expansions, or other major events.

Brief discussion followed regarding development plans, the transportation plan, and levels of service. It was noted that Tualatin can't do the final approval of its own TSP; it has to go "above" to Metro and the State for approval. Discussion continued regarding processes.

The next two slides showed completed projects and future projects. Future projects include projects that are on a list that includes funded and "wish list" projects. Future is defined to reach out as far as the year 2020-2021.

It was noted that when the TSP has a project listed (ex: Boones Ferry Road expansion to 5-lanes), it doesn't necessarily mean that Boones Ferry Road will be 5-lanes at some point in the future; rather, the TSP is providing for the possibility that if warranted, Boones Ferry Road may be widened to 5-lanes in the future if deemed needed. Discussion followed.

Next Mr. McKillip reviewed other projects to consider for funding:

1. 124th Avenue (full width)
2. Teton Avenue/Tualatin-Sherwood Road intersection
3. Avery Street/Boones Ferry Road intersection

Discussion continued regarding Tualatin-Sherwood Road traffic volumes and potential development plans along the route. Also, what plans the County has for the facility, which include widening Tualatin-Sherwood Road to 5-lanes from Avery Street to 99W. It was asked about possible improvements in the area of Tonquin Road, Day Road, and Grahams Ferry Road; brief discussion followed.

Mayor Ogden asked if Council wanted to have a dollar figure and then see which projects could be done for that now that don't necessarily have longterm benefits; or would Council rather decide on a major project that could use MSTIP dollars as "seed" money to accomplish, even possibly partnering with Sherwood or other neighboring communities if they were interested. Mr. McKillip said Tualatin would most likely receive in the neighborhood of \$8-\$10 million in MSTIP dollars.

The next topic of discussion was transportation priorities and philosophy. Tualatin is broken down into three "areas": Central Core, Tualatin-Sherwood Road and Industrial land, and Residential areas. Each area has a different priority. Downtown would be oriented to be user-friendly for shopping, community events, and nightlife; Tualatin-Sherwood Road/Industrial contains our economic drivers that includes the need for a way for their trucks to get out of town; and then there is the Residential areas.

The idea of parallel routes to Tualatin-Sherwood Road were discussed. Concerns were expressed that when you build a new facility to alleviate congestion, it typically attracts more vehicles and then the new facility becomes congested and the problem you were trying to "fix" is recreated.

Ms. Lombos said she wanted to get back to the question of "around town" or "through town". Council favored "around town". Discussion followed regarding possible partnering with Sherwood for a bypass route.

November 13, 2007 project list:

1. 124th Avenue - share with Sherwood; need to annex and start development; another potential route for traffic to I-5; could be done in smaller cross-sections.
2. Herman Road - could be completed; Tualatin Road-Teton Avenue \$2.5 million; 124th Avenue-Cipole Road \$4.1 million.
3. Boones Ferry Road, Martinazzi Avenue-Lower Boones Ferry Road - could share with Durham/ODOT \$12.3 million.

4. Grahams Ferry Road, Ibach Street to County line – share with Washington County, Wilsonville; Helenius Street-Day Road \$28 million; Helenius Street-Ibach Street \$11.3 million
5. Tualatin Road, Lower Boones Ferry Road through Community Park – coordinate with development; relieve traffic in town center \$33.6 million
6. Myslony Street, 112th Avenue-124th Avenue - \$9.4 million

Some other projects for consideration are:

1. 124th Avenue – full width, 750 LF, \$10 million; 28' width, 3000 LF \$10 million
2. Teton Avenue/Tualatin-Sherwood Road intersection – add left turn lane for dual lefts from southbound to eastbound for trucks; add right turn lane for northbound to eastbound for trucks \$2.2 million
3. Avery Street/Boones Ferry Road intersection – add right turn lane for southbound to westbound; add right turn lane for eastbound to southbound \$1.5 million

Mayor Ogden said he felt Council needed a project list and then decide priorities for the MSTIP dollars. Councilor Boryska suggested a gas tax for Tualatin. Councilor Harris asked if Council could get the Tualatin-Sherwood Road traffic volume information. Councilor Maddux asked if there were a regional transportation lobbyist.

It was decided that Council would schedule a block of time to continue the transportation discussion at a future date.

[10 minute break was taken at 8:21 p.m.]

Criteria for Allocation of Funds to Outside Agencies

Ms. Lombos reviewed some methods of evaluation of funding requests that a few other agencies use. Ideas for criteria were discussed, including establishing a numeric value for a set of questions, or possibly establish a subcommittee to make the decisions.

Ms. Lombos reiterated that Mr. Park had given a \$30,000 gift to the City with the stipulation that it be education-related. Councilor Harris asked if there could be some system set up for next year's budget committee; possible to get a new system on board for this year's requests.

The Mayor posed the question to Council - Do we want to be able to have a set amount of money to "award" as we see fit or do we want to keep the funds limited to social services.

Councilor Truax expressed concerns about going too far with formal criteria. If you adopt very specific criteria, such as those listed in the memo, some funding requests would not be legal due to tax status. Discussion followed.

Mayor Ogden asked if Council wanted to take the full \$30,000 and spend it on traditional social service entities or put a dollar cap on funding and decide what groups would receive some dollars – not limited to social services only.

Social Service and Community Service categories were discussed; it was finally decided to use the Outside Agencies terminology. Discussion continued regarding what types of information would be desired of potential funding recipients and possible questions to include on a funding request form.

Mayor Ogden asked staff to research the issue of giving funds to agencies that may not have non-profit status. Consensus of Council was to take City of Tigard's form and modify for City of Tualatin to use; possibly limit past tax records request to one year. Council then briefly discussed historically received funds.

Ms. Lombos summarized Council's decisions:

Subcommittee – no

Request for funds application – yes

Forced rating or numerical values - no

Keep amounts open – yes (not "\$ buckets" idea)

Use the term "Outside Agencies" - yes

Keep simple process for the Outside Agency and the City

Hard deadline or keep open - Go through budget and establish a dollar figure; then send out letters

Discussion continued about how to deal with the remaining funds available from the original \$30,000; several ideas on method were suggested.

[Councilor Beikman left at 9:57 p.m.]

It was reiterated that at a previous Council work session, Council had decided on how to distribute \$17,500 of the total \$30,000; leaving \$12,500 to allot. Council then began deliberations on how to apportion the remaining \$12,500. After much discussion, Council decided the TOTAL allocation of funds would be:

Family Resource Center	\$5,500
Schoolhouse Food Pantry	\$5,000
Domestic Violence Resource Center	\$4,000
Good Neighbor Center	\$4,000
Sexual Assault Resource Center	\$3,000
Special Olympics Oregon	\$2,500
Community Action Organization	\$2,000
Tualatin City Little League	\$1,000
Tualatin Fastpitch Softball	\$1,000
Timberwolves Youth Football	\$1,000
Oregon Dog Rescue	\$ 500
Boy Scout Troop #35	\$ 500

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

Not applicable.

E. PUBLIC HEARINGS - Legislative or Other

Not applicable.

F. PUBLIC HEARINGS - Quasi-Judicial

Not applicable.

G. GENERAL BUSINESS

Not applicable.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COUNCILORS

Councilor Truax wanted to say, since he may not make it to the meeting on January 14, 2008 in time for the Killamey Lane item, that he is comfortable with the original decision made by Council, but he wants sidewalks.

J. EXECUTIVE SESSION

none

K. ADJOURNMENT

Meeting adjourned at 10:17 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink that reads "Ginny Kirby". The signature is written in a cursive style and is positioned to the right of the printed text "Recording Secretary".



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager *SL*

DATE: January 28, 2008

SUBJECT: APPROVAL OF CHANGE OF OWNERSHIP LIQUOR LICENSE APPLICATION FOR PACWEST LLC DBA "JACKSONS #533"

ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a change of ownership liquor license application for PacWest LLC dba Jacksons #533.

RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Jacksons #533.

EXECUTIVE SUMMARY:

Jacksons #533 has submitted a liquor license application. The liquor license is for Off-Premises Sales with Fuel Pumps. The business is located at 7090 SW Nyberg Street. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

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

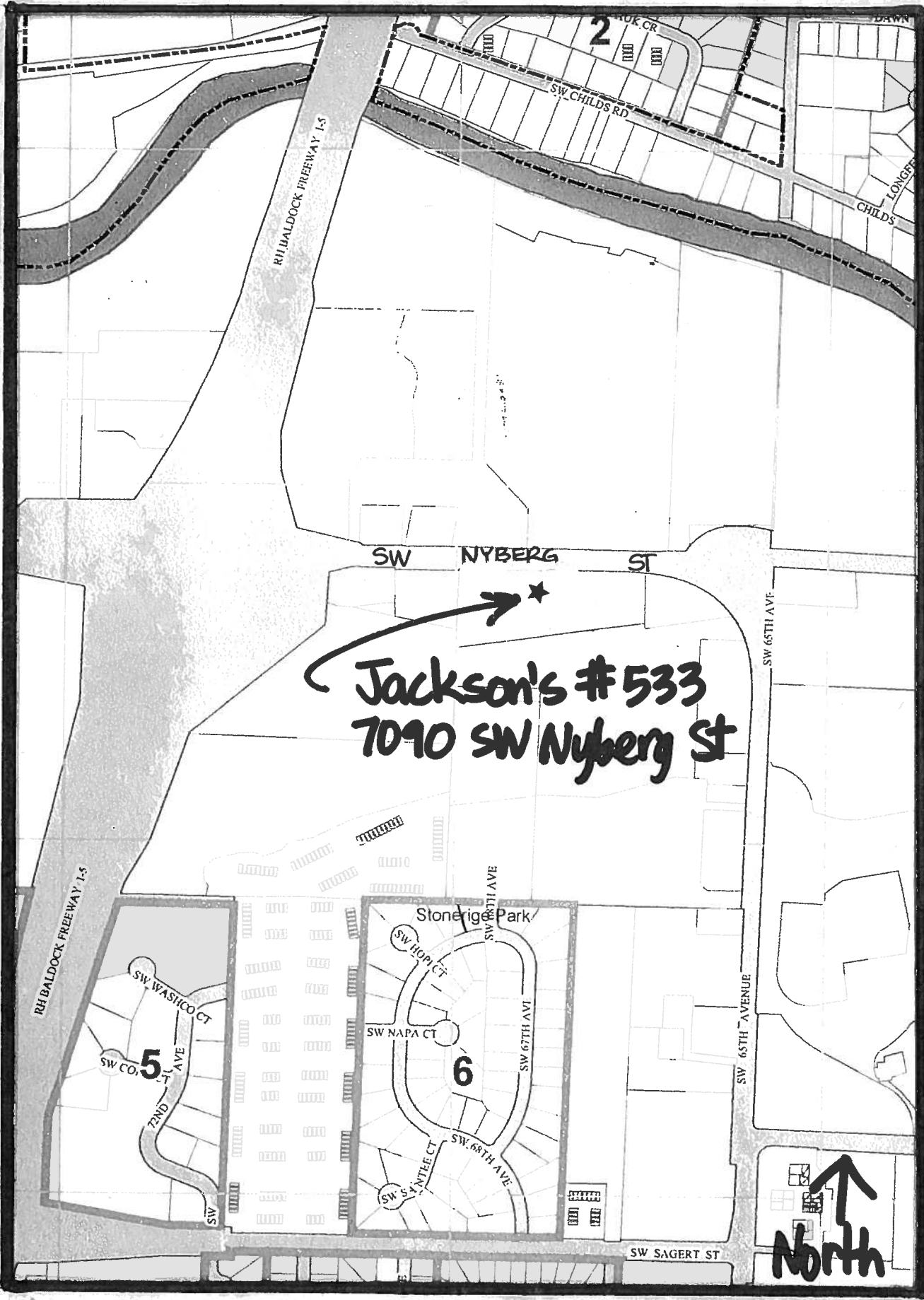
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for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

FINANCIAL IMPLICATIONS:

A fee of \$100 has been paid by the applicant.

Attachments: Vicinity Map

Approved By Tualatin City Council
Date *January 28, 2008*
Recording Secretary *[Signature]*



Jackson's #533
7090 SW Nyberg St



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION



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 chg ml

P 20738
2. 70686
3/08

Applying as:

Individuals Limited Partnership Corporation Limited Liability Company

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

CITY OF TUALATIN
(name of city or county)

recommends that this license be:

Granted Denied

By: [Signature] Jan. 28, 2008
(signature) (date)

Name: Ed Truax

Title: Mayor Pro tem

OLCC USE ONLY

Application Rec'd by: [Signature]

Date: 12/7/07

90-day authority: Yes No

1. Applicant(s): [See SECTION 1 of the Guide]

① Jacksons Food Stores, Inc - ③
Pac West Energy LLC ④

2. Trade Name (dba): Jacksons #533

3. Business Location: 7090 SW Nyberg Rd Tualatin, Washington, OR 97062
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 3450 Commercial Ct Meridian ID 83642
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-692-8123
(phone) (fax)

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

7. If yes to whom: First Hand Mgmt LLC Type of License: off premises w/pumps

8. Former Business Name: First Hand Mgmt LLC 7090 SW Nyberg Rd shell

9. Will you have a manager? Yes No Name: Cindy Harry
(manager must fill out an individual history form)

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

11. Contact person for this application: Cindy Burnett 208-888-6064
(name) (phone number(s))
3450 Commercial Ct. Meridian ID 83642
(address) (fax number) (e-mail address)

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

Applicant(s) Signature(s) and Date:

① Andrea Jacks Date 11.14.07

② _____ Date _____

Andrea



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

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.): Jacksons City: Meridia

1. Name: Jackson (last) Andrea (first) lea (middle)

2. Other names used (maiden, other): n/a

3. Residence Address: 1625 W. Fordham Dr Eagle (number and street) (city) ID (state) 83616 (ZIP code)

8 () 939-1274 Business Phone: (208) 888-6063

5. SSN: [REDACTED] Place of Birth: Caldwell ID (State/Country) USA (State/Country) 01/02/62 (mm) (dd) (yyyy) DOB: Sex: M F X

6. Driver License or State ID #: ZA106992F State: ID Spouse's name: Terry Sevy

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

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 and where? _____

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony? (Include traffic violations, if the fine was more than \$50.00) X Yes No
If yes, what, when and where? _____

OSP/DMV
Search Completed
OCT 05 2006

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

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 _____

INITIALS: AK

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: _____

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: Andrea Jackson Date: 8/24/06

***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 § 668(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: Andrea Jackson Date: 8/24/06



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION



Please Print or Type

Applicant Name: Jacksons Food Stores, Inc Phone: _____

Trade Name (dba): JACKSONS #533

Business Location Address: 7090 SW Nyberg Rd

City: Tualatin ZIP Code: 97062

DAYS AND HOURS OF OPERATION

24-7 Days

Business Hours:
 Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday _____ to _____
 Thursday _____ to _____
 Friday _____ to _____
 Saturday _____ to _____

Outdoor Area Hours:
~~Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday _____ to _____
 Thursday _____ to _____
 Friday _____ to _____
 Saturday _____ to _____~~

The outdoor area is used for:
 Food service Hours: _____ to _____
 Alcohol service Hours: _____ to _____
 Enclosed, how _____
 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 Karaoke
 Recorded Music Coin-operated Games
 DJ Music Video Lottery Machines
 Dancing Social Gaming
 Nude Entertainers Pool Tables
 Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____
 Monday _____ to _____
 Tuesday _____ to _____
 Wednesday _____ to _____
 Thursday _____ to _____
 Friday _____ to _____
 Saturday _____ to _____

SEATING COUNT

Restaurant: _____ Outdoor: _____
 Lounge: _____ Other (explain): _____
 Banquet: _____ Total Seating: _____

OLCC USE ONLY
 Investigator Verified Seating: ____ (Y) ____ (N)
 Investigator Initials: _____
 Date: _____

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

Applicant Signature: Andrea Sacks Date: 11-15-07

Receipt # 485 294
80869



CITY OF TUALATIN LIQUOR LICENSE APPLICATION

Date 12-31-07

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

SECTION 1: TYPE OF APPLICATION

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

SECTION 2: DESCRIPTION OF BUSINESS

Name of business(dba): PacWest LLC dba Jacksons # 533

Business address: 7090 SW Nyberg Rd City: Tualatin State: OR Zip Code: 97062

Telephone #: 503-692-8123 Fax #: _____

Name(s) of business manager(s): First Andrea Middle Lea Last Jackson

Date of birth 1-2-62 Social Security # 518-54-2969 ODL# ZA106 992FM F X

Home address: 625 W. Fordham City: Eagle State: ID Zip Code: 83642
(attach additional pages if necessary)

Type of business: Convenience Store

Type of food served: Fast Food

Type of entertainment (dancing, live music, exotic dancers, etc.): n/A

Days and hours of operation: 24 hours 7 Days of week

Food service hours: Breakfast: yes Lunch: yes Dinner: yes

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? legal limit

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

SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants: _____

Type of liquor license (refer to OLCC form): _____

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

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

Full name: _____ Date of birth: _____

Residence address: _____

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

Full name: _____ Date of birth: _____

Residence address: _____

Full name: _____ Date of birth: _____

Residence address: _____

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

(a) Name and business address of registered agent.

Full name: _____

Business address: _____

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

Full name: _____ Date of birth: _____

Residence address: _____

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

Full name of president: _____ Date of birth: _____

Residence address: _____

Full name of treasurer: _____ Date of birth: _____

Residence address: _____

Full name of secretary: _____ Date of birth: _____

Residence address: _____

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

Full name: Pac West, LLC dba Jacksons Food Stores Date of birth: _____

Residence address: 3450 Commercial Ct Meridian ID 83642

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.

Andrew Sacks 12.31.07
Signature of Applicant Date

For City Use Only

Sources Checked:
 DMV by [Signature] LEADS by [Signature] TuPD Records by [Signature]

Public Records by [Signature]

*Jackson - no contacts
location - see attached*

It is recommended that this application be:

Granted *jas*

Denied

Cause of unfavorable recommendation: _____

Kent W. Barker
Signature

1/14/08
Date


Kent W. Barker
Chief of Police
Tualatin Police Department



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager 

FROM: John Wall, Information Services Director

DATE: January 28, 2008

SUBJECT: RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF TUALATIN ("TUALATIN") AND WASHINGTON COUNTY BROADBAND USERS GROUP (BUG)

ISSUE BEFORE THE COUNCIL:

The Council will consider whether to sign the amended Intergovernmental Agreement (IGA) that changes the scope of the Washington County Broadband Users Group (BUG)

RECOMMENDATION:

Staff recommends signing the agreement.

EXECUTIVE SUMMARY:

This is a modification of the IGA with the BUG, in which the City has been involved for the last 8 years. The current participants in the group are Washington County, Hillsboro, Beaverton, Clean Water Services, WCCLS, TVF&R, Lake Oswego, Tigard, Forest Grove, WCCCA, MACC, Cornelius, King City and Tualatin. The purpose of the BUG is "to foster collaboration between the participants including the shared use of the Public Communications Network, Internet access, communication devices and communication equipment."

The modifications to the IGA include the following:

- A governing board comprised of the chief executive officer or designee is established to review and approve strategic plans, goals and objectives.
- An executive committee, consisting of five members of the Governing Board, is responsible for reviewing and making recommendations to the Governing Board on strategic plans, the budget, fee schedules, adding new members or terminating current participants.

Approved By Tualatin City Council

Date January 28, 2008
By [Signature]

- The fee structure is based upon each participant's annual Internet usage.
- If a participant wishes to withdraw from the BUG, the participant may only withdraw after 6 months notice and must pay its fee for the entire year.
- A participant may be terminated by the other participants if it fails to pay its dues or acts in a manner that is inconsistent with the duties of a participant by violating rules or procedures.
- The IGA's term is changed from a 7-year to a 5-year agreement.

ORS 190 allows local governments to enter into intergovernmental agreements. The former Council approved the earlier IGA.

OUTCOMES OF DECISION:

If Council approves IGA the City of Tualatin will be allowed to maintain its membership in the BUG.

If Council does not approve the IGA, the City would lose BUG technical support, Internet connectivity, and Firewall and Remote login devices through the BUG. The City would then have to obtain another Internet Service Provider and purchase a robust firewall and remote login device on its own. Although it would be possible to find another Internet Service Provider, the task is complicated by the Police Department's need for secure police communications.

FINANCIAL IMPLICATIONS:

Membership to the BUG costs the City of Tualatin approximately \$15,000 per year and is a budgeted item.

Attachments:

- A. Resolution to authorize Mayor to sign the IGA
- B. Broadband Users Group IGA

RESOLUTION NO. 4745-08

RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF TUALATIN ("TUALATIN") AND WASHINGTON COUNTY BROADBAND USERS GROUP (BUG)

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

Section 1. The Mayor is authorized to sign the attached IGA between "Tualatin" and BUG; and

Section 2. The City Manager or their designee is authorized to modify Exhibit A to the IGA without City Council review and approval.

INTRODUCED AND ADOPTED this 28th day of January 2008.

CITY OF TUALATIN, OREGON

BY  _____
Mayor Pro tem

ATTEST:

BY  _____
City Recorder

Approved as to Form:

 _____
City Attorney

Resolution No. 4745-08

**INTERGOVERNMENTAL AGREEMENT
BROADBAND USER'S GROUP (BUG)**

FILE COPY

*Shared Use of Public Communication Network, Internet Access, Communication Devices and
Communication Equipment*

FINDINGS

This Intergovernmental Agreement (Agreement) is between the units of local government listed in Exhibit A that is incorporated by reference. Each entity listed is a Participant.

- A. ORS 190.010 authorizes the Participants to provide shared use of the public communication network, internet access, communication devices and communication equipment among the Participants referred to as the Broadband Users Group (BUG); and,
- B. The Intergovernmental Agreement "Shared Use of Public Communications Network, Internet Access, Communication Devices and Computer Equipment." (Original Agreement) is terminated and replaced by this Agreement

AGREEMENT

1. Broadband Users Group Established

1.1. The Broadband Users Group (BUG) is established.

2. Purpose

2.1. The BUG is formed to foster collaboration between the Participants including the shared use of the Public Communications Network, internet access, communication devices and communication equipment. The BUG may exercise any of the powers, rights, duties necessary to carry out the purposes of this Agreement including the authority to expend funds necessary to perform the following:

- 2.1.1. Shared usage of advances in technology, internetworking resources and interoperability solutions;
- 2.1.2. Shared equipment and services associated with agency interconnects and shared internet access;
- 2.1.3. Shared cost of the acquired equipment, internet workings and interoperability solutions;
- 2.1.4. Development of internal expertise , including personnel, to share among the Participants;
- 2.1.5. Provision of a best practices frame-work for Participants to follow for secure internetwork configuration management and equipment and resources for centralized access to the internet;
- 2.1.6. Becoming a model for units of local government in sharing the technology, expertise and cost to benefit the citizens and taxpayers of the Participants;
- 2.1.7. Maintaining secure computer connections to the shared broadband infrastructure in accordance with this Agreement; and;

- 2.1.8. Use of the shared Wide Area Network in a manner that will not impair other Participants' use of the Wide Area Network and the internet connection.

3. Definitions

3.1. As used in this Agreement, the following terms mean:

- 3.1.1. Broadband Users Group (BUG): The collective group of Participants with the responsibilities stated in sections 4, 5 and 6 of this Agreement.
- 3.1.2. Governing Board (GB): The BUG GB members are Participant representatives with the responsibilities set forth in section 4 of this Agreement.
- 3.1.3. Executive Committee (EC): The BUG EC members are Participant representatives with the oversight responsibilities set forth in section 5 of this Agreement.
- 3.1.4. Fiscal Year: The BUG fiscal year shall be July 1 to June 30 of each calendar year.
- 3.1.5. BUG Operations Team (BOT): The BOT team members are Participant representatives with the operating responsibilities set forth in section 6 of this Agreement.
- 3.1.6. Participant of BUG: Participants shall make payments to the BUG as stated in the standard schedule attached as Exhibit B to this Agreement. Participants have representation on the GB and the BOT, vote on all BUG matters and may propose items for any GB or BOT meeting agenda.
- 3.1.7. Provisional Participant of BUG: Provisional participants shall make payments to the BUG as stated in the special schedule attached as Exhibit C to this Agreement. Provisional participants may not vote on BUG matters. They are normally small agencies with reasons to join BUG, but who lack the financial ability or internal support resources required to be a Participant.
- 3.1.8. Public Communications Network (PCN): The public fiber network owned/operated by Comcast Cable, as a requirement of their franchise with the Metropolitan Area Communications Commission (MACC), which was built to provide service within the MACC member jurisdictions.
- 3.1.9. Lead Administrative Agency: The agency that houses, maintains, and configures shared physical assets and handles administrative and financial functions for the BUG.
- 3.1.10. Written Notice: Includes paper (via USPS or hand delivery), facsimile, or successful email transmission. However, all notices of termination or withdrawal from BUG must be in writing on the Participant's official letterhead and must be delivered via USPS or by hand.

4. Governing Board

- 4.1. The GB shall be composed of the chief executive officer or designee of each Participant entity.
- 4.2. The GB is responsible for:
 - 4.2.1. Review and approve BUG strategic plans, goals and objectives and annual work plans recommended by the EC and prepared by the BOT,
 - 4.2.2. Review and approve the annual budget, related fee schedules, and other fiscal documents recommended by the EC and prepared by the BOT,

- 4.2.3. Approve the addition or expulsion of Participants,
 - 4.2.4. Approve selection of the Lead Administrative Agency,
 - 4.2.5. Review and approve the standard and special schedules once a year (see Exhibits B & C), and,
 - 4.2.6. Approve the Service Level Agreement (SLA) with the Lead Administrative Agency.
- 4.3. A majority of the GB members constitutes a quorum at any special or regular meeting.
- 4.4. The GB will adopt rules governing its procedures including the time and place of its regular quarterly meetings, and a procedure for calling special meetings.
- 4.5. The GB will elect a Chair and Vice Chair by a simple majority vote of the members; however, neither the Chair nor the Vice Chair may be the chief executive officer or designee of the Lead Administrative Agency. The terms will be for two years, with elections held at the first meeting in even numbered fiscal years. The Vice-Chair will preside and act in the absence of the Chair. The Lead Administrative Agency will be the Clerk of the GB and is responsible for providing notices of meetings and keeping of minutes. Any permanent vacancy in the positions of Chair or Vice-Chair shall be filled by a special election of the GB held at a regular or special meeting of the GB.

5. Executive Committee

- 5.1. The EC shall consist of 5 members of the GB. These members shall include: the Chair of the GB; the GB representative from Washington County; the GB representative from Washington County Cooperative Library Services; one (1) GB representative selected by the special district representatives; and one (1) GB representative selected by the municipal government Participants. If the GB Chair is the representative from Washington County, Washington County Cooperative Library Services, or a special district then the membership on the EC normally designated for that group or entity shall be a GB representative from a second municipal government Participant. At no time shall any Participant have more than 1 representative on the EC. Except for the EC Chair, all other members shall be appointed to serve for one fiscal year and may serve more than one term.
- 5.2. The EC is responsible for:
- 5.2.1. Review and recommend to GB strategic plans, goals and objectives and annual work plans prepared by the BOT,
 - 5.2.2. Review and recommend to GB the annual budget, related fee schedules and other fiscal documents prepared by the BOT,
 - 5.2.3. Recommend to GB the addition of new Participants, or the expulsion of current Participants,
 - 5.2.4. Recommend to GB the approval of the selection of the Lead Administrative Agency,
 - 5.2.5. Review regular BOT updates regarding status and issues related to BUG operations and recommend to GB required action if appropriate, and
 - 5.2.6. Review and recommend SLA with Lead Administrative Agency.
- 5.3. A majority of the EC members constitutes a quorum at any special or regular meeting.

- 5.4. The EC will adopt rules governing its procedures including the time and place of its regular meetings, and a procedure for calling special meetings.
- 6. BUG Operations Team**
- 6.1. The BOT shall have one representative appointed by each Participant, and each representative has one vote.
- 6.2. The BOT will nominate and elect a Chair, Vice Chair, and Secretary for two year terms. The Vice Chair will preside and act in the absence of the Chair.
- 6.3. A majority of the BOT members constitutes a quorum.
- 6.4. The BOT will meet at least quarterly at a time and place designated by the Chair. All meetings require at least seven days written notice to all BOT members. Special meetings of the BOT may be called by the Chair or any two members upon at least seven days prior written notice to all BOT members.
- 6.5. The BOT is responsible for BUG operational decisions and for making recommendations to the EC regarding:
- 6.5.1. Strategic plans, goals and objectives,
 - 6.5.2. Policy and Procedures Manual,
 - 6.5.3. Performance standards for service levels,
 - 6.5.4. Annual budgets, related fee schedules and fiscal documents,
 - 6.5.5. Approval of all BUG contracts within budget authority,
 - 6.5.6. Coordination of BUG technical operations, and
 - 6.5.7. Participants and provisional participants.
- 6.6. The BOT may appoint committees for research and review of technical and other issues. These committees may provide recommendations to the BOT and EC.
- 7. Lead Administrative Agency**
- 7.1. The GB will select and appoint a Lead Administrative Agency based upon administrative and technical competence related to BUG operations. The Lead Administrative Agency until changed is the City of Hillsboro (Hillsboro).
- 7.2. The Lead Administrative Agency provides technical support for all BUG assets. All assets are installed, maintained, and configured by the Lead Administrative Agency Personnel. The Lead Administrative Agency's responsibilities in this role will be defined by an annual SLA between the Lead Administrative Agency and the GB.
- 8. Funding BUG Expenses**
- 8.1. The services of the Lead Administrative Agency and other BUG expenses will be funded with dues set by the Fee Schedules contained in Exhibits B and C paid by Participants and Provisional Participants.
- 9. Procedures Manual**
- 9.1. The BOT will consider and adopt procedures for the BUG and will incorporate them into a Procedures manual. The GB has oversight authority and final editorial control over this manual.
- 10. Additional Participants**
- 10.1. The GB will develop methods for extending participation to additional local governments and agencies. New Participants will be accepted into the BUG only upon recommendation of BOT and approval of two thirds of the GB.
- 11. Duration, Withdrawal, Expulsion, Termination, and Ownership**

- 11.1. Each Participant owns an undivided common interest in BUG assets including equipment and software purchased and installed for common use after January 1st, 2008, and in all unexpended and unencumbered funds held by the Lead Administrative Agency for BUG, in the same proportion as the Participant pays current annual fees.
- 11.2. This Agreement and the BUG will continue for 5 years. A Participant may withdraw from the BUG by giving at least 180 days written notice of its intent to withdraw to the GB Chair. The written notification (not email) must include a transition plan developed by the withdrawing Participant to allow the orderly and coordinated ending of all BUG related services. The withdrawing Participant is responsible for the transition plan that must include: 1) an inventory listing each BUG related interconnectivity requirement with certification that each is addressed prior to disconnection, 2) a written summary of a meeting with the Lead Administrative Agency to review termination requirements, and 3) a timeline for withdrawing based on that meeting with the Lead Administrative Agency.
- 11.3. The 180 day notice begins upon receipt of the complete written notification by the Lead Administration Agency. After the notice period, the withdrawal will not be effective until the withdrawing Participant has paid the full fee for the entire fiscal year in which its request becomes final. Upon withdrawal, the former Participant is not entitled to a refund of any amounts for start-up, maintenance, or continuing costs, whether or not any amount is unencumbered or unexpended. Upon withdrawal, the former Participant has no financial obligations to BUG for future dues, but forfeits any claims for goods or services purchased (or held for future purchases) under this Agreement.
- 11.4. A Participant may withdraw from the BUG without written notice as provided in section 11.2 only with the consent of all remaining Participants.
- 11.5. If any Participant fails to pay dues or acts in any manner inconsistent with the good faith duties and obligations of a Participant in the BUG by violating the rules and procedures outlined in the Procedures Manual and not acting to correct any violations in a timely manner, the EC may, at a meeting called solely for that purpose, consider and recommend to the GB that a Participant's membership be terminated for default. The recommendation shall specify the reasons for the termination. A vote to terminate a membership requires unanimous approval of the EC; provided however, that the Participant, if a member of the EC, shall be excluded from the calculation. Upon the GB receiving a recommendation for termination, the GB, upon not less than 10 days notice to the Participant, which notice includes a copy of the EC recommendation, shall hold a meeting, special or general, to consider whether or not termination will best serve the interests of the BUG. At such meeting, the EC representative shall present the issues to the GB, and the Participant shall be provided an opportunity of not less than 30 minutes, but otherwise at the discretion of the GB Chair, to address the GB and respond to the allegations. A vote to terminate requires 75% of the GB. The Participant will be excluded from the 75% calculation. Any termination shall be effective immediately, and the Participant shall be treated as a withdrawing Participant for all other purposes.

11.6. The BUG and this Agreement may be terminated upon mutual agreement of all Participants. At the time of termination, all Participants are entitled to a share of the proceeds of sale of BUG assets including equipment and software and any unexpended and unencumbered funds held for use by BUG in the same proportion as their ownership interests.

12. Remedies

12.1. If a Participant attempts to withdraw from the BUG but fails to follow the notice process required by section 11.2 or to obtain the consent authorized by section 11.4, the Participants agree that the liquidated damages for such action will be not less than the withdrawing Participant's share of the BUG annual operation costs for the next fiscal year, as determined by the current BUG Fee Schedule.

12.2. If any Participant files a legal action to enforce this Agreement, the prevailing party is entitled to reasonable attorney fees and costs, including any fees and costs incurred in an appeal, and as determined by the appropriate court.

13. Liability and Indemnification

13.1. To the extent allowed by Oregon law each Participant agrees to be responsible for the consequences of any wrongful acts of their employees or agents that affect any other Participant or a person not a party to this Agreement and each Participant agrees to hold harmless, defend and indemnify each other Participant, including its officers, employees and agents against all claims, demands, actions or suits (including all attorney fees and costs) arising from this Agreement where the loss or claim is attributable to the acts or omissions that Participant.

13.2. Each Participant agrees to hold harmless the BUG, GB, EC, BOT and the Managing Agency for any system outage whether planned or accidental.

14. Amendments

14.1. This Agreement may only be changed, modified, or amended in writing by agreement by at least three-quarters of the Participants.

15. Effective Date

15.1. This Agreement becomes effective for all Participants who have authorized it when it has been authorized by resolution of three-quarters of the governing bodies of the Participants identified in Exhibit A. Any local government desiring to join the BUG may do so in accordance with section 10.

16. Prior Agreements

16.1. Upon its effective date, this Agreement supersedes previous BUG Intergovernmental Agreements, specifically, the Original Agreement.

17. Severability

17.1. The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results on the invalidity of any part does not affect the remainder of the Agreement unless the surviving agreement materially changes the consideration for any other Participant's entry into the agreement.

18. Interpretation

18.1. The terms and conditions of this Agreement will be liberally construed under Oregon law in accordance with the general purposes of this Agreement.

APPROVED AND SIGNED by the appropriate officers who are authorized to execute this Agreement on behalf of the governing body of each Participant.

Dated this _____ day of _____, 2008

City of Beaverton

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Cornelius

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Forest Grove

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of Hillsboro

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

City of King City

City Attorney
APPROVED AS TO FORM

FILE COPY

Dated this _____ day of _____, 2008

City of Lake Oswego

City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008


City of Tigard

City Attorney
APPROVED AS TO FORM

Dated this 28th day of January, 2008



City of Tualatin



City Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

Clean Water Services

CWS Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

Tualatin Valley Fire & Rescue

TVF&R Attorney
APPROVED AS TO FORM

FILE COPY

Dated this _____ day of _____, 2008

Washington County/WCCLS

WC Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

WCCCA

WCCCA Attorney
APPROVED AS TO FORM

Dated this _____ day of _____, 2008

MACC

MACC Attorney
APPROVED AS TO FORM

EXHIBIT A
PARTICIPANTS

FILE COPY

City of Beaverton

City of Cornelius

City of Forest Grove

City of Hillsboro

City of King City

City of Lake Oswego

City of Tigard

City of Tualatin

Clean Water Services

Metropolitan Area Communications Commission

Tualatin Valley Fire & Rescue

Washington County

Washington County Consolidated Communications Agency

Washington County Cooperative Library Services

FILE COPY

EXHIBIT B
Standard Schedule for Participants

The GB will approve the annual BUG budget in accordance with section 4 no later than December 15th of each year.

Participant payments will be due and payable on August 15th of each year of the Agreement.

The Lead Administrative Agency will invoice Participants no later than July 15th for the fee for the upcoming year.

Usage fees will be determined by the GB in accordance with section 4 no later than December 15th of each year.

Example of Annual Payment matrix based on annual internet usage follows:

Partner Payments (Usage)				
Agency	Percentage	Partnership	Usage	Total
Washington County	27.33%	\$ 6,000.00	\$ 22,276.67	\$ 28,276.67
WCCLS	33.33%	\$ 6,000.00	\$ 27,166.67	\$ 33,166.67
Hillsboro	9.33%	\$ 6,000.00	\$ 7,606.67	\$ 13,606.67
Beaverton	4.67%	\$ 6,000.00	\$ 3,803.33	\$ 9,803.33
Clean Water Services	6.67%	\$ 6,000.00	\$ 5,433.33	\$ 11,433.33
TVF&R	5.33%	\$ 6,000.00	\$ 4,346.67	\$ 10,346.67
Lake Oswego	4.67%	\$ 6,000.00	\$ 3,803.33	\$ 9,803.33
Tigard	2.67%	\$ 6,000.00	\$ 2,173.33	\$ 8,173.33
Forest Grove	1.33%	\$ 6,000.00	\$ 1,086.67	\$ 7,086.67
Tualatin	1.33%	\$ 6,000.00	\$ 1,086.67	\$ 7,086.67
WCCCA	2.00%	\$ 6,000.00	\$ 1,630.00	\$ 7,630.00
MACC	0.67%	\$ 6,000.00	\$ 543.33	\$ 6,543.33
Cornelius	0.67%	\$ 6,000.00	\$ 543.33	\$ 6,543.33
King City	0.00%	\$ 6,000.00	\$ -	\$ 6,000.00
Total	100.00%	\$ 84,000.00	\$ 81,500.00	\$ 165,500.00

EXHIBIT C
Special Schedule for Provisional Participants


The Special Schedule for Provisional Participants will follow the Standard Schedule in Exhibit B unless modified by the GB in accordance with this Agreement.



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager 

DATE: January 28, 2008

SUBJECT: RESOLUTION IN SUPPORT OF A CLACKAMAS COUNTY ORDER TO INITIATE THE FORMATION OF THE CLACKAMAS COUNTY EXTENSION SERVICE AND 4-H DISTRICT

ISSUE BEFORE THE COUNCIL:

The Council adopt a resolution in support of a Clackamas County order to initiate the formation of the Clackamas County Extension Service and 4-H District.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution in support of the proposed

EXECUTIVE SUMMARY:

At the January 14, 2008 Council meeting, Mike Bondi, a representative from the Clackamas County Extension Services gave a presentation on the County's intention to form a special services district to fund education outreach programs for county residents through Extension Services. To gauge the level of interest, Clackamas County Commissioners are asking cities in the county to pass a resolution in support of the formation of the Extension Service and 4-H District. To date, eleven cities have passed resolutions in support of such district.

FINANCIAL IMPLICATIONS:

The formation of a special services district would create a permanent tax rate of \$0.05 per thousand dollars of assessed valuation for Clackamas County residents.

Attachment: A. Resolution

Approved By Tualatin City Council
Date January 28, 2008
Recording Secretary J. Kirby

RESOLUTION NO. 4746-08

RESOLUTION OF THE CITY OF TUALATIN, OREGON IN SUPPORT OF
A CLACKAMAS COUNTY ORDER TO INITIATE THE FORMATION OF
THE CLACKAMAS COUNTY EXTENSION SERVICE AND 4-H DISTRICT

WHEREAS Clackamas County intends to form a county Extension Service and 4-H District under the authority of ORS 451.010(i). A county Extension Service and 4-H District would have authority to fund informal education outreach programs for all county residents; and

WHEREAS Clackamas County may initiate the formation of a county Extension Service and 4-H District by adopting an order under authority of ORS 198.835. Clackamas County would like to include all county territory within the boundaries of the Clackamas County Extension Services and 4-H District.

WHEREAS the territory of the City of Tualatin may only be included within the boundaries of the Clackamas County Extension Service and 4-H District if the City Council adopts a resolution approving the County Order initiating the formation of the Clackamas County Extension Service and 4-H District.

WHEREAS the City Council believes a Clackamas County Extension Service and 4-H District will be better positioned to provide outreach education to youth and families, homeowners and businesses, farm and forest owners, as well as urban and rural residents, throughout our community.

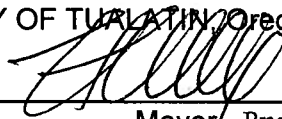
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City of Tualatin hereby consents to the inclusion of all the territory of the City that is in Clackamas County within the proposed boundaries of the Clackamas County Extension Service and 4-H District, and supports and approves the Clackamas County order initiating the formation of said district.

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

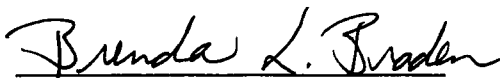
CITY OF TUALATIN, Oregon

BY



Mayor Pro tem

APPROVED AS TO LEGAL FORM:



City Attorney

ATTEST:

BY



City Recorder



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Michael McKillip, Engineering & Building *MMK*
Kaaren Hofmann, Civil Engineer *Kaaren*

DATE: January 28, 2008

SUBJECT: A RESOLUTION AUTHORIZING THE KILLARNEY LANE SEWER PROJECT

ISSUE BEFORE THE COUNCIL:

Should the City Council approve the resolution allowing the Killarney Lane Sewer Project to move forward?

RECOMMENDATION:

Staff recommends that the City Council adopt the resolution that will allow the Killarney Lane Sewer Project to proceed.

EXECUTIVE SUMMARY:

The City's budget contains a project to install a public sewer line and replace the existing public water line in SW Killarney Lane. The sewer line will allow for the current residences to be connected to public sewer lines as needed and removal of the existing septic systems. The water line that will be installed is a larger water line and will replace an existing AC water line.

In February 2007, the Council at a work session decided to move forward with this project. Staff then directed our consultant to complete up to 70% design to determine accurate costs for the sewer line before giving the final approval. The design was completed and presented to the property owners in October 2007. On November 13, 2007 and January 14, 2008 the City Council discussed in work sessions the payment options for the Killarney Lane Sewer Project for the property owners.

After these discussions, the Council directed staff to prepare a resolution stating:

1. If the property owner hooks up as a part of the City's project, the property owner will be required to pay FY2007/08 SDC and Plumbing permits fees. The City will pay all other costs associated with installation of the sewer line, abandoning the septic system and connecting the house to the City's sewer system.

Approved By Tualatin City Council
Date *January 28, 2008*
Recording Secretary *A. Berber*

STAFF REPORT: Killarney Lane Sewer Project

January 28, 2008

Page 1 of 2

2. If the property owner hooks up between 4/1/08 and 4/1/11, the property owner will be required to pay whatever SDC and permit fees that are in effect at the time of hook up. The property owner will also be responsible for all work on their property to connect the house to the lateral that will be provided at the right-of-way line. The City will provide \$2000 toward septic abandonment.
3. If the property owner hooks up after 4/1/11, the property owner will be required to pay whatever SDC and permit fees that are in effect at the time of hook up. They will also be responsible for all work on their property to connect the house to the lateral that will be provided at the right-of-way line.

OUTCOMES OF DECISION:

If the Council adopts the attached resolution, this project will move forward to construction in the summer of 2008.

FINANCIAL IMPLICATIONS:

The estimated cost of sewer portion of this project is \$770,000. This amount has been budgeted in the Sewer Operating Fund.

Attachments: A. Resolution

RESOLUTION NO. 4747-08

A RESOLUTION AUTHORIZING THE KILLARNEY LANE
SEWER PROJECT

WHEREAS there is currently no public sewer system available to the residents of SW Killarney Lane; and

WHEREAS the City will construct a public sewer line in SW Killarney Lane during the 2008-2009 fiscal year; and

WHEREAS it is in the best interest of the public health and welfare to encourage this neighborhood to hook up to the public sewer system and decommission their existing septic systems; and

WHEREAS the City wishes to offer incentives to the property owners on SW Killarney Lane to encourage them to hook up to the public sewer system; and

WHEREAS there are adequate funds in the Sewer Operating Fund to construct the SW Killarney Lane sewer project, and

WHEREAS the City Council wants to establish a policy with regard to the property owners' financial participation in connecting to the sewer line.

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

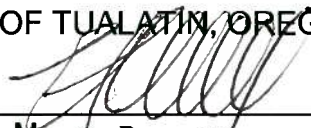
Section 1. If the property owner hooks up as a part of the City's project, the property owner will be required to pay FY2007/08 System Development Charge (SDC) and Plumbing Permit fees. The City will pay all other costs associated with installation of the sewer line, abandoning the septic system, and connecting the house to the City's sewer system.

Section 2. If the property owner hooks up between April 1, 2008 and April 1, 2011, the property owner will be required to pay whatever SDC and permit fees that are in effect at the time of hookup. They will also be responsible for all work on their property to connect the house to the lateral that will be provided at the right-of-way line. The City will provide \$2,000 toward septic abandonment.

Section 3. If the property owner hooks up after April 1, 2011, the property owner will be required to pay whatever SDC and permit fees that are in effect at the time of hookup. They will also be responsible for all work on their property to connect the house to the lateral that will be provided at the right-of-way line.

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


CITY OF TUALATIN, OREGON

By  _____
Mayor Pro tem

ATTEST:

By  _____
City Recorder

Approved as to Form:


City Attorney

M:/STAFF REPORTS/Killamey Lane Sewer Res



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Michael A McKillip, City Engineer *MAK*
Dayna Johnson, Project Engineer *DJ*

DATE: January 28, 2008

SUBJECT: RESOLUTION AUTHORIZING DEED OF DEDICATION AND PUBLIC UTILITY EASEMENT ASSOCIATED WITH THE LIBRARY AND CITY OFFICES EXPANSION PROJECT (TAX MAP 2S1 24B, TAX LOT 1900 & 2001)

ISSUE BEFORE THE COUNCIL:

Consideration of whether the Council should adopt a resolution authorizing the Deed of Dedication and Public Utility Easement associated with the Library and City Offices Expansion project.

RECOMMENDATION:

Staff recommends that the Council adopt the attached resolution authorizing the Deed of Dedication and Public Utility Easement associated with the Library and City Offices project.

EXECUTIVE SUMMARY:

The City of Tualatin approved with conditions the Library and City Offices Expansion Project through the Architectural Review process (City File AR 06-27). Within the Public Facilities Findings and Recommended Decision, the applicant is required to dedicate the necessary right-of-way along SW Martinazzi Avenue. If the Mayor is authorized to sign the Deed of Dedication and Public Utility and Access Easement, they will be processed as normal development requirements for dedications.

Approved By Tualatin City Council

Date *January 28, 2008*

Recording Secretary *G Kirby*

OUTCOMES OF DECISION:

Authorizing the Deed of Dedication and Public Utility Easement associated with the Library and City Offices Expansion project will result in the following:

- Remove the need to dedicate the right-of-way in the future when improvements to SW Martinazzi Avenue are constructed.
- Ability to complete the requirements of the Architectural Review to obtain the Certificate of Occupancy.

Not authorizing the Deed of Dedication and Public Utility Easement associated with the Library and City Offices Expansion project will result in the following:

- The need to dedicate the right-of-way in the future when improvements to SW Martinazzi Avenue are constructed.
- Inability to complete the requirements of the Architectural Review to obtain the Certificate of Occupancy.

FINANCIAL IMPLICATIONS:

The City will incur the recording costs associated with the recording of the Deed of Dedication and Public Utility Easement. Typically the City incurs the costs for recording documents in which it benefits.

Attachments: A. Resolution with attachments
 B. Vicinity Map

RESOLUTION NO. 4748-08

RESOLUTION AUTHORIZING DEED OF DEDICATION AND
PUBLIC UTILITY EASEMENT ASSOCIATED WITH THE LIBRARY
AND CITY OFFICES EXPANSION PROJECT (TAX MAP 2S1 24B,
TAX LOT 1900 & 2001)

WHEREAS the City of Tualatin is expanding the Tualatin Public Library and City Offices, and

WHEREAS the City of Tualatin approved with conditions the Library and City Offices Expansion Project through the Architectural Review process (City File AR 06-27). Within the Public Facilities Findings and Recommended Decision, the applicant is required to dedicate the necessary right-of-way along SW Martinazzi Avenue, and

WHEREAS the City of Tualatin desires to comply with the conditions of the Architectural Review Decision.


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

Section 1. The City of Tualatin hereby authorizes the attached Deed of Dedication (Attachment 1) for the purpose of dedicating right-of-way to the public and Public Utility Easement (Attachment 2) for the purpose of granting an easement to the public and the Mayor is authorized to sign said documents.

ADOPTED AND APPROVED this 28th day of January, 2008.

CITY OF TUALATIN, OREGON

By



Mayor Pro Tem

APPROVED AS TO LEGAL FORM



CITY ATTORNEY

ATTEST:

By



City Recorder

Resolution No. 4748-08



CITY OF TUALATIN, OREGON
DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that City of Tualatin

(the "GRANTOR") grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the following real property with the tenements, hereditaments and appurtenances, situated in the County of Washington, State of Oregon, for the use of the public as a public way forever, for street, road, right-of-way and public utility purposes, bounded and described as follows, to wit:

*See attached map and legal description
(EXHIBIT A)*

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

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

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

EXECUTED this 28th day of January, 2008.

Ed Truax, Mayor Pro tem
Name (print or type)
[Signature]
Signature
January 28, 2008
Date

Name (print or type)

Signature

Date

STATE OF OREGON)
) ss
County of Washington)

On this 29 day of January, 2008, before me, the undersigned, a Notary Public, personally appeared Sherilyn Lombos, City Manager and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Maureen A. Smith
Notary Public for Oregon

My commission expires: July 4, 2009

CITY OF TUALATIN, OREGON

By [Signature]
City Manager

The undersigned City Manager of the City of Tualatin, being duly authorized and directed by the Council of the City of Tualatin, pursuant to Ordinance No. 787-89, does hereby approved and accept the foregoing Deed of Dedication on behalf of the City of Tualatin.

Dated this 29th day of January, 2008.
[Signature]
City Manager

APPROVED AS TO LEGAL FORM
[Signature]
CITY ATTORNEY

EXHIBIT 'A'

PAGE 1 OF 2

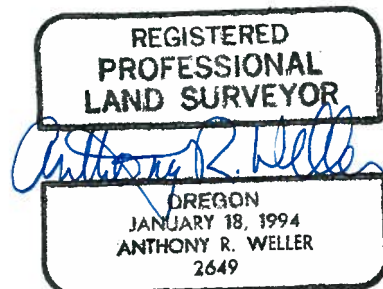
AN 8 FOOT WIDE STRIP OF LAND BEING A PORTION OF THOSE TRACTS OF LAND CONVEYED IN BOOK 1134, PAGE 680; BOOK 1134, PAGE 67; AND BOOK 773, PAGE 872, WASHINGTON COUNTY DEED RECORDS, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M., IN THE CITY OF TUALATIN, COUNTY OF WASHINGTON, STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED IN BOOK 773, PAGE 872, WASHINGTON COUNTY DEED RECORDS, SAID POINT ALSO BEING 30.00 FEET EASTERLY WHEN MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF S.W. MARTINAZZI AVENUE; THENCE NORTH 07°26'13" WEST A DISTANCE OF 495.13 FEET PARALLEL TO SAID S.W. MARTINAZZI AVENUE CENTERLINE TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED IN BOOK 1134, PAGE 680, WASHINGTON COUNTY DEED RECORDS; THENCE NORTH 82°51'51" EAST A DISTANCE OF 8.00 FEET ALONG THE NORTH LINE OF SAID TRACT; THENCE SOUTH 07°26'13' EAST A DISTANCE OF 496.12 FEET PARALLEL TO AND 38.00 FEET EASTERLY OF SAID S.W. MARTINAZZI AVENUE CENTERLINE TO THE SOUTH LINE OF SAID TRACT OF LAND CONVEYED IN BOOK 773, PAGE 872; THENCE SOUTH 89°55'52" WEST A DISTANCE OF 8.07 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.

THE BASIS OF BEARING IS THE EAST LINE OF THOSE TRACTS OF LAND CONVEYED IN BOOK 1134, PAGE 67, WASHINGTON COUNTY DEED RECORDS, WHICH BEARS NORTH 04°30'18" EAST.

CONTAINING 3,965 SQUARE FEET, MORE OR LESS.

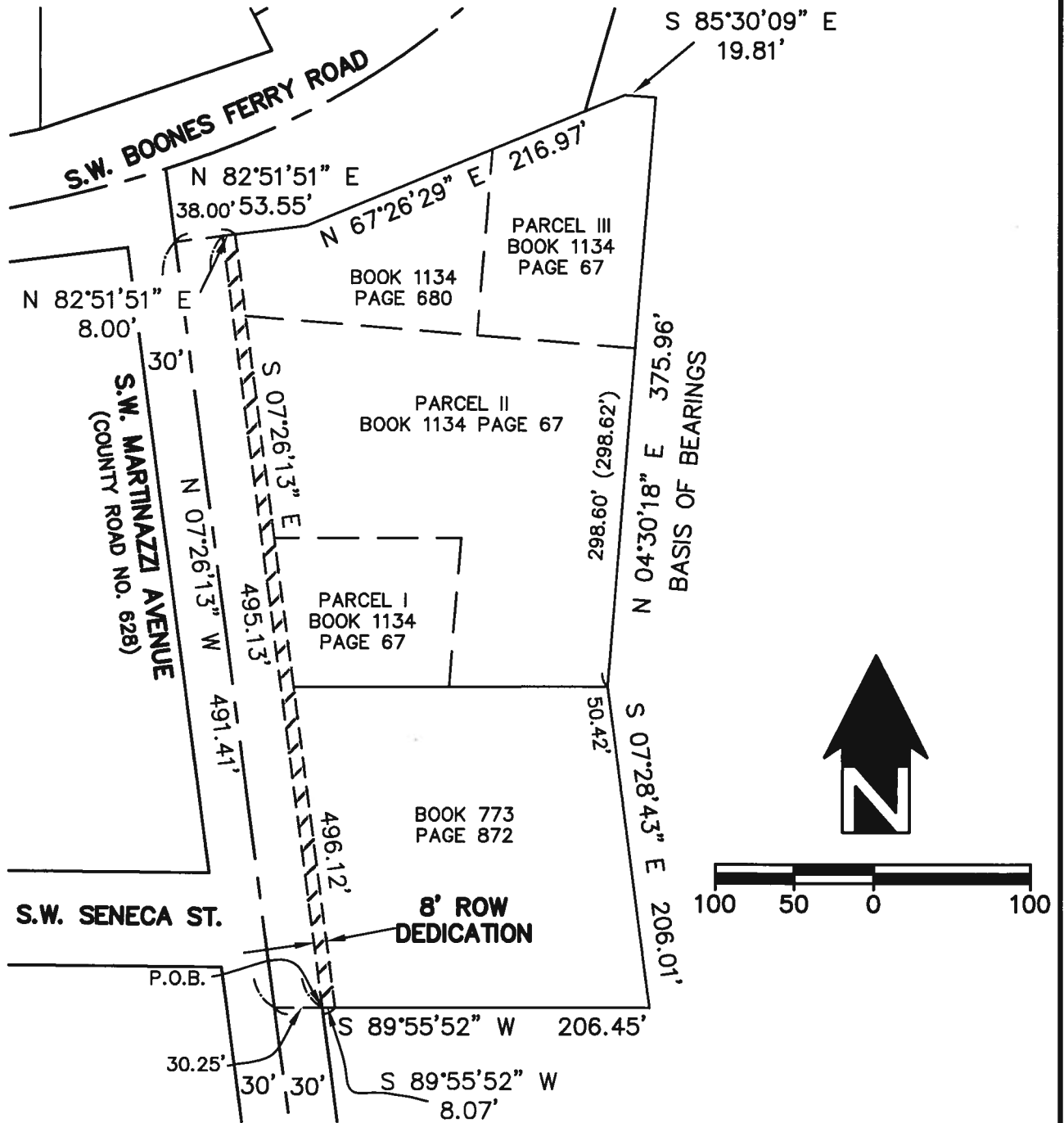
PREPARED BY CES/NW, INC.



Renews 6/30/08

EXHIBIT A

LOCATED IN THE N.W. 1/4 OF SECTION 24,
TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M.
CITY OF TUALATIN, WASHINGTON COUNTY, OREGON



RIGHT-OF-WAY DEDICATION = 3,965 FT

J.N. 1961S
1961S-ROW-DEDICATION.DWG

CES | NW

15573 SW BANGY ROAD, STE 300
LAKE OSWEGO, OREGON 97035
503.968.6655 www.cesnw.com

RIGHT-OF-WAY DEDICATION EASEMENT
FOR TUALATIN LIBRARY CITY OF TUALATIN,
WASHINGTON COUNTY, OREGON

DATE
12/20/07
PAGE
2 OF 2



CITY OF TUALATIN, OREGON
PUBLIC UTILITY EASEMENT

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

*See attached map & legal description
(Exhibit A)*

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

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

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

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

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances and that GRANTOR, and the GRANTOR'S heirs and personal representatives shall warrant and forever defend the premises to the CITY, its agents, successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

Executed this 28th day of January, 2008.

[Signature]
Signature

Ed Truax
Name (print or type)

Mayor Pro tem
Title

Signature

Name (print or type)

Title

STATE OF OREGON)
County of Washington) ss

On this 29 day of January, 2008, before me, the undersigned, a Notary Public, personally appeared Sherilyn Lombos, City Manager, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Maureen A Smith
Notary Public for Oregon

My Commission Expires July 4, 2009



CITY OF TUALATIN, OREGON
By [Signature]
City Manager

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

Dated this 29th day of January, 2008.
[Signature]
City Manager

APPROVED AS TO LEGAL FORM
[Signature]
CITY ATTORNEY

EXHIBIT 'A'
PAGE 1 OF 2

A 2 FOOT WIDE STRIP OF LAND BEING A PORTION OF THOSE TRACTS OF LAND CONVEYED IN BOOK 1134, PAGE 680; BOOK 1134, PAGE 67; AND BOOK 773, PAGE 872, WASHINGTON COUNTY DEED RECORDS, LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M., IN THE CITY OF TUALATIN, COUNTY OF WASHINGTON, STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED IN BOOK 773, PAGE 872 WASHINGTON COUNTY DEED RECORDS SAID POINT ALSO BEING 30.00 FEET EASTERLY WHEN MEASURED AT RIGHT ANGLES TO THE CENTERLINE OF S.W. MARTINAZZI AVENUE; THENCE NORTH 89°55'52" EAST A DISTANCE OF 8.07 FEET TO THE TRUE POINT OF BEGINNING; SAID POINT BEING 38.00 FEET EASTERLY WHEN MEASURED AT RIGHT ANGLES TO SAID CENTERLINE; THENCE NORTH 07°26'13" WEST A DISTANCE OF 496.12 FEET PARALLEL TO SAID S.W. MARTINAZZI AVENUE CENTERLINE TO THE NORTH LINE OF THAT TRACT OF LAND CONVEYED IN BOOK 1134, PAGE 680, WASHINGTON COUNTY DEED RECORDS; THENCE NORTH 82°51'51" EAST A DISTANCE OF 2.00 FEET ALONG THE NORTH LINE OF SAID TRACT; THENCE SOUTH 07°26'13' EAST A DISTANCE OF 496.37 FEET PARALLEL TO AND 40.00 FEET EASTERLY WHEN MEASURED AT RIGHT ANGLES TO SAID S.W. MARTINAZZI AVENUE CENTERLINE TO THE SOUTH LINE OF SAID TRACT OF LAND CONVEYED IN BOOK 773, PAGE 872; THENCE SOUTH 89°55'52" WEST A DISTANCE OF 2.02 FEET ALONG SAID SOUTH LINE TO THE TRUE POINT OF BEGINNING.

THE BASIS OF BEARING IS THE EAST LINE OF THOSE TRACTS OF LAND CONVEYED IN BOOK 1134, PAGE 67, WASHINGTON COUNTY DEED RECORDS, WHICH BEARS NORTH 04°30'18" EAST.

CONTAINING 992 SQUARE FEET, MORE OR LESS.

PREPARED BY CES/NW, INC.

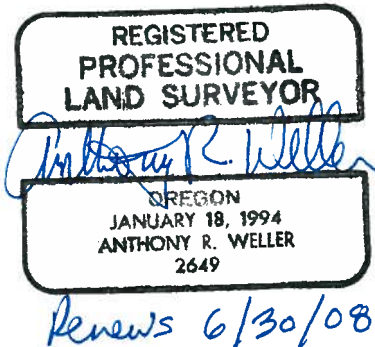
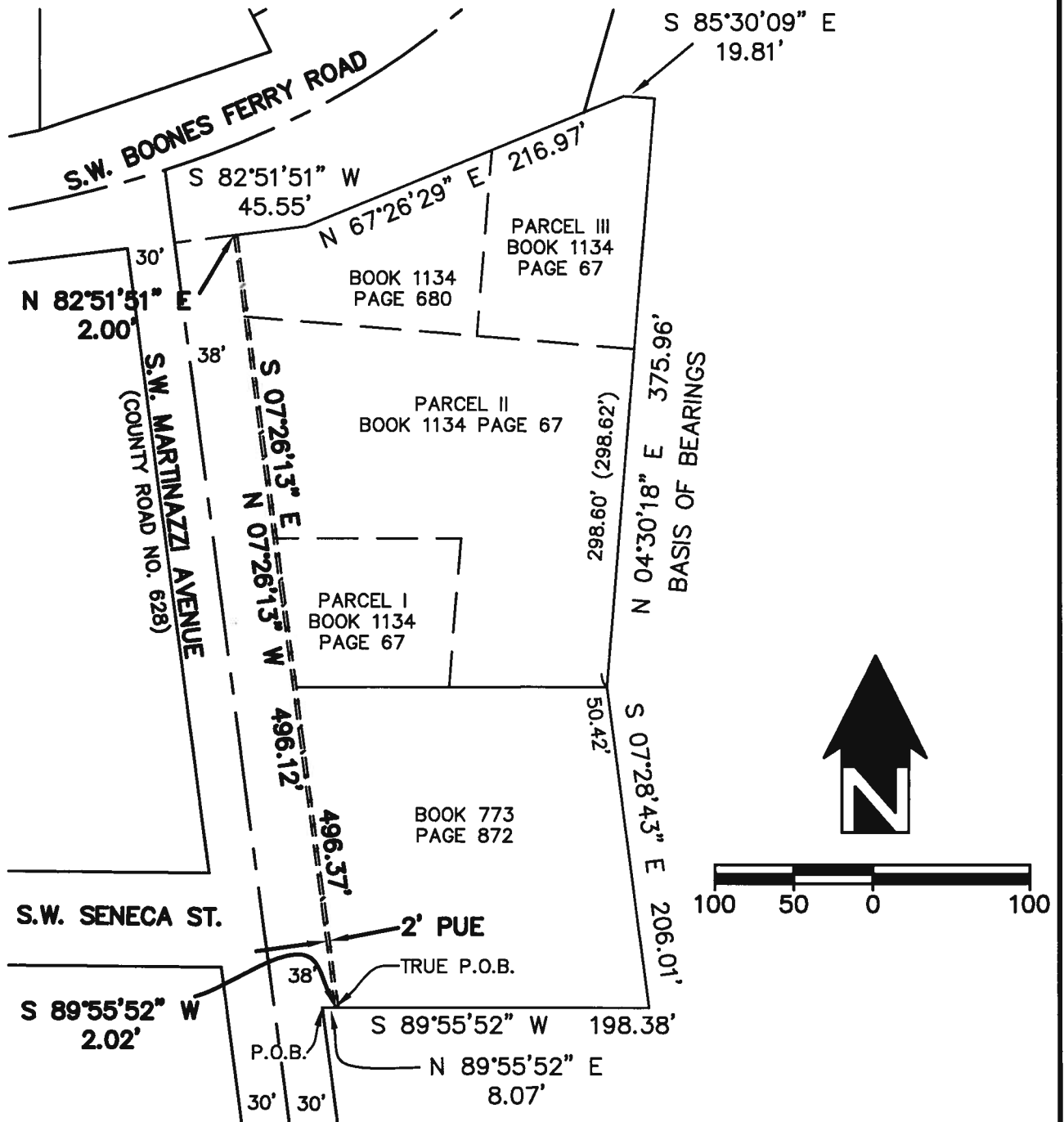


EXHIBIT A

LOCATED IN THE N.W. 1/4 OF SECTION 24,
TOWNSHIP 2 SOUTH, RANGE 1 WEST, W.M.
CITY OF TUALATIN, WASHINGTON COUNTY, OREGON



PUBLIC UTILITY EASEMENT = 992 SF

J.N. 1961S
1961S-PUE-EASE.DWG

CES | NW 15573 SW BANGY ROAD, STE 300
LAKE OSWEGO, OREGON 97035
503.968.6655 www.cesnw.com

PUBLIC UTILITY EASEMENT
FOR TUALATIN LIBRARY CITY OF TUALATIN,
WASHINGTON COUNTY, OREGON

DATE
12/20/07
PAGE
2 OF 2



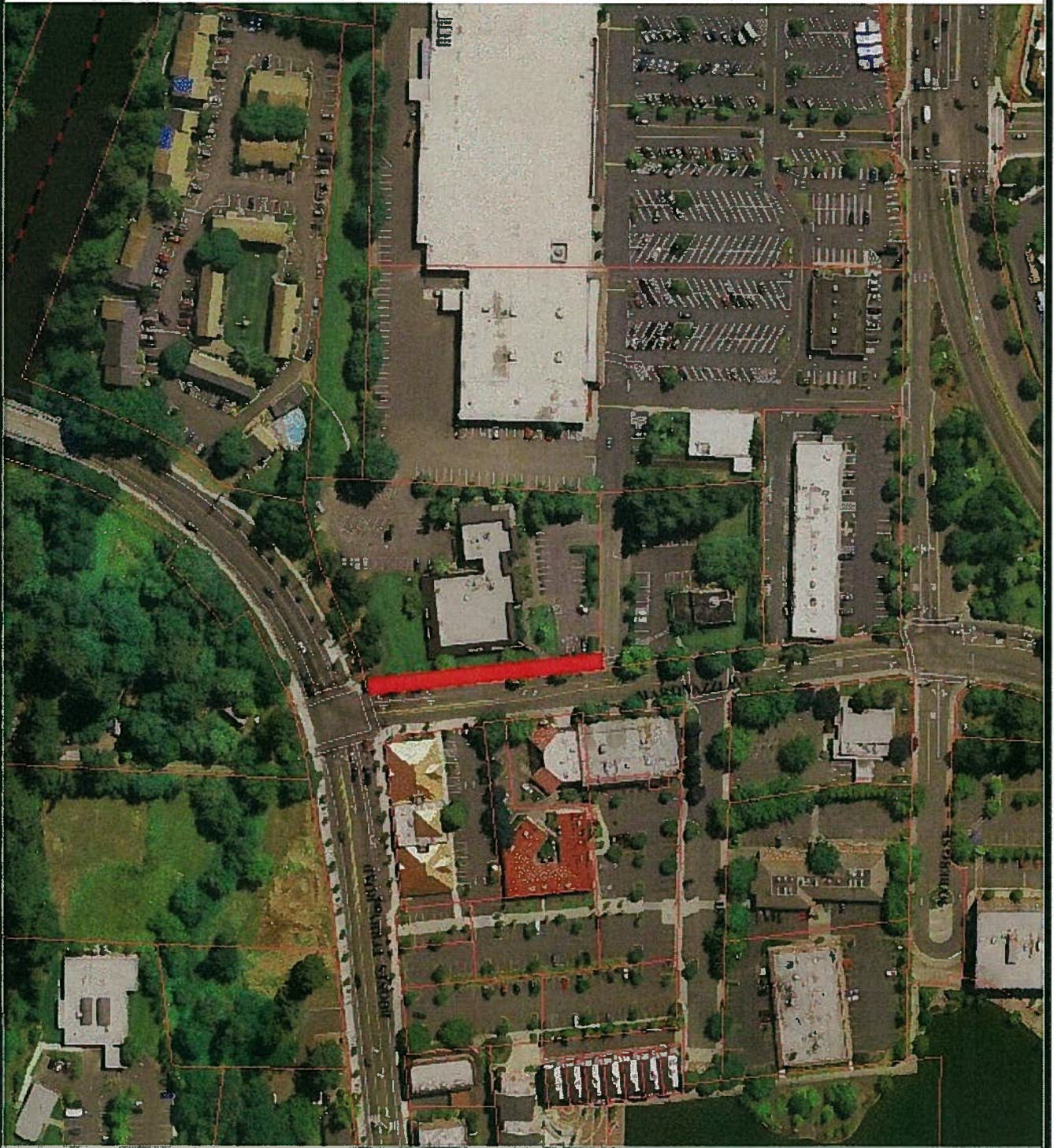
Right-of-Way
Dedication

DEDICATION
AREA



Legend

Scale 1:2,400
1 in = 200 ft





STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Doug Rux, Community Development Director *DR*

DATE: January 14, 2008

SUBJECT: RESOLUTION AUTHORIZING A SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT WITH FRANKLIN BUSINESS PARK, LLC

ISSUE BEFORE THE COUNCIL:

Should the City Council enter into an agreement with Franklin Business Park ("Franklin") that the Tualatin Development Commission ("Commission") has been negotiating with for rights-of-way and easements acquisition associated with SW 124th Avenue. As part of the agreement, access issues are identified that falls under the per-view of the City, thus the City is a party to the agreement.

RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

EXECUTIVE SUMMARY:

- This is not a public hearing.
- The document is an agreement that has been prepared as part of the Commission's negotiations on acquiring rights-of-way and easements.
- The Commission in coordination with Hanna McEldowney & Associates, the right-of-way agent, has been working to acquire certain rights-of-way and easements from Franklin for construction of SW 124th Avenue from SW Myslony Street to SW Tualatin-Sherwood Road.
- Discussions on the rights-of-way and easements have been ongoing since April 2007.
- An appraisal was prepared by Hanna McEldowney & Associates establishing a value of \$188,100 (right-of-way \$183,169) and easements \$4,931.
- The values established are based on the Industrial Business Park Overlay District (IBPOD) land uses that include office use on the subject property.

Approved By Tualatin City Council
Date January 28, 2008
Recording Secretary J. Kerby

- Franklin has responded to the appraisal value indicating a value of the acquisition at \$192,500. This value is contained in the agreement.
- Franklin desires to address access issues, full access verses right-in/right-out onto SW 124th Avenue, as part of the rights-of-way and easements acquisition.
- Access onto SW 124th Avenue is regulated through the Tualatin Development Code, Chapter 75.
- Franklin, through its transportation engineer (Kittelsohn & Associates), has prepared a feasibility traffic analysis reviewed by the City Engineer indicating that a full access may be necessary if an office building is constructed on the subject property under the IBPOD provisions. A copy of this analysis is included as an exhibit to the agreement.
- Franklin has not submitted an application for an office development at this time.
- The City Council has not previously addressed issues concerning access onto SW 124th Avenue as part of the Commission's 124th Avenue project.
- The Agreement outlines that if Franklin proposes an office building at a future date the feasibility analysis will be updated and reviewed. If that process confirms that full access may be constructed and is used safely and efficiently then the City would permit Franklin to construct the access.
- Tualatin Development Code Chapters 73 and 75 would apply to a development application and the access onto SW 124th Avenue.
- There are no applicable criteria in the Tualatin Development Code or Tualatin Municipal Code to review the proposed agreement against.

OUTCOMES OF DECISION:

Approval of the agreement would:

1. Resolve the right-of-way and easement acquisition issues for SW 124th Avenue allowing the Commission to move forward with this transportation improvement project.
2. Clarify the full access issue onto SW 124th Avenue if Franklin exercises an office development project under the IBPOD provisions through the City's land use review processes.
3. Obligates Franklin to provide additional easements and mitigate storm water issues if a full access is constructed in the future for an office development.

Denial of the agreement would:

1. Not resolve the right-of-way and easement acquisition issues for SW 124th Avenue and the Commission would have to look at utilizing the eminent domain authority approved by the Commission on January 9, 2006 (Resolution No. 503-06).
2. Continue an already lengthy negotiation process with the outcome of an increase in property value over the current appraisal value.

ALTERNATIVES TO RECOMMENDATION:

1. Not approve the resolution and the 124th Avenue project would be delayed and condemnation would be necessary to acquire the right-of-way and easement.
2. Request that staff continue to negotiate with Franklin. The City Council would need to provide direction on what aspects of the access issue would need further negotiation.

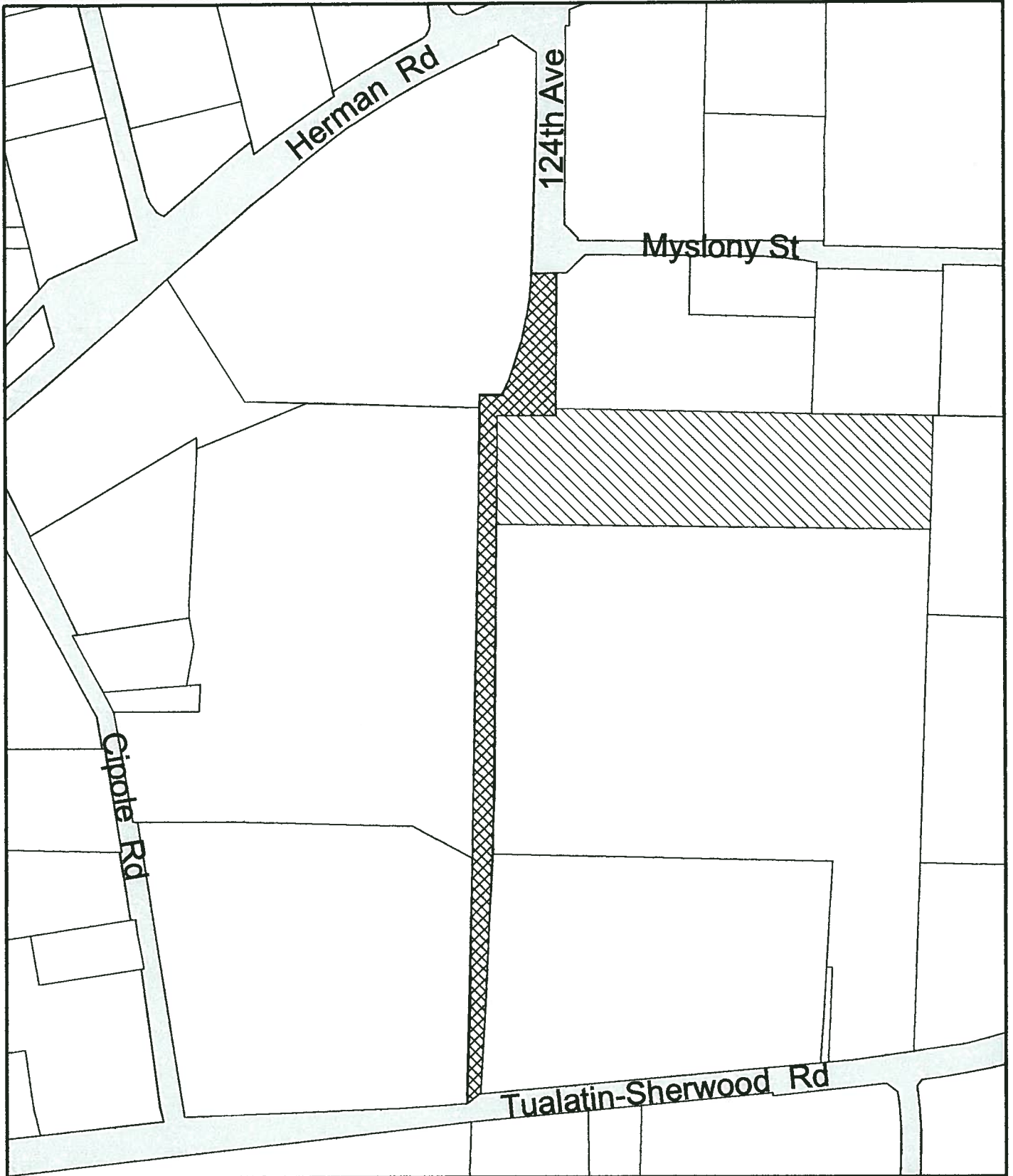
FINANCIAL IMPLICATIONS:

Funds have been budgeted in the Commission's Leveton Tax Increment District Project Fund to cover the right-of-way and easement acquisitions costs.

PUBLIC INVOLVEMENT:

Public involvement was not required to negotiate the agreement.

Attachments: A. Subject Property Map
 B. Resolution with Exhibit



Franklin Business Park



124th Ave Extension



RF 1:4,600

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 omissions in the information. This map is provided "as is". -Engineering and Building Dept. Plotted 8/2/2008

RESOLUTION NO. 4749-08

A RESOLUTION AUTHORIZING A SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT WITH FRANKLIN BUSINESS PARK, LLC

WHEREAS the Tualatin Development Commission (Commission) has been discussing with Franklin Business Park, LLC (Franklin) since April 2007 on the acquisition of certain rights-of-way and easements associated with constructing SW 124th Avenue between SW Myslony Street and SW Tualatin-Sherwood Road; and

WHEREAS Franklin wants to clarify access issues onto SW 124th Avenue as part of the rights-of-way and easements acquisition; and

WHEREAS the City of Tualatin (City) is a party to the Agreement due to the access issues which are controlled by the Tualatin Development Code Chapter 75.

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

Section 1. The Mayor is authorized to sign the Settlement, Property Acquisition and Right-Of-Way Agreement with Franklin Business Park, LLC and Tualatin Development Commission, Exhibit A.

Section 2. Approval of the Agreement is contingent on the Tualatin Development Commission approving the Agreement.

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

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN, OREGON

By 
Mayor Pro tem

ATTEST:

By 
City Recorder

SETTLEMENT, PROPERTY ACQUISITION AND RIGHT-OF-WAY AGREEMENT

This Settlement, Property Acquisition, and Right-of-Way Agreement (the "Agreement") is made as of 18th day of January, 2008, by and between the Tualatin Development Commission, the Urban Renewal Agency of the City of Tualatin (the "Commission"), the City of Tualatin (the "City") and Franklin Business Park, LLC ("Franklin"), the owners in fee of the real property subject to this Agreement, with reference to the following facts and purposes:

RECITALS

- A. Franklin holds fee title to that real property located at the NW Corner of SW Tualatin-Sherwood Road and SW Avery Street, East side of proposed SW 124th Avenue, South of SW Myslony Street, Tualatin, Oregon, Assessor No. 2S1 27B 00200, more particularly described as Tax Lot TS1-R1W, Section 27B, Tax Lot 200 (the "Subject Property").
- B. The Commission, which exercises the powers conferred upon it by the law, including the power of eminent domain, is constructing SW 124th Avenue from SW Myslony to SW Tualatin-Sherwood Road. The project involves the extension of SW 124th Avenue, from its current terminus at SW Myslony Street, south to SW Tualatin-Sherwood Road. When completed SW 124th will provide a connection between Highway 99W, SW Herman Road, and SW Tualatin-Sherwood Road.
- C. The Commission desires to acquire a portion of the Subject Property in fee simple by Deed of Dedication for right-of-way (Exhibit 1), and a permanent slope and utility easement on an additional portion of the Subject Property (Exhibit 2). The Commission has threatened to use the power of eminent domain to effect these acquisitions.

- D. The Subject Property is currently zoned MG (General) District. The Subject Property is included in Tualatin's Industrial Business Park Overlay District, Chapter 69 of the Tualatin Development Code. Chapter 69 of the Tualatin Development Code was amended in 1999 specifically to include the Subject Property.
- E. The purpose of the Industrial Business Park Overlay District is to recognize and accommodate the changing industrial commercial marketplace by allowing mixed uses within the context of an enforceable master plan reviewed and approved during architectural review. Industrial uses are emphasized, but office and selected service and retail uses are allowed through the operation of the Industrial Business Park Overlay District. The Industrial Business Park Overlay District contemplates mixed use and development of the Subject Property to an extent that requires full vehicle access to SW 124th Avenue for TL 200.
- F. Franklin wishes for the Subject Property to enjoy full access to SW 124th (i.e., access whereby vehicles may make right and left turns into and out of the Subject Property). Such access, which would include an exclusive left-turn lane within the SW 124th right-of-way and is hereinafter referred to as "the Full Access." At City's and Commission's request, Kittleson & Associates prepared a technical memorandum dated September 19, 2007, which concluded that the Full Access is feasible and, if properly designed, will benefit the surrounding transportation system by eliminating a significant amount of out of direction travel that would be required if the access to the Subject Property were limited. (Exhibit 3).
- G. Access on to SW 124th is regulated through Tualatin Development Code chapter 75.
- H. At the time of this agreement, Franklin has not submitted an application for a particular development project on TL 200 that would necessitate full access to the property.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

A G R E E M E N T

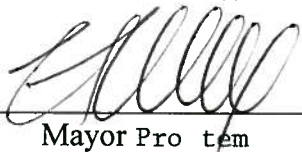
1. **Compensation to Franklin.**
 - a. The Commission shall pay Franklin as compensation for a Deed of Dedication and a Permanent Slope & Public Utility Easement, which will be used to construct road improvements for the above-described project, the sum of \$192,500.
2. The Commission shall pay all closing and recording costs.
3. The Commission shall clean up all construction debris at the conclusion of the project.
4. The Commission shall relocate Franklin's existing chain link fence and gate to the eastern edge of the proposed right-of-way acquisition at no additional cost to the property owner.
5. Franklin agrees to grant to the City a permanent right-of-way easement for road purposes containing 21,419 sf, more or less, and a slope and public utility easement containing 3,842 sf., more or less, each grant as depicted on Exhibits 1, 2 hereto.
6. When Franklin applies for permits to develop the Subject Property, the City will have its traffic engineer review and update the feasibility analysis referred to in Recital F. Should that review and update confirm that the Full Access may be constructed and used safely and efficiently, then the City will permit Franklin to

construct and use the Full Access. Should the City approve, at Franklin's request, a change in the zoning of the Subject Property, then this section is void.

7. To the extent that the Full Access reduces the capacity of the storm drainage system in SW 124th Avenue, then Franklin will grant an easement to the City for the purpose of accommodating any increased storm water run off caused solely by the creation of the Full Access. Franklin acknowledges that as part of its development, if full access is granted and the storm drainage system must be relocated, Franklin will be required to mitigate the impacts of its development.
8. **Binding.** The parties agree that this Agreement shall be binding upon and inure to the benefit of the heirs, executives, administrators, successors and assigns of the parties hereto.
9. **Attorneys Fees.** In the event of a breach of this Agreement, the nonbreaching party shall recover all attorney's fees and litigation expenses incurred as a result of such breach and/or to enforce this Agreement, including, without limitation, costs of appeal.


IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first above written.

CITY OF TUALATIN

By: 

Mayor Pro tem
Ed Truax

FRANKLIN BUSINESS PARK, LLC

By: 

Print: Matthew B. Drake
Title: Secretary, Marlborough Enterprises, Inc.
Manager

ATTEST:

By: 

City Recorder

TUALATIN DEVELOPMENT COMMISSION


By 
Commission Chair Pro tem

ATTEST:

By 
Commission Administrator

APPROVED AS TO FORM:


Brenda Braden, City Attorney


Jack D. Hoffman, Attorney for
Franklin Business Park, LLC
DrakeROWsettlement_PROPERTY_ACQUISITION Final (5).doc



CITY OF TUALATIN, OREGON

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that Franklin Business Park LLC (the "GRANTOR") grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the following real property with the tenements, hereditaments and appurtenances, situated in the County of Washington, State of Oregon, for the use of the public as a public way forever, for street, road, right-of-way and public utility purposes, bounded and described as follows, to wit:

*See attached legal description (Exhibit A)
and attached map of description (Exhibit B)*

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

The true consideration of this conveyance is \$187,500 and other valuable consideration, the receipt of which is acknowledged by GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

EXECUTED this 18th day of January, 2008

Franklin Business Park LLC

MATTHEW B. DRAKE
Name (print or type)

Matthew B. Drake
Signature

Secretary, Marlborough Enterprises, Inc.
Title Manager

Franklin G. Drake
Name (print or type)

[Signature]
Signature

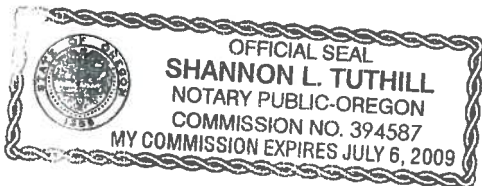
President, Marlborough Enterprises, Inc.
Title Manager

STATE OF OREGON)
County of Washington) ss
)

On this 18th day of January, 2008, before me, the undersigned, a Notary Public, personally appeared Matthew B. Drake and Franklin G. Drake who are known to be the Secretary and President of Franklin Business Park LLC and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Shannon L. Tuthill
Notary Public for Oregon

My commission expires: July 6, 2009



CITY OF TUALATIN, OREGON
By [Signature]
Mayor

ATTEST:
By [Signature]
City Recorder

EXHIBIT A

SW 124th/Tualatin Sherwood
Improvement Project
Revised Oct 25, 2005

Franklin Business Park
Assessor No. 2S 1 27B 00200
Document No. 2000029918

Parcel 1 - DEDICATION

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 57.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue and all that property lying westerly of the relocated centerline of S.W. 124th Avenue, which centerline is described as follows:

Beginning at Station 24+88.29, being the intersection of the centerline of S.W. Tualatin-Sherwood Road (County Road No. 2737) and the East line of Section 28, Township 2 South, Range 1 West of the Willamette Meridian, said beginning point being N 1°46'34" E, 502.02 feet from the East quarter corner of said Section 28; thence along said Section line, N 1°46'34" E, 1723.07 feet to a point of curvature at Station PC 42+11.35; thence northerly 418.23 feet, along a 1050.00 foot radius curve to the right, through a central angle of 22° 49' 18", (subtended by a long chord which bears N 13° 11' 13" E, 415.47 feet) to Station PRC 46+29.58; thence northerly 419.88 feet, along a 1050.00 foot radius curve to the left, through a central angle of 22° 54' 41", (subtended by a long chord which bears N 13° 08' 32" E, 417.08 feet) to Station PT 50+49.46; thence N 1°41'11" E, 738.93 feet to Station PI 57+88.38 and the Terminus of the centerline being described, said terminus being N 9°52'17" E, 1159.23 feet from the Northeast corner of said Section 28.

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue.

The area of land to which this description applies contains 21,419 Sq. feet (0.492 acres), more or less.

Bearings are based on Survey Number 28,176, Washington County Survey Records.

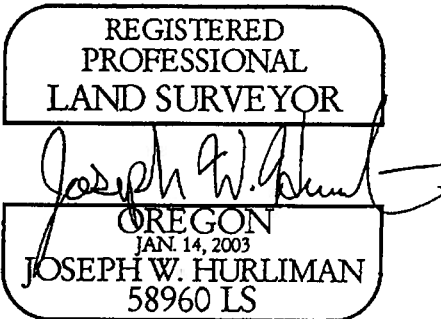
EXHIBIT A - CONTINUED

Parcel 2 – PERMANENT SLOPE AND UTILITY EASEMENT

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 69.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue which center line is described in Parcel 1:

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue, and the above described Parcel 1.

The area of land to which this description applies contains 3,852 Sq. feet (0.088 acres), more or less.

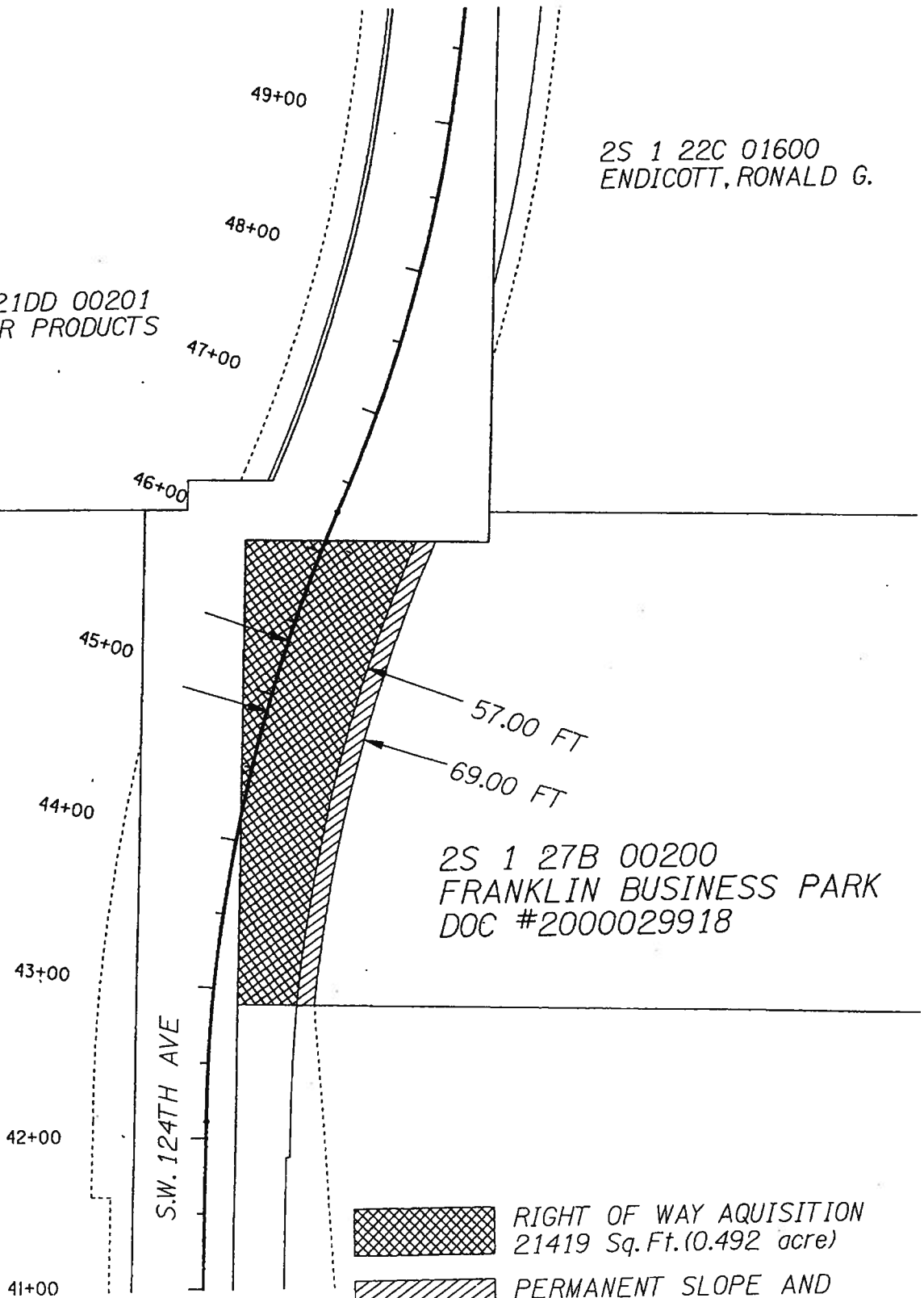




RENEWAL: 6/30/07
SIGNED: 10/26/2005

EXHIBIT B

2S 1 21DD 00201
LUMBER PRODUCTS

2S 1 22C 01600
ENDICOTT, RONALD G.



-  RIGHT OF WAY AQUISITION
21419 Sq. Ft. (0.492 acre)
-  PERMANENT SLOPE AND
UTILITY EASEMENT
3852 Sq. Ft. (0.088 acre)



1" = 100'



CITY OF TUALATIN, OREGON

SLOPE AND PUBLIC UTILITY EASEMENT

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

See attached legal description (Exhibit A) and map (Exhibit B)

This Slope and Public Utility Easement is granted for the purpose of design, construction, operation, reconstruction, maintenance, and repair of a slope and utility in support of and to protect and save from damage the adjacent public right-of-way used for a public roadway, sidewalk, and related improvements and to allow installation of public utilities systems in this area.

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

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

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

The true and actual consideration paid for this transfer consists of \$5,000 or includes other property or other value given or promised, the receipt of which is acknowledged by the GRANTOR.

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

EXECUTED this 18th day of January, 2008.

Franklin Business Park LLC

Matthew R. Drake
Signature

MATTHEW R. DRAKE
Name (print or type)

Secretary, Marlborough Enterprises, Inc.
Title Manager

Franklin G. Drake
Signature

Franklin G. Drake
Name (print or type)

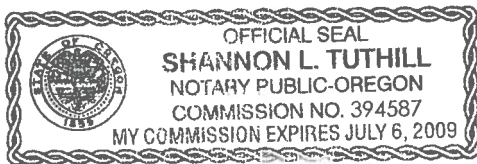
President, Marlborough Enterprises, Inc.
Title Manager

STATE OF OREGON)
County of Washington) ss.

On this 18th day of January, 2008, before me the undersigned, a Notary Public, personally appeared Matthew B. Drake and Franklin G. Drake who are known to be the Secretary and President of the Franklin Business Park LLC and acknowledged the foregoing instrument to be their voluntary act and deed.

Before Me: Shannon L. Tuthill
Notary Public for Oregon

My commission expires: July 6, 2009



CITY OF TUALATIN, OREGON
By [Signature]
Mayor

ATTEST:
By [Signature]
City Recorder

Esm Slope/Utility TDC

EXHIBIT A

SW 124th/Tualatin Sherwood
Improvement Project
Revised Oct 25, 2005

Franklin Business Park
Assessor No. 2S 1 27B 00200
Document No. 2000029918

Parcel 1 - DEDICATION

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 57.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue and all that property lying westerly of the relocated centerline of S.W. 124th Avenue, which centerline is described as follows:

Beginning at Station 24+88.29, being the intersection of the centerline of S.W. Tualatin-Sherwood Road (County Road No. 2737) and the East line of Section 28, Township 2 South, Range 1 West of the Willamette Meridian, said beginning point being N 1°46'34" E, 502.02 feet from the East quarter corner of said Section 28; thence along said Section line, N 1°46'34" E, 1723.07 feet to a point of curvature at Station PC 42+11.35; thence northerly 418.23 feet, along a 1050.00 foot radius curve to the right, through a central angle of 22° 49' 18", (subtended by a long chord which bears N 13° 11' 13" E, 415.47 feet) to Station PRC 46+29.58; thence northerly 419.88 feet, along a 1050.00 foot radius curve to the left, through a central angle of 22° 54' 41", (subtended by a long chord which bears N 13° 08' 32" E, 417.08 feet) to Station PT 50+49.46; thence N 1°41'11" E, 738.93 feet to Station PI 57+88.38 and the Terminus of the centerline being described, said terminus being N 9°52'17" E, 1159.23 feet from the Northeast corner of said Section 28.

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue.

The area of land to which this description applies contains 21,419 Sq. feet (0.492 acres), more or less.

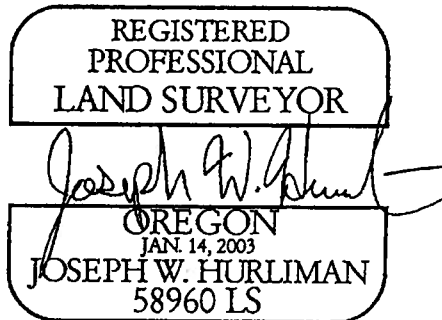
Bearings are based on Survey Number 28,176, Washington County Survey Records.

Parcel 2 – PERMANENT SLOPE AND UTILITY EASEMENT

A parcel of land in that tract of real property in Section 27, Township 2 South, Range 1 West of the Willamette Meridian, City of Tualatin, Washington County, Oregon, being a portion of that property described in that Statutory Bargain and Sale deed to Franklin Business Park LLC, recorded in Document No. 2000029918 of Washington County Book of Records; the said parcel being that portion of said property included in a strip of land 69.00 feet in width, lying on the easterly side of the center line of the relocated centerline of S.W. 124th Avenue which center line is described in Parcel 1:

Excepting therefrom all that portion lying within the existing right of way of SW 124th Avenue, and the above described Parcel 1.

The area of land to which this description applies contains 3,852 Sq. feet (0.088 acres), more or less.



RENEWAL: 6/30/07
SIGNED: 10/26/2005



KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

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

MEMORANDUM

Date: September 19, 2007

Project #: 8920.0

To: Matthew Drake
MBD Development
1202 NW 17th Avenue
Portland, OR 97209

From: Mark Vandehey, P.E.

Project: Franklin Business Park

Subject: SW 124th Access

This memorandum presents the results of our analysis of access to your future office development located along the planned extension of SW 124th Avenue in Tualatin, Oregon. Our analysis addressed the following issues:

- The trip generation potential of your proposed 80,000 square foot office development along with the potential development of approximately 7 acres of industrial land immediately south of your site (Wager property).
- The estimated level of service of a full access on SW 124th serving your property as well as the adjacent Wager property.
- Availability of intersection sight distance at the proposed driveway based on the current design of SW 124th Avenue.
- An assessment of broader transportation system impacts associated with the potential access.

Based on the results of our analysis we have concluded that a full access driveway is feasible and if properly designed will result in a benefit to the surrounding transportation system as it will eliminate the need for a significant amount of out of direction travel that would be required if the access to the two sites were limited to right turns only. The following sections address the four bulleted issues presented above:

Trip Generation Potential

Our analysis assumed the following development scenario:

- 80,000 square-feet of office on MBD Development property
- 105,000 square-feet of light industrial space on the Wager property

For the MBD Development property, the developable acreage is approximately 6.3 acres (after subtracting the delineated wetland and wetland buffers). The developable acreage of the Wager property was estimated by City of Tualatin staff to be approximately 7 acres. For the MBD office development a 30 percent building coverage was assumed, which is consistent with what we typically use for similar projects in suburban settings. For the Wager property we assumed approximately 35 percent coverage (slightly higher than for office due to slightly lower parking requirements). The 35 percent coverage for light industrial development is also a pretty common assumption for areas like this.

Regarding the trip generation assumptions, we did use the 7th Edition of ITE and confirmed we used the correct rate for general office (the PM Peak hour rate is 1.49 trips per 1,000 gross square feet). So I think the trip generation assumptions are reasonable as well.

Estimates of weekday a.m. and p.m. peak hour vehicle trip ends for the potential development scenario were estimated from empirical observations at similar developments. These observations are summarized in the standard reference manual, *Trip Generation*, 7th Edition, published by the Institute of Transportation Engineers. Table 1 shows the estimated weekday a.m. peak hour and weekday p.m. peak hour trip-generation potential for the development scenario we evaluated.

Table 1 - Trip Generation Estimate

Land Use	Size	ITE	Peak Hour Trips		
	(sq. ft.)	Code	Total	In	Out
Office	80,000	710	125	110	15
Light industrial	105,000	110	95	85	10
Total			220	195	25
Office	80,000	710	120	20	100
Light industrial	105,000	110	105	10	95
Total			225	30	195

Using the trip generation estimates from Table 1 and forecast traffic volumes for the year 2020 from the Tualatin TSP, planning level estimates of future a.m. and p.m. peak hour

MBA

traffic volumes were developed. The resulting planning level estimates are shown in Table 2.

Table 2 -Planning Level 2020 Traffic Demands at Future Site Driveway on SW 124th

	AM Peak	PM Peak
WB Left	15	115
WB Right	10	75
SB Left	75	15
SB Through	150	600
NB Through	600	200
NB Right	115	20

2020 Level of Service Results

Traffic operations at the site driveway on SW 124th were analyzed under future year 2020 conditions with full build-out of the assumed development scenario described above and the traffic volumes presented in Table 2. Table 3 shows the level-of-service results at the site driveway for the most critical movement, which is the minor street (westbound) left turn movement. As indicated in the table, the critical movement is expected to operate at an acceptable level of service during both time periods (the level of service results are provided as an attachment to this memorandum).

Table 3 – Year 2020 LOS Results – Build-out of Subject Parcels

Intersection	Unsignalized		
	v/c	Delay	LOS
Weekday A.M. Peak Hour			
SW 124 th /Site Access (Critical WB Left Turn)	0.08	22	C
Weekday P.M. Peak Hour			
SW 124 th /Site Access (Critical WB Left Turn)	0.45	27	D

In addition to the assumed development scenario discussed above, we conducted a sensitivity analysis for the weekday p.m. peak hour where we increased all of the site traffic using the driveway by 50 percent (these results are attached to this memorandum as well). As indicated in the attached PDF, the driveway still operates adequately with a 50 percent increase in site traffic.

MBA

Sight Distance Evaluation

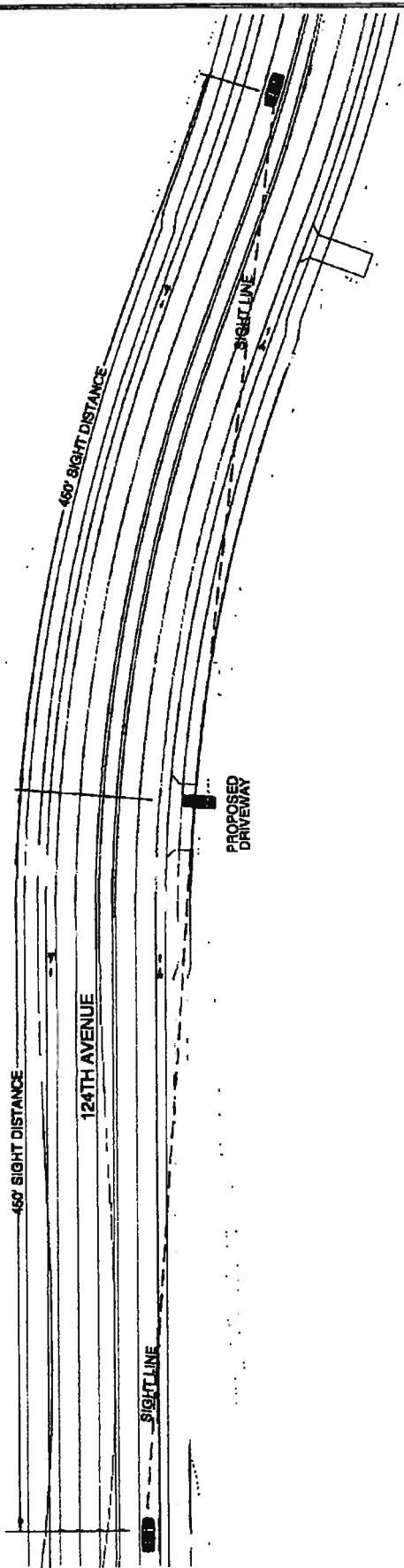
Intersection sight distance was evaluated at the anticipated driveway location on SW 124th based on the current design provided by the City's consultant CH2M Hill. The sight distance evaluated was based on an assumed posted speed of 45 mph and Washington County's standard of 10 times the posted speed. Figure S1 shows the results of the analysis. As indicated in the figure, adequate sight distance can be made available at the site driveway. However, based on the sight triangle, care will need to be taken with both the landscaping along the site frontage as well as any plantings in the median to ensure that sight lines are not obstructed within the sight triangle.

Overall Impact of Access on Surrounding Transportation System

Based on the assumptions for future development described above, a full access on SW 124th can be designed to meet City design and operating standards. Further, with the provision of a properly designed left turn lane on SW 124th, a full access driveway would not significantly affect through traffic on SW 124th. Further, from a transportation system perspective, a full access driveway will have less impact on the surrounding transportation system (in particular Tualatin-Sherwood Road) as it eliminates the significant out of direction travel (and additional trips on Tualatin-Sherwood Road) that would occur if the driveway were limited to right turns only.



SCALE
0 30 60



DESIGN SPEED 45 MPH
REQUIRED SIGHT DISTANCE 450'

MBA

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information

Site Information

Analyst	<u>MAV</u>	Jurisdiction/Date	<u>Jurisdiction</u>	<u>8/24/2007</u>
Agency or Company	<u>City of Tualatin</u>	Major Street	<u>124th</u>	
Analysis Period/Year	<u>AM Peak</u>	<u>2020</u>	Minor Street	<u>Site Access</u>
Comment	<u>Comments</u>			

Input Data

Lane Configuration	NB			SB			WB			EB		
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		600	115	75	150		15		10			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		667	128	83	167		17		11			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	_____ 0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	11	417	0.026	0	13.9	B	19.3
	2	L	17	219	0.078	0	22.8	C	
	3								C
EB	1								
	2								
	3								
NB		①							
SB		④	83	814	0.102	0	9.9	A	

MBA

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information		Site Information	
Analyst	MAV	Jurisdiction/Date	Jurisdiction 8/24/2007
Agency or Company	City of Tualatin	Major Street	124th
Analysis Period/Year	PM Peak 2020	Minor Street	Site Access
Comment	Comments		

Input Data

Lane Configuration	NB			SB			WB			EB		
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		200	20	15	600		115		75			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		222	22	17	667		128		83			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	83	798	0.104	0	10.0	A	20.4
	2	L	128	288	0.445	2	27.1	D	
	3								C
EB	1								
	2								
	3								
NB		①							
SB		④	17	1304	0.013	0	7.8	A	

MBO

CHAPTER 17 - TWSC - UNSIGNALIZED INTERSECTIONS WORKSHEET

Analysis Summary

General Information		Site Information	
Analyst	MAV	Jurisdiction/Date	Jurisdiction <u>8/24/2007</u>
Agency or Company	City of Tualatin	Major Street	124th
Analysis Period/Year	PM Peak 2020	Minor Street	Site Access
Comment	Comments		

Input Data

Lane Configuration	NB			SB			WB			EB		
	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Lane 1 (curb)	TR			T			R					
Lane 2				L			L					
Lane 3												
Lane 4												
Lane 5												
Movement	1 (LT)	2 (TH)	3 (RT)	4 (LT)	5 (TH)	6 (RT)	7 (LT)	8 (TH)	9 (RT)	10 (LT)	11 (TH)	12 (RT)
Volume (veh/h)		200	30	25	600		170		75			
PHF		0.90	0.90	0.90	0.90		0.90		0.90			
Percent of heavy vehicles, HV		5	5	5	5		5		5			
Flow rate		222	33	28	667		189		83			
Flare storage (# of vehs)												
Median storage (# of vehs)							0					
Signal upstream of Movement 2	_____ ft			Movement 5			_____ ft					
Length of study period (h)	0.25											

Output Data

	Lane	Movement	Flow Rate (veh/h)	Capacity (veh/h)	v/c	Queue Length (veh)	Control Delay (s)	LOS	Approach Delay and LOS
WB	1	R	83	793	0.105	0	10.1	B	32.7 D
	2	L	189	275	0.688	5	42.7	E	
	3								
EB	1								
	2								
	3								
NB	①								
SB	④		28	1292	0.021	0	7.8	A	

MSD



STAFF REPORT

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Doug Rux, AICP, Community Development Director *DR*
Cindy Hahn, AICP, Assistant Planner *CH*

DATE: January 28, 2008

SUBJECT: PTA-07-06—AMENDING THE MULTI-FAMILY DESIGN STANDARDS IN TDC 73.130 AND 73.190 FOR LANDS WITHIN THE MIXED USE COMMERCIAL OVERLAY DISTRICT (MUCOD)

ISSUE BEFORE THE CITY COUNCIL:

A request for a Plan Text Amendment (PTA) to the Tualatin Development Code (TDC) Chapter 73-Community Design Standards, Sections 73.130 Site Planning-Multi-family Uses and 73.190 Structure Design-Multi-family Uses, which will correct an existing code conflict by including lands within the Mixed Use Commercial Overlay District (MUCOD) in exceptions to minimum standards for providing private outdoor areas, storage areas, shared outdoor areas and children's play areas, and entry areas similar to those provided for in the Central Design District.

RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) voted 4-0 with one abstention on January 10, 2008, recommending that the City Council approve PTA-07-06.

Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare an ordinance granting PTA-07-06 based on the draft ordinance in Attachment E.

BACKGROUND:

The purpose of the Mixed Use Commercial Overlay District (MUCOD) is "to recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the Durham Quarry Site and Durham Quarry Area ... A second purpose is to recognize that when developed under certain regulations commercial and residential uses may be compatible in the General Commercial District." [TDC 57.010]

Approved By Tualatin City Council
Date *January 28, 2008*
Recording Secretary *J. Kirby*

In establishing the MUCOD the City recognized that there might be conflicts with the existing design standards in Chapter 73 and included the following language in Section 57.200(2)-Design Standards, Conflicting Standards to address these potential conflicts: "In addition to the MUCOD requirements, the requirements in TDC Chapter 73 (Community Design Standards) and other applicable Chapters apply. If TDC Chapters 57, 73, and other applicable Chapters conflict or are different, they shall be resolved through the Architectural Review process. The criteria for resolving conflicts are: (a) deference should be given to using the TDC Chapter 57 requirement, and (b) use the standard that will yield the highest quality development."

In cases where there is a direct conflict between the standards in Chapter 57 and those in Chapter 73, the language in 57.200 provides clear guidance on how to resolve those conflicts. However, there are also instances where the standards are not directly in conflict, but rather at cross-purposes. In other words, the type of urban development expected in the MUCOD cannot be achieved using the standards in Chapter 73.

A similar conflict arose when the City adopted the Central Design District Design Guidelines, which apply to the Tualatin Commons area (bounded by SW Martinazzi Avenue, SW Tualatin-Sherwood Road, SW Tualatin Road/SW Boones Ferry Road, and Hedges Creek) and high-density residential developments such as the Villas I-III and the Mews I and II. At that time conforming amendments were made to the multi-family standards in Chapter 73 in recognition of the Central Design District's intended higher residential densities. A similar step should have been taken when the MUCOD was originally adopted in 2000. However, because the focus at that time was on future commercial and office development at Bridgeport Village, necessary conforming amendments for multi-family development were not made during the adoption process. The amendments proposed in PTA-07-06 rectify that oversight and propose to resolve the cross-purposes or conflicts in a manner similar to that provided for the Central Design District.

EXECUTIVE SUMMARY:

- This matter is a legislative action. TPAC has reviewed the proposal and made a recommendation to the City Council. The City Council will consider the matter in a legislative public hearing.
- This matter is a Plan Text Amendment to the Tualatin Development Code.
- Although this PTA was initiated by Trammel Crow Residential (TCR) Pacific NW Acquisitions LP (the Applicant), which proposes to develop a mixed-use project on the former Schneider Trucking and Lane International facility sites on the north side of SW Lower Boones Ferry Road, this PTA applies to all lands within the MUCOD, as well as those in the Durham Quarry Area that may be added to the MUCOD in the future. A Vicinity Map, Tax Maps, and Site Maps are included as Attachments A, B, and C, respectively. The Applicant's materials are included as Attachment D.
- Similar to the Central Design District guidelines that apply to a specific, geographically defined area of Tualatin, the MUCOD only applies to certain parcels in the Durham Quarry and "Bridgeport area" of Tualatin. If the decision

were made to apply the MUCOD elsewhere in the City, a Plan Text Amendment, with a public hearing before the City Council, would be required. PTA-07-06 does not affect the geographic area to which the MUCOD currently applies or may be applied in the future.

- The standards in TDC Chapter 73 are designed for garden-style multi-family apartments, not the higher-density, urban-style projects now developed in the Central Design District and envisioned for the MUCOD. As discussed above, conforming amendments were made to Chapter 73 in recognition of the Central Design District's intended higher residential densities, and similar conforming amendments should now be made in recognition of development intended for the MUCOD.
- For illustrative purposes, the following table estimates the amount of private outdoor areas, entrance areas, shared outdoor areas and children's play areas, and storage areas that would be required under existing standards contained in Chapters 57 and 73 using, as an example, the 4.35-acre portion of the TCR site located in Tualatin. It is estimated that 275 multi-family residential units would be constructed on this portion of the site:

Standard	Chapter 73	Chapter 57
73.130 (1)(a) Private Outdoor Areas – Ground Level Units <i>Estimate 275 units total, 92 ground level</i>	Separate outdoor area at least 80 sq.ft. in area attached to each ground level dwelling <i>92 units x 80 s.f. = 7,360 s.f.</i>	Porch at least 48 sq.ft. in area with no dimension less than 6 ft. <i>92 units x 48 s.f. = 4,416 s.f.</i>
73.130(1)(b) Private Outdoor Area – Non-Ground Level Units <i>Estimate 275 units total, 183 non-ground level</i>	At least 48 sq.ft. in balconies, terraces, or loggias <i>183 units x 48 s.f. = 8,784 s.f.</i>	No minimum area required – porches and balconies encouraged <i>No minimum = 0 s.f.</i>
73.130(2) Entrance Area <i>Estimate 275 units total</i>	At least 24 sq.ft. per dwelling unit and may be combined to serve more than a single unit <i>275 units x 24 s.f. = 6,600 s.f.</i>	No minimum area required <i>No minimum = 0 s.f.</i>
73.130(3) Shared Outdoor Areas and Children's Play Areas <i>Estimate 275 units total</i>	At least 450 sq.ft. per dwelling unit in year round shared outdoor areas for both active and passive recreation <i>275 units x 450 s.f. = 123,750 s.f.</i>	No minimum area specified <i>No minimum = 0 s.f.</i>
73.190(1) Storage <i>Estimate 275 units total, 70 studio/1bdm, 136 2 bdrm, 69 3+ bdrm</i>	Each storage area shall be a minimum of 6 ft. in height and have a minimum floor area of: 24 sq.ft. for studio and one bedroom units; 36 sq.ft. for two bedroom units; and 48 sq.ft. for greater than two bedroom units. <i>70 units x 24 s.f. = 1,680 s.f.</i> <i>136 units x 36 s.f. = 4,896 s.f.</i> <i>69 units x 48 s.f. = 3,312 s.f.</i>	No minimum area specified <i>No minimum = 0 s.f.</i>
TOTAL: Outdoor or ground level	<i>7,360 s.f. + 123,750 s.f.</i> <i>= 131,110 s.f. = 3.01 acres</i>	<i>4,416 s.f. = 0.10 acre</i>
Enclosed or above ground level	<i>8,784 s.f. + 6,600 s.f. + 9,888 s.f.</i> <i>= 25,272 s.f. = 0.58 acres</i>	<i>No minimum = 0 s.f.</i>

It is not possible to provide approximately 3.01 acres of outdoor area that would be required under existing Chapter 73 standards for multi-family development on a 4.35-acre site while achieving the type of higher density, urban development envisioned for the MUCOD without either reducing the proposed number of units or exceeding the height limit of 50 feet to provide more stories and, therefore, more units in the residential buildings. Therefore, conforming amendments to the multi-family standards similar to those made in recognition of the Central Design District's intended higher residential densities are being proposed for the MUCOD with this PTA.

- The Applicant did not submit a traffic analysis for this PTA; however, an analysis was prepared for the previous PTAs and PMA for TCR's site (for reference, a copy of the Supplemental Materials for PMA-07-01 and PTA-07-04 related to transportation is attached as Attachment I). The City of Tualatin Engineering Division has prepared a memorandum responding to the current application (Attachment H). The memorandum notes that development of the TCR site as proposed (multi-family with a retail component) creates less trips than the "reasonable worst-case scenario" (all retail development). The memorandum further notes that other parcels that currently have the MUCOD overlay have already been developed, the trips associated with those developments will not be impacted by the amendment, and the impacts from other parcels that could implement the MUCOD overlay are unknown at this time. The memorandum also responds to a comment letter received from the Oregon Department of Land Conservation and Development (Attachment J) regarding the need for street and pedestrian connections in the area.
- To the extent that PTA-07-06 affects the number of multi-family residential units that could be constructed within mixed-use development in the MUCOD, it also affects the number of auto trips that potentially would be generated by that development. For example, if it is not possible to construct the estimated 275 units proposed on the 4.35-acre portion of the TCR site that is located in Tualatin, it follows that fewer units would be built and, therefore, fewer trips would be generated.
- The proposed staff version of the PTA code amendment language is provided in Attachment E. The Applicant has prepared a narrative that addresses the PTA 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 G).
- The policies and regulations that apply to the proposal include: TDC 1.032-Amendments; TDC 6.040-Commercial Planning District Objectives; TDC Chapter 54-General Commercial Planning District; TDC Chapter 57-Mixed use Commercial Overlay District; TDC Chapter 73-Community Design Standards. The Analysis and Findings section of this report (Attachment G) considers the applicable policies and regulations.
- Before granting the proposed PTA, the City Council must find that the criteria listed in TDC 1.032 are met. The Analysis and Findings section of this report (Attachment G) examines the application with respect to the criteria for a Plan Amendment.

ALTERNATIVES TO AND OUTCOMES OF DECISION:

Approval of the PTA request will result in the following:

1. Amends and clarifies the standards in TDC Sections 73.130 Site Planning-Multi-family Uses and 73.190 Structure Design-Multi-family Uses for lands within the MUCOD.
2. Corrects an existing code conflict in TDC Chapter 73.
3. Enables the type of mixed-use multi-family development envisioned in the MUCOD.
4. Allows the Applicant to develop the property in the CG Planning District within the MUCOD with the Applicant's desired urban density of residential multi-family units.
5. This action will not reduce the function, capacity or safety of SW Lower Boones Ferry Road or other transportation facilities in the vicinity.

Denial of the PTA request will result in the following:

1. The existing code conflict in TDC Chapter 73 will remain uncorrected.
2. The type of mixed-use multi-family development envisioned in the MUCOD will not be possible.
3. The Applicant must develop their site consistent with the current site planning and structure design standards contained in TDC Chapter 73, which will not achieve the Applicant's desired urban density for the proposed multi-family units.

Continuing discussion of the PTA request and returning to the matter at a later date will result in the following:

1. The existing code conflict in TDC Chapter 73 will remain uncorrected for an indefinite period of time.
2. The Applicant's desired review and construction schedule will be delayed for an indefinite period of time.

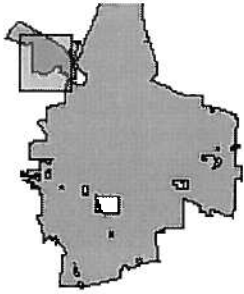
FINANCIAL IMPLICATIONS:

The Applicant paid the required application fee, which is contained in the FY 07/08 budget for revenue.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting on December 20, 2007, at 5:30 p.m. at the Tualatin/Durham Senior Center, to explain their development and PTA proposals to neighboring property owners and to receive comments. This meeting was attended by eight (8) members of the public (nearby property owners/developers).

- Attachments:**
- A. Vicinity Map
 - B. Tax Map
 - C. Site Map
 - D. Applicant's Materials and Supporting Information
 - E. Staff version of proposed Text Amendment Language-TDC 73.130 and 73.190
 - F. Background Information
 - G. Analysis and Findings
 - H. Engineering Division Memorandum
 - I. Supplemental Materials for PMA-07-01 and PTA-07-04 related to transportation
 - J. Comment letter received from the Oregon Department of Land Conservation and Development, dated January 9, 2008.



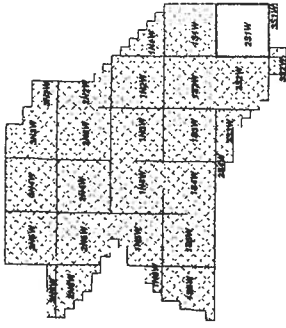
Legend

**Scale 1:7,082
1 in = 590 ft**

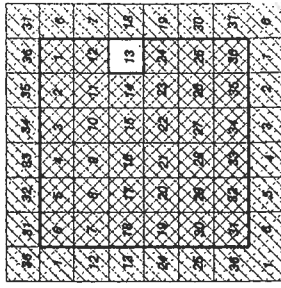


**Attachment A
Vicinity Map**

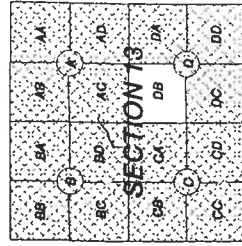
2S 1 13DB



WASHINGTON COUNTY OREGON
 NW 1/4 SE 1/4 SECTION 13 T2S R1W W.M.
 SCALE 1" = 100'



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us



Cancelled Taldos For: 2S113DB
 800,280,300,100,110,1300,700,1200,1400,1800,



ASSESSMENT
 CARTOGRAPHY
 INC.

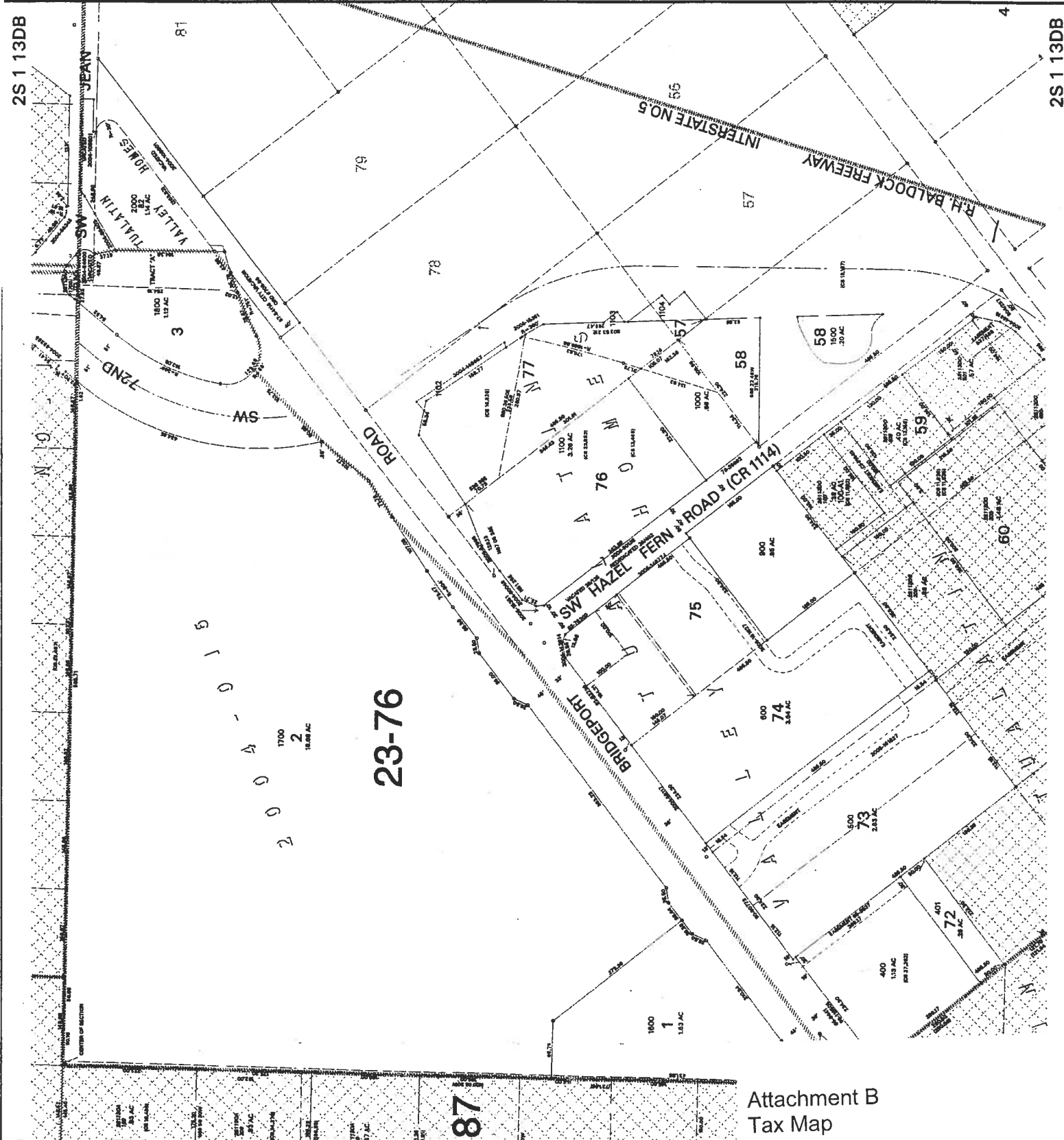
PLOT DATE: JULY 06, 2006
 FOR ASSESSMENT PURPOSES
 ONLY. DO NOT RELY ON
 FOR OTHER USE

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

TUALATIN
2S 1 13DB

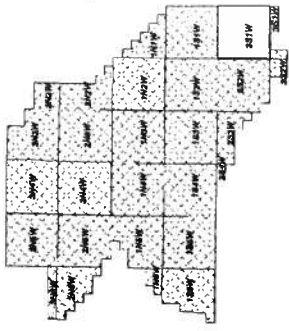
2S 1 13DB

2S 1 13DB

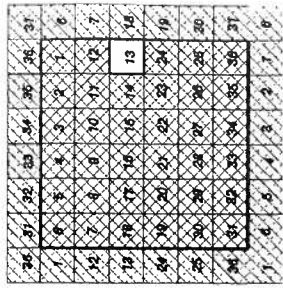


Attachment B
 Tax Map

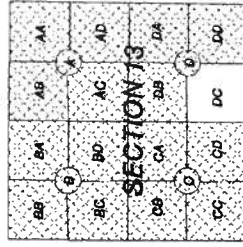
2S 1 13DC



WASHINGTON COUNTY OREGON
 SW1/4 SE1/4 SECTION 13 T2S RTW W.1.M.
 SCALE 1" = 100'



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
WWW.CO.WASHINGTON.ORG.US



Cancelled Taxable For: 2S113DC
 800, 1600, 1800, 1100, 1500.



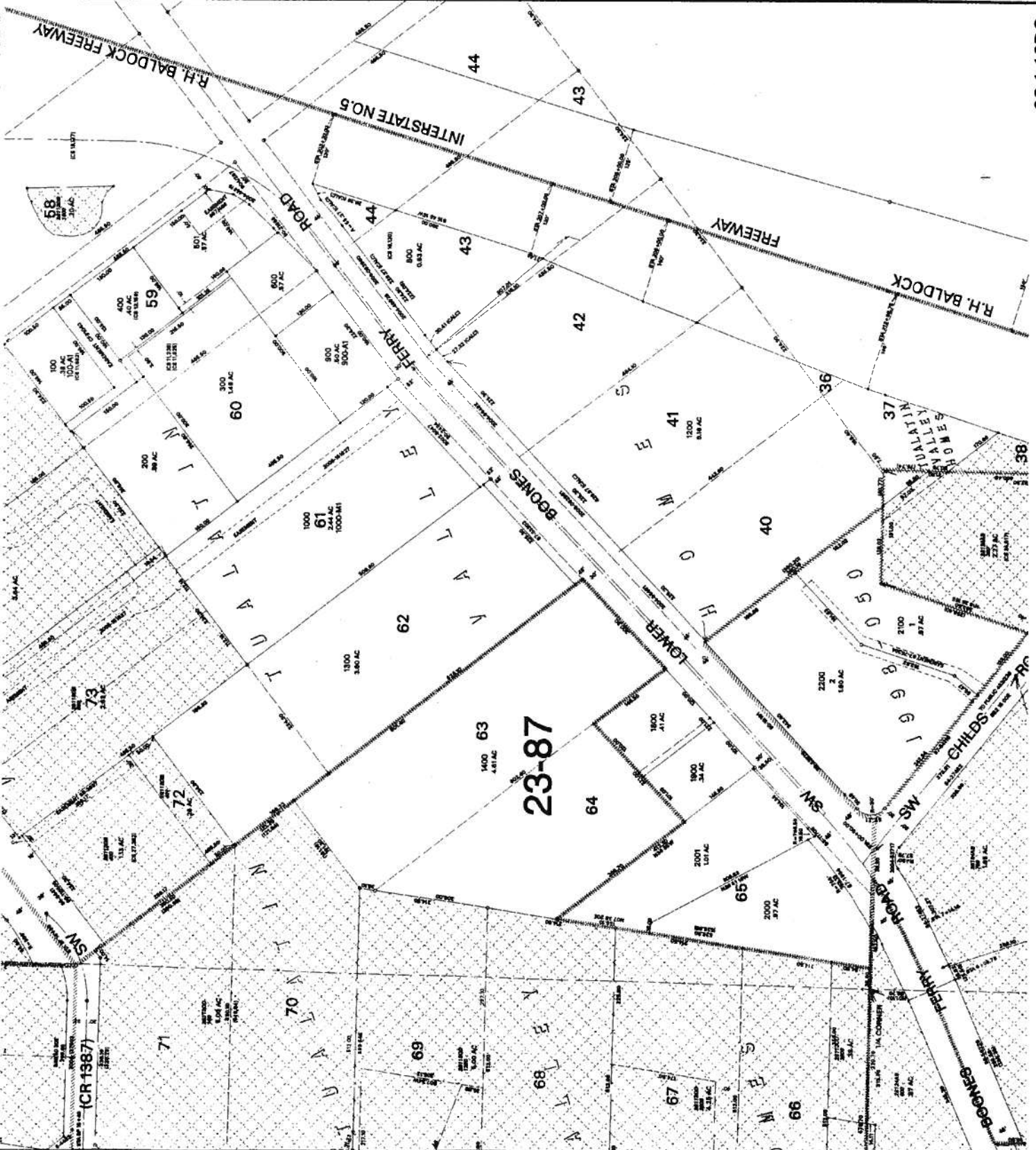
Assessment
 CARTOGRAPHY
 TUALATIN REGION

PLOT DATE: July 13, 2007
 FOR ASSESSMENT PURPOSES
 ONLY - DO NOT RELY ON
 FOR OTHER USE

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

TUALATIN
 DURHAM
 2S 1 13DC

2S 1 13DC

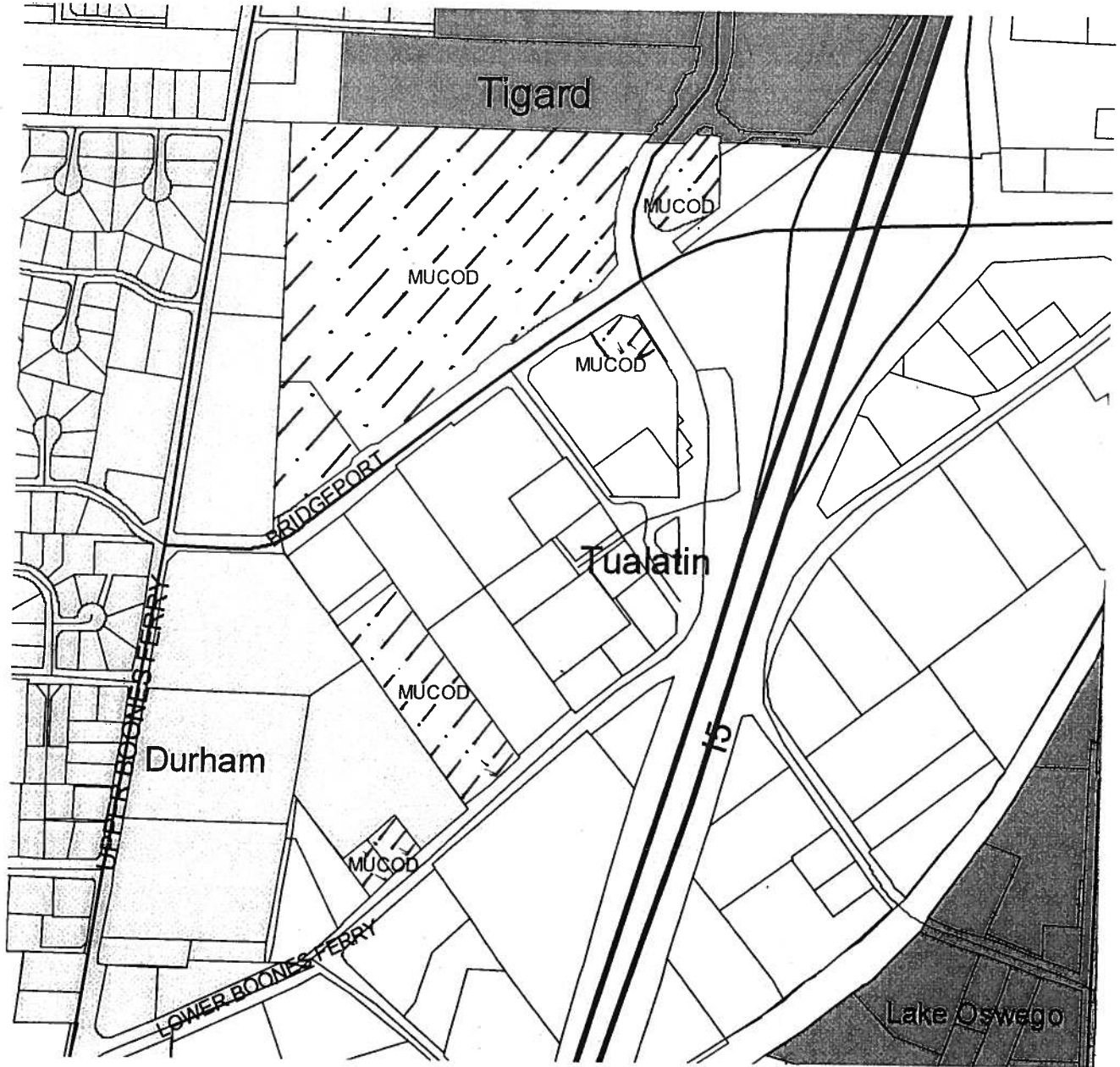


2S 1 13DC

01G21113

LOCATION MAP

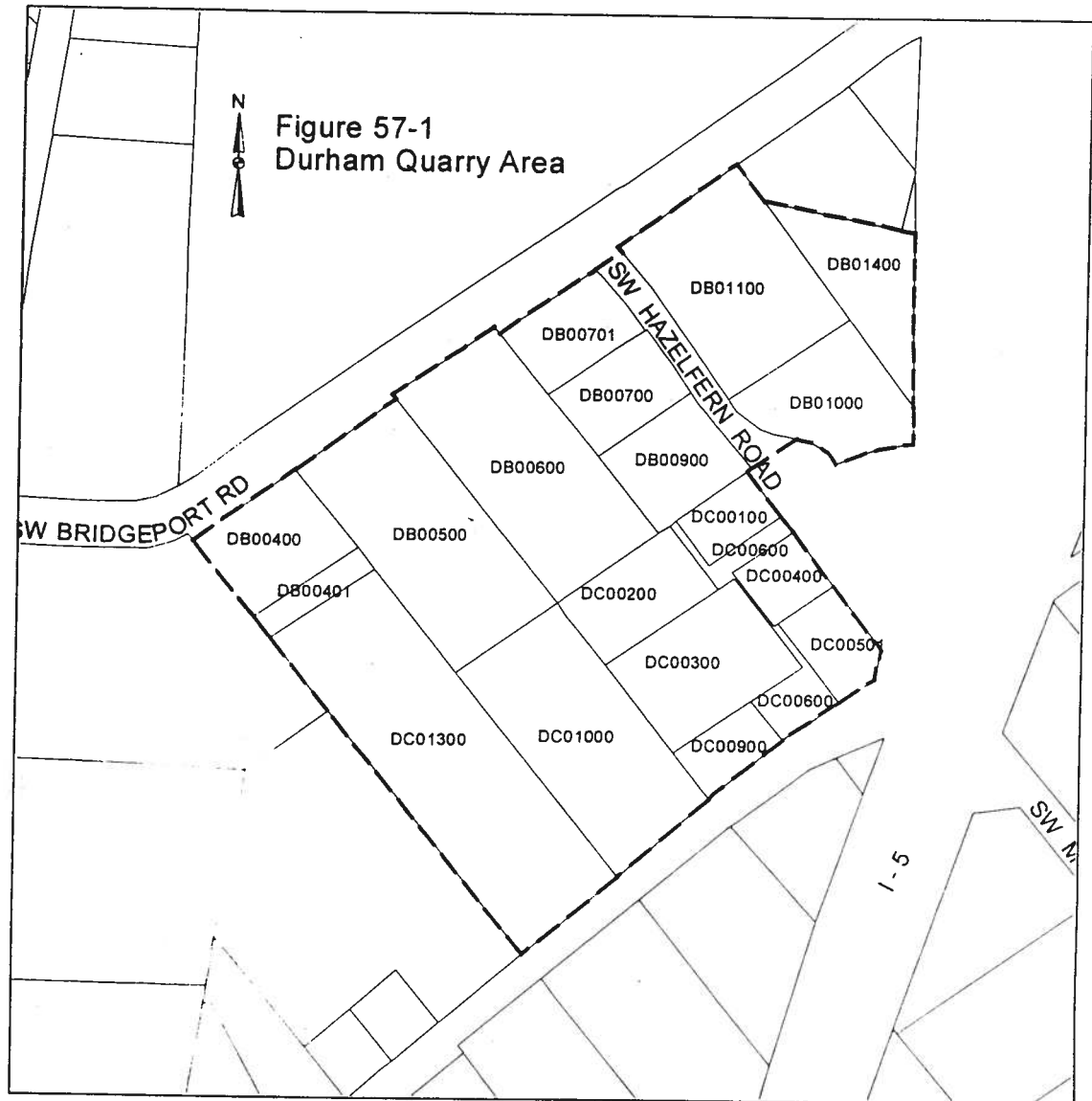
MUCOD Parcels affected by the proposed Plan Text and Map Amendments



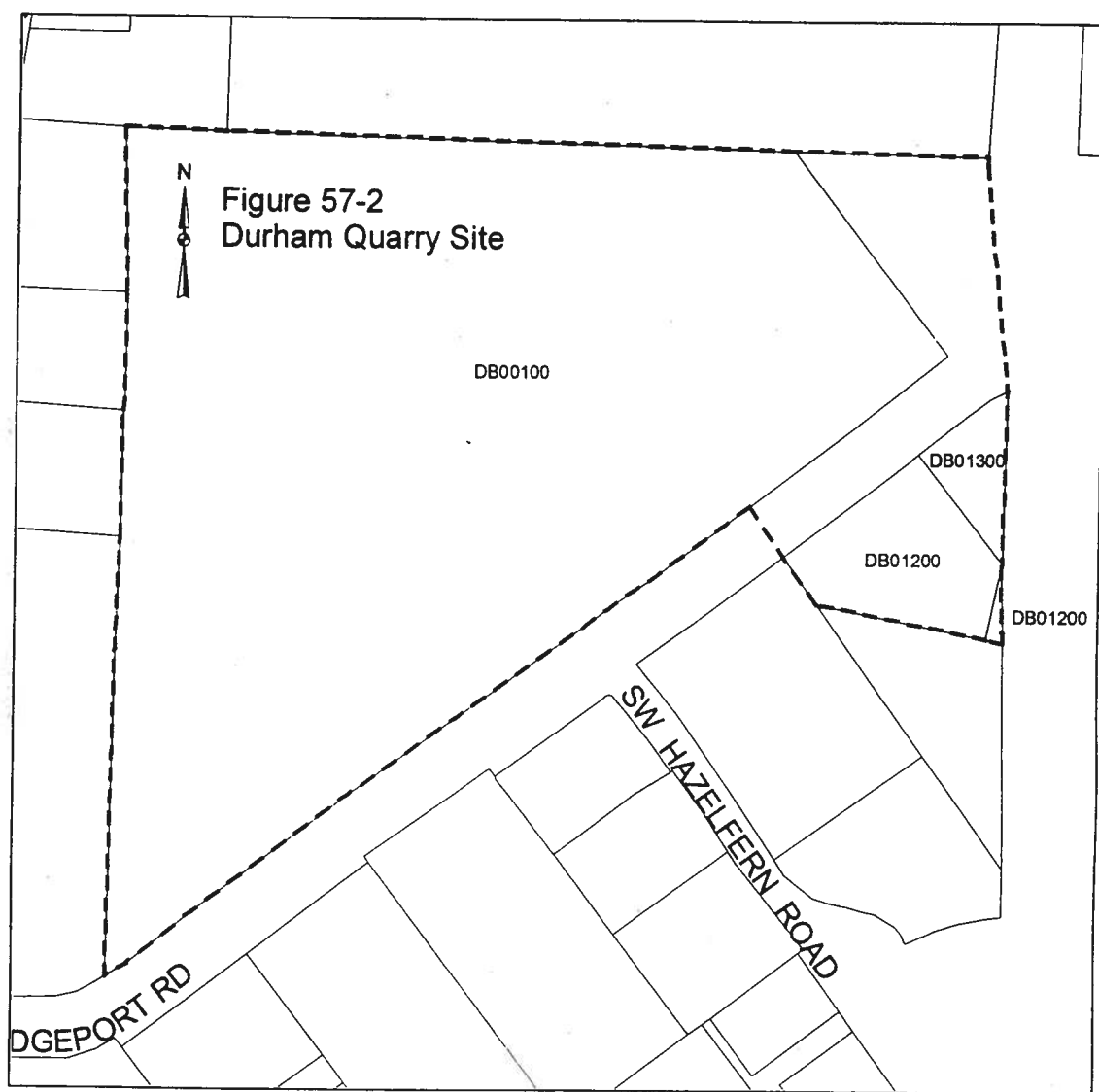
Tualatin Development Code

57.900

- [1] Buffers are not required between abutting uses that are of a different type when the uses are separated by a street as specified in TDC 57.400(2)(a)(ii). [Ord 1062.00, passed December 11, 2000.](Ord. 1062-00, Add, 01/03/2001)



Tualatin Development Code



APPLICATION FOR PLAN TEXT AMENDMENT

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

Case No. _____
Fee Rec'd. _____
Receipt No. _____
Date Rec'd. _____
By _____

.....
PLEASE PRINT IN BLACK INK OR TYPE

Nature of amendment requested Plan Text Amendment to the Multi-family Design Standards in Section 73.130 and 73.190 for Lands within the Mixed Use Commercial Overlay District

State the specific section number(s) of the Code to be amended _____
Section 73.130 Standards
Section 73.190 Standards.

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 See attached signature page

Applicant's Name TCR Pacific NW Acquisitions LP Phone 503-241-2989

Applicant's address 630 NW 10th Avenue, Portland, Oregon 97209
(street) (city) (state) (zip)

Applicant is: Owner _____ Contract Purchaser X Developer X Agent _____

Other _____

If the request is for a specific property:

County N/A Map # N/A Tax Lot #(s) N/A

Owner's Name _____

Owner's Address _____
(street) (city) (state) (zip)

Owner recognition of application: N/A

(signature of owner(s))


12/12/03

Tualatin PTA Application to modify chapter 73 – December, 2007

TCR Pacific Northwest Acquisitions Limited Partnership,
a Texas limited partnership

By: TCR Pacific Northwest Acquisitions 2005, Inc.,
a Texas corporation

Its: General Partner

By: 

Its: VICE PRESIDENT

II. REQUESTED AMENDMENTS

BACKGROUND:

The purpose of Mixed Use Commercial Overlay District (MUCOD) is to recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the Durham Quarry Site and Durham Quarry Area. Retail, office, business services and personal services are emphasized, but residential uses are also allowed in the MUCOD District. A second purpose of the District is to recognize that when developed under certain regulations, commercial and residential uses may be compatible in the General Commercial District. The Mixed Use Commercial Overlay District allows flexibility in the uses permitted for properties in the Durham Quarry Site and Durham Quarry Area.

The standards of the MUCOD are intended to create a much more urban and pedestrian-oriented environment:

- ◆ Minimum setbacks are reduced to zero,
- ◆ Buildings are required to be oriented to the street,
- ◆ Floor area ratios over 0.5 are required,
- ◆ Structure can be 50 to 70 feet in height, and
- ◆ Residential densities are expected to range from 25 to 50 dwelling units an acre (or greater within a mixed use development).

The residential densities are the highest in the City and exceed those within the Central Design District. Within the MUCOD, residential-only and mixed-use buildings where at least 50.1% of the gross floor area of the building is residential are also subject to the Design Compatibility Standards in Section 57.300. These standards address the design of front facades, main entrance, unit definition, roof lines, trim detail, mechanical equipment, parking, and pedestrian circulation.

In establishing the MUCOD the City recognized that there might be conflicts with the existing design standards in Chapter 73 and included the following language to address these potential conflicts:

Section 57.200 Design Standards (2) Conflicting Standards. In addition to the MUCOD requirements, the requirements in TDC Chapter 73 (Community Design Standards) and other applicable Chapters apply. If TDC Chapters 57, 73, and other applicable Chapters conflict or are different, they shall be resolved through the Architectural Review process. The criteria for resolving conflicts are:

- (a) deference should be given to using the TDC Chapter 57 requirement, and*
- (b) use the standard that will yield the highest quality development.*

In cases where there is a direct conflict between the standards in Chapter 57 and those in Chapter 73, the language in 57.200 provides clear guidance on how to resolve those conflicts. However, as shown in the table on the following page, there are also instances where the standards are not directly in conflict, but rather at cross-purposes. In other words, the type of urban development expected in the MUCOD cannot be achieved using the standards in Chapter 73. It is these standards that this application seeks to amend and clarify.

The Central Design District provides a good model for the amendments. When the City adopted the Central Design District, conforming amendments were made to the multi-family standards Chapter 73 in recognition of the Central Design District's intended higher residential densities. A similar step should have been taken when the MUCOD was originally adopted. However, because the focus was on future the future commercial and office development at Bridgeport Village, necessary conforming amendments for multi-family were not made during the adoption process. These proposed amendments rectify that oversight and propose to resolve the conflicts in a manner similar to that provided for the Central Design District.

Comparison of Selected Design Standards from Chapters 57 and 73		
STANDARD	CHAPTER 57	CHAPTER 73
Private Outdoor Area – Ground Level Units	48 square feet in area with no dimension less than six feet	Except within the Central Design District, a separate outdoor area of not less than 80 square feet shall be attached to each ground level dwelling unit
Private Outdoor Area – Non-Ground Floor Units	No minimum area required - Projecting features such as porches and balconies are encouraged	48 square feet, except within the Central Design District such outdoor areas may be less than 48 square feet
Entrance Area	No minimum area required - Primary structures are required to be oriented with their main entrance facing the street upon which the project fronts.	24 square feet for each dwelling unit and may be combined to serve more than a single unit, except in the Central Design District
Shared Outdoor Areas and Children's Play Areas	No minimum area specified	450 square feet per dwelling unit. Except adult only projects, a minimum of 150 square feet of the 450 square feet shall be provided as a children's play area, except in Central Design District or for very small projects and townhouses
Storage	No minimum area specified	Each storage area shall be a minimum of 6 feet in height and have a minimum floor area of: (i) 24 square feet for studio and one bedroom units; (ii) 36 square feet for two bed-room units; and (iii) 48 square feet for greater than two bedroom units. (b) For townhouses and residential and mixed use residential developments in the Central Design District, some provision shall be made for outdoor storage adjacent to private outdoor areas.

REQUEST:

This Plan Text Amendment (PTA) is an application by TCR Pacific Northwest Acquisitions LP to amend the Multi-family Design Standards within Tualatin Development Code Sections 73.130 and 73.190 in terms of how they apply to lands within the MUCOD.

.Amendment to Tualatin Development Code

The requested amendments to Sections 73.130 and 73.190 are shown below. New proposed language is ***bold italics*** and existing language proposed to be deleted is shown with ~~strikethrough~~

DESIGN STANDARDS
Site Planning - Multi-family Uses.

Section 73.130 Standards.

The following standards are minimum requirements for multi-family and townhouse development:

(1) Private Outdoor Areas

(a) Except within the Central Design District ***or the Mixed Use Commercial Overlay District***, a separate outdoor area of not less than 80 square feet shall be attached to each ground level dwelling unit. These areas shall be separated from common outdoor areas in a manner which enables the resident to control access from separate to common areas with elements, such as walls, fences or shrubs.

(b) Except for townhouses, a separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or loggias shall be provided for each unit located above the ground level, except that within the Central Design District ***or the Mixed Use Commercial Overlay District*** such outdoor areas may be less than 48 square feet.

(2) Entry Areas

(a) Except as provided in TDC 73.130(2)(b), a private main entry area shall be provided in addition to required private outdoor areas and designed so that they are considered a private extension of each dwelling unit. Except for townhouses, each entrance area shall be a minimum of 24 square feet in area for each dwelling unit and may be combined to serve more than a single unit, subject to the following minimum area requirements:

(i) Two dwelling units for one-story buildings or two-story townhouses (48 square feet).

(ii) Four dwelling units for two-story buildings (96 square feet).

(iii) Six dwelling units for three-story buildings (144 square feet).

(iv) Unlimited for four-story and greater and for buildings with dwelling unit en-tries from interior corridors.

(b) Within the Central Design District ***or the Mixed Use Commercial Overlay District***, a private main entry area need not meet the minimum square footage requirements in TDC 73.130(2)(a).

(c) Entry areas shall be separated from on-site parking areas and public streets with landscaping, change of grade, low fences, walls or other means that enable the resident to supervise and control access and to retain privacy.

(3) Shared Outdoor Areas and Children's Play Areas

(a) Except for townhouses, projects with 12 or more dwelling units shall provide year round shared outdoor areas for both active and passive recreation (gazebos and other covered spaces are encouraged to satisfy part of this requirement) totaling not less than 450 square feet per dwelling unit. Except adult only projects, a minimum of 150 square feet of the 450 square feet shall be provided as a children's play area.

(b) The shared outdoor and children's play areas shall be located and de-signed in a manner which:

(i) Provides approximately the same accessibility to the maximum number of dwelling units possible;

(ii) Allows residents to watch over these areas from windows in at least two adjacent dwelling units. These windows must provide viewing from the kitchen, living room, dining room or other activity room (bedrooms or bath-rooms are not included);

(iii) Provides a separation from all entryway and parking areas with a landscaped transition area measuring a minimum of 10 feet wide;

(iv) Controls access to shared out-door areas from off-site as well as from on-site parking

and entrance areas with features such as fencing, walls and landscaping;

(v) Provides both sunny and shady spots; and
(vi) Provides a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify).

(c) These standards shall not apply to townhouses or within the Central Design District *or the Mixed Use Commercial Overlay District*.

(4) Safety and Security.

(a) Except for townhouses, private outdoor areas shall be separated from shared outdoor areas and children's play areas with elements such as walls, buildings, landscaping, and changes in grade in a manner which enables residents to utilize these areas as an extension of their units.

(b) Windows shall be located to encourage watching over entry areas, shared outdoor areas, walkways and parking areas.

(c) An outdoor lighting system shall be provided which facilitates police observation and resident observation through strategic location, orientation and brightness without being obtrusive (i.e., shining into residential units).

(d) An identification system shall be established which clearly orients visitors and emergency services as to the location of residential units. Where possible, this system should be evident from the primary vehicle entryway.

(5) Service, Delivery and Screening

(a) Provisions for postal delivery shall be conveniently located and efficiently designed for residents and mail delivery personnel.

(b) Safe pedestrian access from unit entries to postal delivery areas, shared activity areas, and parking areas shall be provided. Elements such as, but not limited to, concrete paths, raised walkways through vehicular areas or bark chip trails will meet this requirement.

(c) On and above grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners shall be screened with sight obscuring fences, walls or landscaping.

(6) Accessways

(a) Accessways shall be constructed, owned and maintained by the property owner.

(b) Accessways shall be provided between the development's walkway and bikeway circulation system and all of the following locations that apply:

(i) adjoining publicly-owned land intended for public use, including schools, parks, or bikelanes. Where a bridge or culvert would be necessary to span a designated greenway or wet-land to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;

(ii) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;

(iii) adjoining undeveloped residential or commercial property; and

(iv) adjoining developed sites where an accessway is planned or provided.

(c) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development of a parcel adjacent to a vacant parcel shall enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement shall be subject to the City's review and approval.

(d) Accessways for multi-family development shall:

(i) be a paved surface that is a minimum of 8 feet in width;

(ii) be constructed of Portland Cement Concrete;

(iii) not have fences or gates which prevent pedestrian and bike access at the entrance to or exit from any accessway; and

(iv) have curb ramps wherever the accessway crosses a curb.

(e) Outdoor Recreation Access Routes shall be provided between the development's

walkway and bikeway circulation system and parks, bike-ways and greenways where a bike or pedestrian path is designated.

(7) Walkways

(a) Except for townhouses, walkways for multi-family development shall be a minimum of 6 feet in width and paved with asphalt, concrete or a suitable all-weather surface material.

(b) Curb ramps shall be provided wherever a walkway crosses a curb.

(8) The Federal Americans With Disabilities Act (ADA) applies to development in the City of Tualatin. Although TDC Chapter 73, does not include the Oregon Structural Specialty Code's (OSSC) accessibility standards as requirements to be reviewed during the Architectural Review process, compliance with the OSSC is a requirement at the Building Permit step. It is strongly recommended all materials submitted for Architectural Review show compliance with the OSSC.

(b) For townhouses and residential and mixed use residential developments in the Central Design District *or the Mixed Use Commercial Overlay District*, some provision shall be made for outdoor storage adjacent to private outdoor areas. Such provisions shall be reviewed for adequacy through Architectural Review and shall be de-signed to accommodate barbecues or other small deck equipment.

(2) Carports and Garages(a) If carports and garages are provided for multi-family development, except townhouses, the form, materials, color and construction shall be compatible with the complex they serve.

(b) At least one garage space shall be provided for townhouses.

Structure Design - Multi-family Uses.

Section 73.190 Standards.

The following standards are minimum requirements for multi-family and townhouse development.

(1) Storage

(a) Except as provided in Subsection (1)(b), enclosed storage areas are required and shall be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc. Garages are not intended to satisfy storage requirements. Each storage area shall be a minimum of 6 feet in height and have a minimum floor area of:

(i) 24 square feet for studio and one bedroom units;

(ii) 36 square feet for two bed-room units; and

(iii) 48 square feet for greater than two bedroom units.

III.

ANALYSIS OF CONFORMANCE WITH APPLICABLE CODE REQUIREMENTS

(1) Granting the amendment is in the public interest (Subsection 1.032.1).

Response: In its original adoption of the Mixed Use Commercial Overlay District, the City intended to create a much more urban and pedestrian-oriented environment. The residential densities are the highest in the City and exceed those within the Central Design District. In order to fully implement the intent of the MUCOD, there are necessary conforming amendments to the multi-family standards in Chapter 73 that should have been made at the time of adoption. These proposed amendments to Chapter 73 will enable the type of mixed-use multi-family development which was envisioned within the MUCOD.

Granting the amendments is in the public interest. Criterion 1 is met.

(2) The public interest is best protected by granting the amendment at this time. (Subsection 1.032.2)

Response: Development and redevelopment is continuing in the Durham Quarry Area. As this occurs, the City is provided with new opportunities to implement its policy objectives within the MUCOD. Delaying adoption of these amendments would result in missed opportunities to encourage the type of mixed-use multi-family development which was envisioned within the MUCOD.

The public interest will be best protected by granting the amendments at this time. Criterion 2 is met.

(3) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan. (Subsection 1.032.3)

Section 73.120 Objectives. [Site Planning - Multi-family Uses]

All multi-family projects, including town-houses, should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new projects. In the case of conflicts between objectives, the proposal shall provide a desirable balance between the objectives. Townhouses may necessitate a different balancing than multi-family developments, such as apartments. In the Central Design District, the Design Guidelines of TDC 73.610 shall be considered. Site elements shall be placed and designed, to the maximum extent practicable, to:

- (1) Retain and incorporate existing trees and other significant natural features such as drainage-ways and wetlands.
- (2) Minimize soil removal from the site and grade changes.
- (3) Minimize the effects of noise and dust pollution on areas surrounding and within the site.
- (4) Create areas for recreation which are suit-able for passive and active uses.
- (5) Provide the opportunity for residents to watch over shared outdoor areas, entry areas and vehicular parking areas through placement and orientation of kitchen or living room windows, or both.
- (6) Provide protection from adverse climate conditions such as summer overheating and winter storms. Architectural and landscape elements such as porches, trellises, awnings, trees and shrubs are examples of items which may mitigate these impacts.

- (7) *Parking lot location and design should minimize distances between resident vehicular parking and entry areas while providing a suitable transition in materials and scale between vehicular areas and living areas.*
- (8) *Protect parked vehicles from moving vehicles.*
- (9) *Select and locate plant materials to appropriately articulate space, frame views and vistas, provide seasonal variety, create usable ground surfaces, discourage intrusion into private outdoor areas, and curtail erosion.*
- (10) *Provide shade and break up the appearance of large expanses of paved areas.*
- (11) *Screen vehicular headlights from shining into residential units.*
- (12) *Screen elements such as mechanical and electrical facilities from view.*
- (13) *Avoid barriers to disabled individuals.*
- (14) *Create opportunities for, or areas of, visual and aesthetic interest for occupants and visitors to the site.*
- (15) *Provide, protect and maintain visual and physical corridors to adjacent wetlands, waterways, Natural Areas and Greenways.*
- (16) *Provide safe and convenient walkways for pedestrians to move from parking areas to building entrances.*
- (17) *Provide and maintain a circulation system of safe and convenient walkways and bikeways that link buildings on the site with adjacent public streets and accessways.*
- (18) *Provide direct and convenient accessways between the development and publicly-owned land intended for general public use; arterial and collector streets where a transit stop and a bike lane is provided or designated; and abutting residential, commercial and semi-public property. Accessways should be designed and located in a manner which does not restrict or inhibit opportunities for developers of adjacent properties to connect with an accessway and which provides continuity from property to property for pedestrians and bicyclists to use the accessway.*

Section 73.180 Objectives. [Structure Design - Multi-family Uses]

All multi-family projects, including town-houses, should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new projects. In the Central Design District, the Design Guidelines of TDC 73.610 shall be considered. In the case of conflicts between objectives, the proposal shall provide a desirable balance between the objectives. Townhouses may necessitate a different balancing than multi-family developments, such as apartments. Buildings shall be designed, to the maximum extent practicable, to:

- (1) *Provide a composition of building elements which responds to function, land form, identity and image, accessibility, orientation and climatic factors.*
- (2) *Enhance energy efficiency through the use of landscape and architectural elements, such as arcades, sunscreens, lattice, trellises, roof overhangs and window orientation.*
- (3) *Create subclusters and stagger unit alignments.*
- (4) *Utilize functional building elements such as carports and garages, balconies, entry areas and sun screens where possible to accomplish unit identity, pride of place and visual diversity.*
- (5) *Give consideration to organization, design and placement of windows as viewed on each elevation. The system may be a variation on a theme or consistent symmetry and must operate in concert with the provision of adequate interior privacy, safety, daylight and ventilation.*
- (6) *Select building materials which contribute to the project's identity, form and function, as well as to the existing site and surrounding natural landscape and development.*
- (7) *Select colors in consideration of lighting conditions under which the structure is viewed, the ability of the material to absorb, reflect or transmit light, and the color's functional role*

(whether to blend into the environment, express a particular character, discriminate materials, define form and volume or simply as an identification feature such as with color coding).

(8) Minimize disruption of natural site features such as topography, trees and water features.

Response: The objectives above help guide multi-family development within the City of Tualatin and help ensure that new multi-family development occurs in a way that contributes to the livability of Tualatin. These objectives are implemented in part by the multi-family standards in 73.130 and 73.190. Within the MUCOD, multi-family development and mixed use multi-family developments are also subject to the design standards in Section 57.300. The proposed amendments will enable the type of mixed use multi-family development envisioned in the MUCOD in a manner that is consistent with the applicable objectives noted above.

The proposed amendments are in conformity with applicable objectives. Criterion 3 is met.

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

(a) The various characteristics of areas in the City.

Response: The amendments will only affect lands designated as MUCOD. Significant redevelopment has occurred in and around the areas designated MUCOD in recent years. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed use multi-family development envisioned in the MUCOD. This type of development is consistent with the characteristics of the MUCOD and appropriate for the vicinity.

(b) The suitability of the area for particular land uses and improvements.

Response: The amendments will only affect lands designated as MUCOD. These lands have already been identified by the City as suitable for the types of uses that will be enabled by the proposed amendments.

(c) Trends in land improvement and development.

Response: This request reflects a growing interest in Tualatin as a center for high quality mixed use development. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed use multi-family development envisioned in the MUCOD.

(d) Property values.

Response: By encouraging high-quality mixed use development, the City of Tualatin will stay competitive with other areas in the metro region, thus helping to protect property values.

(e) The needs of economic enterprises and the future development of the area.

Response: By providing for flexibility and high quality development through the MUCOD, the City of Tualatin will help meet the needs of future development in the area.

(f) Needed right-of-way and access for and to particular sites in the area.

Response: Not applicable. Right-of-way and access will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes.

(g) Natural resources of the City and the protection and conservation of said resources.

Response: Not applicable. Natural resources will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes.

(h) Prospective requirements for the development of natural resources in the City.

Response: Not applicable. Natural resources will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes.

(i) The public need for healthful, safe, aesthetic surroundings and conditions.

Response: The public need is addressed in Criterion A, above.

(j) Proof of a change in a neighborhood or area.

Response: Significant redevelopment has occurred in and around the areas designated MUCOD in recent years. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed use multi-family development envisioned in the MUCOD.

(k) A mistake in the plan map or text.

Response: The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed use multi-family development envisioned in the MUCOD.

Response: The factors listed in Section 1.032(4) were consciously considered. Criterion 4 is met.

(5) The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. (Subsection 1.032.5)

Response: The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type and density of mixed use multi-family development envisioned in the MUCOD.

(6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules (OARs). (Subsection 1.032.6)

Response: Statewide Planning Goal 1 addresses citizen participation in the land use process, and Goal 2 addresses the process for land use planning, requiring coordination between cities and other governments and government agencies. The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Tualatin process, which ensure coordination and citizen involvement. The amendments are consistent with Statewide Planning Goals 1 and 2.

Statewide Planning Goal 10 addresses the housing needs of the community. The MUCOD allows housing as a use, so there is an opportunity for the site to contribute to the buildable land supply for housing. However, due to conflicting language in Chapter 73, the residential densities proscribed in the MUCOD cannot be achieved. The proposed amendments will correct these conflicts and will enable the type of mixed use multi-family development envisioned in the MUCOD. Therefore, the City's ability to provide an adequate housing supply is enhanced by the proposed amendment.

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 text amendment to demonstrate that the proposed change will not significantly affect a transportation facility. If the change does significantly affect a facility, mitigation measures must be employed to address the anticipated impacts on the facility. The proposed amendment will not significantly affect a transportation facility because a reasonable worst-case development scenario under the MUCOD is based on zone being utilized for commercial development rather than residential development. The type and density of residential development allowed under the MUCOD would have a lower trip generating potential than the allowed commercial activities.

Criterion 6 is met.

(7) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan. (Subsection 1.032.7)

The Functional Plan is supportive of mixed use and higher residential densities within the Urban Growth Boundary. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type and density of mixed use multi-family development envisioned in the MUCOD. The amendment does not affect the amount of land included within the MUCOD nor does it reduce the potential employment capacity of lands designated as MUCOD. Therefore, it is consistent with Metro's Functional Plan. Criterion 7 is met.

(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. (Subsection 1.032.8)

As noted previously, the proposed amendment is not expected to alter the potential "worst case" scenario in terms of trip generation. Criterion 8 is met.

ORDINANCE NUMBER _____

AN ORDINANCE RELATED TO AMENDING THE MULTI-FAMILY DESIGN STANDARDS FOR LANDS WITHIN THE MIXED USE COMMERCIAL OVERLAY DISTRICT (MUCOD); AMENDING TDC 73.130 AND 73.190 (PTA-07-06).

WHEREAS upon the application of Trammel Crow Residential (TCR) Pacific NW Acquisitions LP, a public hearing was held before the City Council of the City of Tualatin on January 28, 2008, related to amending the multi-family design standards for lands within the Mixed Use Commercial Overlay District (MUCOD); amending TDC Chapter 73 – Community Design Standards Sections 73.130 and 73.190 (PTA-07-06); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on January 10, 2008, in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on January 28, 2008, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application by a vote of ____ - ____; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended. Therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 73.130 is amended to read as follows (Language to be removed in ~~strikeout~~ / New language in ***Bold Italic***):

Section 73.130 Standards.

The following standards are minimum requirements for multi-family and townhouse development:

(1) Private Outdoor Areas

(a) Except within the Central Design District **or the Mixed Use Commercial Overlay District**, a separate outdoor area of not less than 80 square feet shall be attached to each ground level dwelling unit. These areas shall be separated from common outdoor areas in a manner which enables the resident to control access from separate to common areas with elements, such as walls, fences or shrubs.

(b) Except for townhouses, a separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or loggias shall be provided for each unit located above the ground level, except that within the Central Design District **or the Mixed Use Commercial Overlay District**, such outdoor areas may be less than 48 square feet.

(2) Entry Areas

(a) Except as provided in TDC 73.130(2)(b), a private main entry area shall be provided in addition to required private outdoor areas and designed so that they are considered a private extension of each dwelling unit. Except for townhouses, each entrance area shall be a minimum of 24 square feet in area for each dwelling unit and may be combined to serve more than a single unit, subject to the following minimum area requirements:

(i) Two dwelling units for one-story buildings or two-story townhouses (48 square feet).

(ii) Four dwelling units for two-story buildings (96 square feet).

(iii) Six dwelling units for three-story buildings (144 square feet).

(iv) Unlimited for four-story and greater and for buildings with dwelling unit entries from interior corridors.

(b) Within the Central Design District **or the Mixed Use Commercial Overlay District**, a private main entry area need not meet the minimum square footage requirements in TDC 73.130(2)(a).

(c) Entry areas shall be separated from on-site parking areas and public streets with landscaping, change of grade, low fences, walls or other means that enable the resident to supervise and control access and to retain privacy.

(3) Shared Outdoor Areas and Children's Play Areas

(a) Except for townhouses, projects with 12 or more dwelling units shall provide year round shared outdoor areas for both active and passive recreation (gazebos and other covered spaces are encouraged to satisfy part of this requirement) totaling not less than 450 square feet per dwelling unit. Except adult only projects, a minimum of 150 square feet of the 450 square feet shall be provided as a children's play area.

(b) The shared outdoor and children's play areas shall be located and designed in a manner which:

(i) Provides approximately the same accessibility to the maximum number of dwelling units possible;

(ii) Allows residents to watch over these areas from windows in at least two adjacent dwelling units. These windows must provide viewing from the kitchen, living room, dining room or other activity room (bedrooms or bathrooms are not included);

(iii) Provides a separation from all entryway and parking areas with a landscaped transition area measuring a minimum of 10 feet wide;

- (iv) Controls access to shared outdoor areas from off-site as well as from on-site parking and entrance areas with features such as fencing, walls and landscaping;
 - (v) Provides both sunny and shady spots; and
 - (vi) Provides a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify).
- (c) These standards shall not apply to townhouses or within the Central Design District **or the Mixed Use Commercial Overlay District.**
- (4) Safety and Security.
- (a) Except for townhouses, private outdoor areas shall be separated from shared outdoor areas and children's play areas with elements such as walls, buildings, landscaping, and changes in grade in a manner which enables residents to utilize these areas as an extension of their units.
 - (b) Windows shall be located to encourage watching over entry areas, shared outdoor areas, walkways and parking areas.
 - (c) An outdoor lighting system shall be provided which facilitates police observation and resident observation through strategic location, orientation and brightness without shining into residential units, public rights-of-way, or fish and wildlife habitat areas.
 - (d) An identification system shall be established which clearly orients visitors and emergency services as to the location of residential units. Where possible, this system should be evident from the primary vehicle entryway.
- (5) Service, Delivery and Screening
- (a) Provisions for postal delivery shall be conveniently located and efficiently designed for residents and mail delivery personnel.
 - (b) Safe pedestrian access from unit entries to postal delivery areas, shared activity areas, and parking areas shall be provided. Elements such as, but not limited to, concrete paths, raised walkways through vehicular areas or bark chip trails will meet this requirement.
 - (c) On and above grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners shall be screened with sight obscuring fences, walls or landscaping.
- (6) Accessways
- (a) Accessways shall be constructed, owned and maintained by the property owner.
 - (b) Accessways shall be provided between the development's walkway and bikeway circulation system and all of the following locations that apply:
 - (i) adjoining publicly-owned land intended for public use, including schools, parks, or bikelanes. Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;
 - (ii) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;
 - (iii) adjoining undeveloped residential or commercial property; and
 - (iv) adjoining developed sites where an accessway is planned or provided.

(c) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development of a parcel adjacent to a vacant parcel shall enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement shall be subject to the City's review and approval.

(d) Accessways for multi-family development shall:

(i) be a minimum of 8 feet in width;

(ii) be constructed in accordance with the Public Works Construction Code if they are public accessways, and if they are private accessways they shall be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material, and be ADA compliant, if applicable;

(iii) not have fences or gates which prevent pedestrian and bike access at the entrance to or exit from any accessway; and

(iv) have curb ramps wherever the accessway crosses a curb.

(e) Outdoor Recreation Access Routes shall be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(7) Walkways

(a) Except for townhouses, walkways for multi-family development shall be a minimum of 6 feet in width and be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be ADA compliant, if applicable.

(b) Curb ramps shall be provided wherever a walkway crosses a curb.

(8) The Federal Americans With Disabilities Act (ADA) applies to development in the City of Tualatin. Although TDC Chapter 73, does not include the Oregon Structural Specialty Code's (OSSC) accessibility standards as requirements to be reviewed during the Architectural Review process, compliance with the OSSC is a requirement at the Building Permit step. It is strongly recommended all materials submitted for Architectural Review show compliance with the OSSC.

Section 2. TDC 73.190 is amended to read as follows (Language to be removed in ~~strikeout~~ / New language in ***Bold Italic***):

Section 73.190 Standards.

The following standards are minimum requirements for multi-family and townhouse development.

(1) Storage

(a) Except as provided in Subsection (1)(b), enclosed storage areas are required and shall be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc. Garages are not intended to satisfy storage requirements. Each storage area shall be a minimum of 6 feet in height and have a minimum floor area of:

(i) 24 square feet for studio and one bedroom units;

(ii) 36 square feet for two bedroom units; and

- (iii) 48 square feet for greater than two bedroom units.
 - (b) For townhouses and residential and mixed use residential developments in the Central Design District **or the Mixed Use Commercial Overlay District**, some provision shall be made for outdoor storage adjacent to private outdoor areas. Such provisions shall be reviewed for adequacy through Architectural Review and shall be designed to accommodate barbecues or other small deck equipment.
- (2) Carports and Garages
- (a) If carports and garages are provided for multi-family development, except townhouses, the form, materials, color and construction shall be compatible with the complex they serve.
 - (b) At least one garage space shall be provided for townhouses.

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

CITY OF TUALATIN, Oregon

BY _____
Mayor

ATTEST:

BY _____
City Recorder

ATTACHMENT F

PTA-07-06: BACKGROUND INFORMATION

Pertinent background information obtained from the submitted application for PTA-07-06 and other supporting documents is summarized in this section.

The purpose of the Mixed Use Commercial Overlay District (MUCOD) is “to recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the Durham Quarry Site and Durham Quarry Area ... Retail, office, business services and personal services are emphasized, but residential uses are also allowed. A second purpose is to recognize that when developed under certain regulations commercial and residential uses may be compatible in the General Commercial District. The Mixed Use Commercial Overlay District allows flexibility in the uses permitted for properties in the Durham Quarry Site and Durham Quarry Area.” [TDC 57.010]

The standards of the MUCOD are intended to create a much more urban and pedestrian-oriented environment:

- Minimum setbacks are reduced to zero,
- Buildings are required to be oriented to the street,
- Floor area ratios over 0.5 are required,
- Structures can be 50 to 70 feet in height, and
- Residential densities are expected to range from 25 to 50 dwelling units per net acre in residential-only projects (or greater within a mixed-use development).

Residential densities allowed in the MUCOD among the highest in the City, exceeded only by those within the Central Design District.

Within the MUCOD, residential-only and mixed-use buildings with at least 50.1% of the gross floor area in residential use also are subject to the Design Compatibility Standards in Section 57.300. These standards address the design of front facades, main entrance, unit definition, roof lines, trim detail, mechanical equipment, parking, and pedestrian circulation.

In establishing the MUCOD the City recognized that there might be conflicts with the existing design standards in Chapter 73 and included the following language in Section 57.200(2)-Design Standards, Conflicting Standards to address these potential conflicts: “In addition to the MUCOD requirements, the requirements in TDC Chapter 73 (Community Design Standards) and other applicable Chapters apply. If TDC Chapters 57, 73, and other applicable Chapters conflict or are different, they shall be resolved through the Architectural Review process. The criteria for resolving conflicts are: (a) deference should be given to using the TDC Chapter 57 requirement, and (b) use the standard that will yield the highest quality development.”

In cases where there is a direct conflict between the standards in Chapter 57 and those in Chapter 73, the language in 57.200 provides clear guidance on how to resolve those conflicts. However, there are also instances where the standards are not directly in conflict, but rather at cross-purposes. In other words, the type of urban development expected in

the MUCOD cannot be achieved using the standards in Chapter 73. It is these standards that this Plan Text Amendment (PTA)-07-06 seeks to amend and clarify.

The Central Design District provides a good model for the amendments. When the City adopted the Central Design District, conforming amendments were made to the multi-family standards in Chapter 73 in recognition of the Central Design District's intended higher residential densities. A similar step should have been taken when the MUCOD was originally adopted. However, because the focus was on future commercial and office development at Bridgeport Village, necessary conforming amendments for multi-family were not made during the adoption process. The amendments proposed in PTA-07-06 rectify that oversight and propose to resolve the conflicts in a manner similar to that provided for the Central Design District.

ATTACHMENT G

PTA-07-06: ANALYSIS AND FINDINGS

This PTA was initiated by Trammel Crow Residential (TCR) Pacific NW Acquisitions LP (the Applicant), which proposes to redevelop the former Schneider Trucking and Lane International facility sites, on the north side of SW Lower Boones Ferry Road and within the CG Planning District with the MUCOD, in mixed-use development. However, this PTA is for all lands currently within the MUCOD (the Durham Quarry Site as shown on Figure 57-2 and Tax Lots 1300, 1800 and 1900 on Assessors Map 2S1 13DC), as well as those in the Durham Quarry Area (as shown on Figure 57-1) that may be added to the MUCOD in the future. A Vicinity Map, Tax Maps, and Site Maps are included as Attachments A, B, and C, respectively. The Applicant's materials are included as Attachment D.

The purpose of the Mixed Use Commercial Overlay District (MUCOD) is "to recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the Durham Quarry Site and Durham Quarry Area ... Retail, office, business services and personal services are emphasized, but residential uses are also allowed. A second purpose is to recognize that when developed under certain regulations commercial and residential uses may be compatible in the General Commercial District. The Mixed Use Commercial Overlay District allows flexibility in the uses permitted for properties in the Durham Quarry Site and Durham Quarry Area." [TDC 57.010]

In establishing the MUCOD the City recognized that there might be conflicts with the existing design standards in Chapter 73 and included the following language in Section 57.200(2)-Design Standards, Conflicting Standards to address these potential conflicts: "In addition to the MUCOD requirements, the requirements in TDC Chapter 73 (Community Design Standards) and other applicable Chapters apply. If TDC Chapters 57, 73, and other applicable Chapters conflict or are different, they shall be resolved through the Architectural Review process. The criteria for resolving conflicts are: (a) deference should be given to using the TDC Chapter 57 requirement, and (b) use the standard that will yield the highest quality development."

In cases where there is a direct conflict between the standards in Chapter 57 and those in Chapter 73, the language in 57.200 provides clear guidance on how to resolve those conflicts. However, as shown in the following table, there are also instances where the standards are not directly in conflict, but rather at cross-purposes. In other words, the type of urban development expected in the MUCOD cannot be achieved using the standards in Chapter 73. It is these standards that this Plan Text Amendment (PTA)-07-06 seeks to amend and clarify.

Comparison of Selected Design Standards from Chapters 57 and 73		
Standard	Chapter 57	Chapter 73
Landscape Coverage	Minimum 10%	Minimum 15% in CG. Minimum specified for Central Design District (10%).
Private Outdoor Area – Ground Level Units	Porch at least 48 sq.ft. in area with no dimension less than 6 ft.	Except within the Central Design District, a separate outdoor area of not less than 80 sq.ft. shall be attached to each ground level dwelling.
Private Outdoor Area – Non-Ground Level Units	No minimum area required – Projecting features such as porches and balconies are encouraged	Not less than 48 sq.ft. in the form of balconies, terraces, or loggias, except within the Central Design District such outdoor areas may be less than 48 sq.ft.
Entrance Area	No minimum area required – Primary structures are required to be oriented with their main entrance facing the street upon which the project fronts	Minimum of 24 sq.ft. for each dwelling unit and may be combined to serve more than a single unit, except in the Central Design District.
Shared Outdoor Areas and Children's Play Areas	No minimum area specified	Not less than 450 sq.ft. per dwelling unit in year round shared outdoor areas for both active and passive recreation (gazebos and other covered spaces are encouraged to satisfy part of requirement). Except adult only projects, a minimum of 150 sq.ft. of the 450 sq.ft. shall be provided as a children's play area. Standards shall not apply in Central Design District, projects with fewer than 12 dwelling units, and townhouses.
Storage	No minimum area specified	Each storage area shall be a minimum of 6 ft. in height and have a minimum floor area of: (i) 24 sq.ft. for studio and one bedroom units; (ii) 36 sq.ft. for two bedroom units; and (iii) 48 sq.ft. for greater than two bedroom units. (b) For Townhouses and residential and mixed use residential developments in the Central Design District, some provision shall be made for outdoor storage adjacent to private outdoor areas. Such provisions shall be reviewed for adequacy through Architectural Review and shall be designed to accommodate barbecues or other small deck equipment.

Similar to the Central Design District guidelines that apply to a specific, geographically defined area of Tualatin, the MUCOD only applies to certain parcels in the Durham Quarry and "Bridgeport area" of Tualatin. If the decision were made to apply the MUCOD elsewhere in the City, a Plan Text Amendment, with a public hearing before the City Council, would be required. PTA-07-06 does not affect the geographic area to which the MUCOD currently applies or may be applied in the future.

For illustrative purposes, the following table estimates the amount of private outdoor areas, entrance areas, shared outdoor areas and children's play areas, and storage areas that would be required under existing standards contained in Chapters 57 and 73 using, as an example, the 4.35-acre portion of the TCR site located in Tualatin. It is

estimated that 275 multi-family residential units would be constructed on this portion of the site:

Standard	Chapter 73	Chapter 57
73.130 (1)(a) Private Outdoor Areas – Ground Level Units <i>Estimate 275 units total, 92 ground level</i>	Separate outdoor area at least 80 sq.ft. in area attached to each ground level dwelling <i>92 units x 80 s.f. = 7,360 s.f.</i>	Porch at least 48 sq.ft. in area with no dimension less than 6 ft. <i>92 units x 48 s.f. = 4,416 s.f.</i>
73.130(1)(b) Private Outdoor Area – Non-Ground Level Units <i>Estimate 275 units total, 183 non-ground level</i>	At least 48 sq.ft. in balconies, terraces, or loggias <i>183 units x 48 s.f. = 8,784 s.f.</i>	No minimum area required – porches and balconies encouraged <i>No minimum = 0 s.f.</i>
73.130(2) Entrance Area Estimate 275 units total	At least 24 sq.ft. per dwelling unit and may be combined to serve more than a single unit <i>275 units x 24 s.f. = 6,600 s.f.</i>	No minimum area required <i>No minimum = 0 s.f.</i>
73.130(3) Shared Outdoor Areas and Children’s Play Areas Estimate 275 units total	At least 450 sq.ft. per dwelling unit in year round shared outdoor areas for both active and passive recreation <i>275 units x 450 s.f. = 123,750 s.f.</i>	No minimum area specified <i>No minimum = 0 s.f.</i>
73.190(1) Storage <i>Estimate 275 units total, 70 studio/1bdrm, 136 2 bdrm, 69 3+ bdrm</i>	Each storage area shall be a minimum of 6 ft. in height and have a minimum floor area of: 24 sq.ft. for studio and one bedroom units; 36 sq.ft. for two bedroom units; and 48 sq.ft. for greater than two bedroom units. <i>70 units x 24 s.f. = 1,680 s.f.</i> <i>136 units x 36 s.f. = 4,896 s.f.</i> <i>69 units x 48 s.f. = 3,312 s.f.</i>	No minimum area specified <i>No minimum = 0 s.f.</i>
TOTAL: Outdoor or ground level	<i>7,360 s.f. + 123,750 s.f</i> <i>= 131,110 s.f. = 3.01 acres</i>	<i>4,416 s.f. = 0.10 acre</i>
Enclosed or above ground level	<i>8,784 s.f. + 6,600 s.f. + 9,888 s.f.</i> <i>= 25,272 s.f. = 0.58 acres</i>	<i>No minimum = 0 s.f.</i>

It is not possible to provide approximately 3.01 acres of outdoor area that would be required under existing Chapter 73 standards for multi-family development on a 4.35-acre site while achieving the type of higher density, urban development envisioned for the MUCOD without either reducing the proposed number of units or exceeding the height limit of 50 feet to provide more stories and, therefore, more units in the residential buildings. Therefore, conforming amendments to the multi-family standards similar to those made in recognition of the Central Design District’s intended higher residential densities are being proposed for the MUCOD with this PTA.

The applicable policies and regulations include: TDC 1.032-Amendments; TDC 6.040-Commercial Planning District Objectives; TDC Chapter 54-General Commercial Planning District; TDC Chapter 57-Mixed use Commercial Overlay District; TDC Chapter 73-Community Design Standards.

The eight (8) approval criteria of Section 1.032-Burden of Proof of the Tualatin Development Code (TDC) must be met if the proposed Plan Text Amendment (PTA) 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.

1. Granting the amendment is in the public interest.

The Applicant states: "In its original adoption of the Mixed Use Commercial Overlay District [MUCOD], the City intended to create a much more urban and pedestrian-oriented environment. The residential densities [in the MUCOD] are the highest in the City and exceed those within the Central Design District. In order to fully implement the intent of the MUCOD, there are necessary conforming amendments to the multi-family standards in Chapter 73 that should have been made at the time of adoption. These proposed amendments to Chapter 73 will enable the type of mixed-use multi-family development which was envisioned within the MUCOD."

It is in the public interest to provide standards for development in the CG Planning District and the MUCOD that are appropriate for current standards of commercial development and that meet community objectives for high-quality site planning and a more urban, pedestrian-oriented environment intended for the MUCOD. However, the type of urban development expected in the MUCOD cannot be achieved using the standards in Chapter 73 that are tailored towards a suburban, garden apartment style development. It is these standards that this Plan Text Amendment (PTA)-07-06 seeks to amend and clarify.

Staff agrees with the Applicant that granting the amendment is in the public interest.

Criterion 1 is met.

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

The Applicant states: "Development and redevelopment is continuing in the Durham Quarry Area. As this occurs, the City is provided with new opportunities to implement its policy objectives within the MUCOD. Delaying adoption of these amendments would result in missed opportunities to encourage the type of mixed-use multi-family development which was envisioned within the MUCOD."

High-quality development and redevelopment is occurring in the Durham Quarry Area of Tualatin, which includes the Bridgeport Village lifestyle center, The Pointe at Bridgeport retail development, Whole Foods marketplace, REI, Claim Jumper restaurant, Providence Bridgeport Health Center (under construction), and the proposed Shoppes at Bridgeport hotel/retail development. In addition, Trammel Crow Residential (TCR) Pacific NW Acquisitions LP proposes to redevelop the former Schneider Trucking and Lane International facility sites, located in the CG Planning District with the MUCOD on the north side of SW Lower Boones Ferry Road, as a mixed-use commercial

development with approximately 500 multi-family apartments and 20,000 square feet (sq.ft.) of retail.

If adopted at this time, the proposed PTA-07-06 would take advantage of development opportunities occurring in the area and allow TCR to develop mixed-use multi-family housing of the type and at the density expected in the MUCOD to support the commercial uses available given the current economic and development conditions. The PTA would allow development of lands within the MUCOD that is appropriate for current standards of commercial development and that meets community objectives for high-quality site planning and a more urban, pedestrian-oriented environment intended for the MUCOD.

Staff agrees with the Applicant that the public interest is best protected by granting the amendment at this time.

Criterion 2 is met.

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

The Applicant states: "The objectives below help guide multi-family development within the City of Tualatin and help ensure that new multi-family development occurs in a way that contributes to the livability of Tualatin. These objectives are implemented in part by the multi-family standards in [TDC] 73.130 and 73.190. Within the MUCOD, multi-family development and mixed-use multi-family developments are also subject to the design standards in [TDC] Section 57.300. The proposed amendments will enable the type of mixed-use multi-family development envisioned in the MUCOD in a manner that is consistent with the applicable objectives noted below."

Section 73.120 Objectives. [Site Planning – Multi-family Uses]

All multi-family projects, including townhouses, should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new projects. In the case of conflicts between objectives, the proposal shall provide a desirable balance between the objectives. Townhouses may necessitate a different balancing than multi-family developments, such as apartments. In the Central Design District, the Design Guidelines of TDC 73.610 shall be considered. Site elements shall be placed and designed, to the maximum extent practicable, to:

- (1) Retain and incorporate existing trees and other significant natural features such as drainage-ways and wetlands.**
- (2) Minimize soil removal from the site and grade changes.**
- (3) Minimize the effects of noise and dust pollution on areas surrounding and within the site.**
- (4) Create areas for recreation which are suitable for passive and active uses.**

- (5) Provide the opportunity for residents to watch over shared outdoor areas, entry areas and vehicular parking areas through placement and orientation of kitchen or living room windows, or both.
- (6) Provide protection from adverse climate conditions such as summer overheating and winter storms. Architectural and landscape elements such as porches, trellises, awnings, trees and shrubs are examples of items which may mitigate these impacts.
- (7) Parking lot location and design should minimize distances between resident vehicular parking and entry areas while providing a suitable transition in materials and scale between vehicular areas and living areas.
- (8) Protect parked vehicles from moving vehicles.
- (9) Select and locate plant materials to appropriately articulate space, frame views and vistas, provide seasonal variety, create usable ground surfaces, discourage intrusion into private outdoor areas, and curtail erosion.
- (10) Provide shade and break up the appearance of large expanses of paved areas.
- (11) Screen vehicular headlights from shining into residential units.
- (12) Screen elements such as mechanical and electrical facilities from view.
- (13) Avoid barriers to disabled individuals.
- (14) Create opportunities for, or areas of, visual and aesthetic interest for occupants and visitors to the site.
- (15) Provide, protect and maintain visual and physical corridors to adjacent wetlands, waterways, Natural Areas and Greenways.
- (16) Provide safe and convenient walkways for pedestrians to move from parking areas to building entrances.
- (17) Provide and maintain a circulation system of safe and convenient walkways and bikeways that link buildings on the site with adjacent public streets and accessways.
- (18) Provide direct and convenient accessways between the development and publicly-owned land intended for general public use; arterial and collector streets where a transit stop and a bike lane is provided or designated; and abutting residential, commercial and semi-public property. Accessways should be designed and located in a manner which does not restrict or inhibit opportunities for developers of adjacent properties to connect with an accessway and which provides continuity from property to property for pedestrians and bicyclists to use the accessway.

Section 73.180 Objectives. [Structure Design – Multi-family Uses]

All multi-family projects, including townhouses, should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new projects. In the Central Design District, the Design Guidelines of TDC 73.610 shall be considered. In the case of conflicts between objectives, the proposal shall provide a desirable balance between the objectives. Townhouses may necessitate a different balancing than multi-family developments, such as apartments. Buildings shall be designed, to the maximum extent practicable, to:

- (1) Provide a composition of building elements which responds to function, land form, identity and image, accessibility, orientation and climatic factors.**
- (2) Enhance energy efficiency through the use of landscape and architectural elements, such as arcades, sunscreens, lattice, trellises, roof over-hangs and window orientation.**
- (3) Create subclusters and stagger unit alignments.**
- (4) Utilize functional building elements such as carports and garages, balconies, entry areas and sunscreens where possible to accomplish unit identity, pride of place and visual diversity.**
- (5) Give consideration to organization, design and placement of windows as viewed on each elevation. The system may be a variation on a theme or consistent symmetry and must operate in concert with the provision of adequate interior privacy, safety, daylight and ventilation.**
- (6) Select building materials which contribute to the project's identity, form and function, as well as to the existing site and surrounding natural landscape and development.**
- (7) Select colors in consideration of lighting conditions under which the structure is viewed, the ability of the material to absorb, reflect or transmit light, and the color's functional role (whether to blend into the environment, express a particular character, discriminate materials, define form and volume or simply as an identification feature such as with color coding).**
- (8) Minimize disruption of natural site features such as topography, trees and water features.**

As discussed under Criterion 2, the proposed PTA would allow development of lands within the MUCOD that is appropriate for current standards of mixed-use development and that meets community objectives for high-quality site planning and a more urban, pedestrian-oriented environment intended for the MUCOD. Such development would be consistent with the objectives of TDC 73.120 and 73.180 as identified above.

Staff agrees with the Applicant that the proposed amendment conforms to the applicable objectives of the Tualatin Community Plan.

Criterion 3 is met.

4. The following factors were consciously considered:

The various characteristics of areas in the City.

The Applicant states: "The amendments will only affect lands designated as MUCOD. Significant redevelopment has occurred in and around the areas designated MUCOD in recent years. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed-use multi-family development envisioned in the MUCOD. This type of development is consistent with the characteristics of the MUCOD and appropriate for the vicinity."

The area of the City affected by this amendment includes the Bridgeport Village lifestyle center, The Pointe at Bridgeport retail development, Whole Foods marketplace, REI, Claim Jumper restaurant, Providence Bridgeport Health Center (under construction), the proposed Shoppes at Bridgeport hotel/retail development, and TCR's proposed mixed-use development on the former Schneider Trucking and Lane International facility site. This area in north Tualatin, west of Interstate-5 (I-5), is undergoing a transformation as a high-quality retail and commercial area as redevelopment occurs. The proposed PTA will enable the type of mixed-use multi-family development envisioned in the MUCOD.

Staff agrees with the Applicant that the proposed amendments are appropriate to the characteristics of the area.

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

The Applicant states: "The amendments will only affect lands designated as MUCOD. These lands have already been identified by the City as suitable for the types of uses that will be enabled by the proposed amendments."

Staff agrees with the Applicant that lands within the MUCOD have been identified by the City as suitable for the types of uses that will be enabled by the proposed amendments. Specifically, development utilizing high-quality site planning and with a more urban, pedestrian-oriented environment intended for the MUCOD and suitable for the area.

Trends in land improvement and development.

The Applicant states: "This request reflects a growing interest in Tualatin as a center for high-quality mixed-use development. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed-use multi-family development envisioned in the MUCOD."

Staff agrees with the Applicant that the proposed amendment is consistent with trends in land improvement and development in north Tualatin and lands within the MUCOD.

Property values.

The Applicant states: "By encouraging high-quality mixed-use development, the City of Tualatin will stay competitive with other areas in the metro region, thus helping to protect property values."

Staff agrees with the Applicant that the proposed amendment, by encouraging high-quality mixed-use development of lands in the MUCOD, will enable the City to stay competitive with other areas in the metro region, thus helping to protect property values.

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

The Applicant states: "By providing for flexibility and high-quality development through the MUCOD, the City of Tualatin will help meet the needs of future development in the area."

Staff agrees with the Applicant that the proposed amendment, by providing flexibility and high-quality development, will help the City meet the needs of future development of lands in the MUCOD.

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

This criterion is not applicable. As the Applicant notes: "Right-of-way and access will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes."

Staff agrees with the Applicant that this criterion is not applicable to the current application.

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

This criterion is not applicable. As the Applicant notes: "Natural resources will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes."

Staff agrees with the Applicant that this criterion is not applicable to the current application.

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

This criterion is not applicable. As the Applicant notes: "Natural resources will be addressed during site design and considered through the Architectural Review and Public Facilities Review processes."

Staff agrees with the Applicant that this criterion is not applicable to the current application.

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

The Applicant states: "Public need is addressed in Criterion 1, above."

Staff agrees with the Applicant that public need 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: "Significant redevelopment has occurred in and around the areas designated MUCOD in recent years. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed-use multi-family development envisioned in the MUCOD."

As stated earlier in this Section, the area of the City affected by this amendment includes the Bridgeport Village lifestyle center, The Pointe at Bridgeport retail

development, Whole Foods marketplace, REI, Claim Jumper restaurant, Providence Bridgeport Health Center (under construction), the proposed Shoppes at Bridgeport hotel/retail development, and TCR's proposed mixed-use development on the former Schneider Trucking and Lane International facility site. This area in north Tualatin, west of Interstate-5 (I-5), is undergoing a transformation as a high-quality retail and commercial area as redevelopment occurs.

Staff agrees with the Applicant that there is proof of change in north Tualatin and on lands within the MUCOD.

A mistake in the plan map or text.

The Applicant states: "The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed-use multi-family development envisioned in the MUCOD."

Staff agrees with the Applicant that the proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type of mixed-use multi-family development envisioned in the MUCOD.

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

Criterion 4 is met.

5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

The Applicant states: "The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type and density of mixed-use multi-family development envisioned in the MUCOD."

Staff agrees with the Applicant that the proposed PTA will correct an existing code conflict in Chapter 73, thus enabling the type and density of development envisioned in the MUCOD. The proposed amendment to Chapter 73 for lands within the MUCOD would not result in higher density residential development occurring within the MUCOD than that already envisioned for TCR's proposed site – 508 market rate multi-family units (275 in Tualatin and 233 in Durham), which the Tigard-Tualatin School District estimates would generate 54 students. Projected enrollment for the District for the 2007-2012 school years, not including the 54 potential students that may be generated from development of multi-family residential units on TCR's site, generally shows that there will be available capacity at the elementary and high school levels in Tualatin, but no available capacity at the middle school level. Hazelbrook Middle School is projected to be slightly over capacity (from 2-25 students) for the 2007-2012 school years. In addition, although no residential development currently exists on other lands within the MUCOD, it is possible that these other properties could be redeveloped in the future with multi-family uses, however, the proposed PTA is not expected to affect the number or density of units that could be constructed on those properties.

The criteria in the TTSD Facility Plan for school facility capacity have been considered.

Criterion 5 is met.

6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Of the 14 Statewide Goals, 10 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: "Statewide Planning Goal 1 addresses citizen participation in the land use process, and Goal 2 addresses the process for land use planning, requiring coordination between cities and other governments and government agencies. The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Tualatin process, which ensure coordination and citizen involvement. The amendment is consistent with Statewide Planning Goals 1 and 2."

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

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

The Applicant states: "Statewide Planning Goal 10 addresses the housing needs of the community. The MUCOD allows housing as a use, so there is an opportunity for the site to contribute to the buildable land supply for housing. However, due to conflicting language in Chapter 73, the residential densities proscribed in the MUCOD cannot be achieved. The proposed amendments will correct these conflicts and will enable the type of mixed-use multi-family development envisioned in the MUCOD. Therefore, the City's ability to provide an adequate housing supply is enhanced by the proposed amendment."

Staff agrees with the Applicant that the proposed amendment is consistent with Statewide Planning Goal 10.

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

The Applicant states: "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 text amendment to demonstrate that the proposed change will not significantly affect a transportation facility. If the change does significantly affect a facility, mitigation measures must be employed to address the anticipated impacts on the facility. The proposed amendment will not significantly affect a transportation facility because a reasonable worst-case development scenario under the MUCOD is based on [the] zone being utilized for commercial development rather than residential development. The type and density of residential development allowed under the MUCOD would have a lower trip generating potential than the allowed commercial activities."

The Applicant did not submit a traffic analysis for this PTA; however, an analysis was prepared for the previous PTAs and PMA for TCR's site (for reference, a copy of the Supplemental Materials for PMA-07-01 and PTA-07-04 related to transportation is attached as Attachment I). The City of Tualatin Engineering Division has prepared a memorandum responding to the current application (Attachment H). The memorandum notes that development of the TCR site as proposed (multi-family with a retail component) creates less trips than the "reasonable worst-case scenario" (all retail development). The memorandum further notes that other parcels that currently have the MUCOD overlay have already been developed, the trips associated with those developments will not be impacted by the amendment, and the impacts from other parcels that could implement the MUCOD overlay are unknown at this time. The memorandum also responds to a comment letter received from the Oregon Department of Land Conservation and Development (Attachment J) regarding the need for street and pedestrian connections in the area.

Staff agrees with the Applicant that the proposed amendment is consistent with Statewide Planning Goal 12.

The proposed amendment is consistent with the applicable Statewide Planning Goals and applicable Oregon Administrative Rules.

Criterion 6 is met.

7. Granting the amendment is consistent with the Metropolitan Service District's (Metro's) Urban Growth Management Functional Plan (UGMFP).

The Applicant states: "The Functional Plan is supportive of mixed-use and higher residential densities within the Urban Growth Boundary. The proposed amendments will correct an existing code conflict in Chapter 73 and will enable the type and density of mixed-use multi-family development envisioned in the MUCOD. The amendment does not affect the amount of land included within the MUCOD nor does it reduce the potential employment capacity of lands designated as MUCOD. Therefore, it is consistent with Metro's Functional Plan."

The Metro UGMFP identifies the Bridgeport area of north Tualatin as a Title 4 Employment Area. Staff agrees with the Applicant that the proposed PTA would correct an existing code conflict in Chapter 73 and does not reduce the potential employment capacity of lands within the MUCOD, consistent with Metro's Functional Plan.

The proposed PTA has been reviewed for consistency with Metro's UGMFP.

Criterion 7 is met.

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 Applicant states: "As noted previously, the proposed amendment is not expected to alter the potential "worst case" scenario in terms of trip generation."

As noted under the Goal 12 discussion, above, the Applicant did not submit a traffic analysis for this PTA. The City of Tualatin Engineering Division has prepared a memorandum responding to the application (Attachment H). The memorandum notes that development of the TCR site as proposed (multi-family with a retail component) creates less trips than the "reasonable worst-case scenario" (all retail development) analyzed by the Applicant for PMA-07-01, which changed the Planning District designation of two parcels of TCR's site from Light Manufacturing (ML) to General Commercial (CG), and PTA-07-03 and PTA-07-04, which applied the MUCOD to three parcels of TCR's site. The memorandum further notes that other parcels that currently have the MUCOD overlay have been developed and the trips associated with those developments will not be impacted by the amendment, and the impacts from parcels that could implement the MUCOD overlay are unknown at this time.

No comments were received from the Oregon Department of Transportation or Washington County regarding the proposed PTA, however, a comment letter was received from the Oregon Department of Land Conservation and Development. The City of Tualatin Engineering Division memorandum (Attachment H) responds to this letter as follows: "Currently the City's Transportation Plan does not show any new streets within the area. Additionally the Schneider site is one of the last underdeveloped properties in the area."

MEMORANDUM

DATE: January 16, 2008

TO: Cindy Hahn
Associate Planner

FROM: Dayna Johnson, PE
Project Engineer

SUBJECT: **PTA-07-06, Amend Multi-Family design standards in
TDC Chapter 73 within the MUCOD**

On December 12, 2007 the Engineering Division received Plan Text Amendment Application Notice PTA 07-06 to amend Multi-Family design standards in TDC Chapter 73 for land within the MUCOD.

No additional traffic information was presented with the Plan Text Amendment Application. For the Schneider Trucking Site, the 'reasonable worst-case scenario' was an all retail development. Development of the site as proposed (multi-family with a retail component) creates less trips the 'reasonable worst-case scenario'. Other parcels that currently have the MUCOD overlay have been developed and the trips associated with those developments will not be impacted by the amendment. The impacts from parcels that could implement the MUCOD overlay are unknown at this time.

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.

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.

The applicant has stated, "The proposed amendment will not significantly affect a transportation facility because a reasonable worst-case development scenario under the MUCOD based is based on zone being utilized for commercial development rather than residential development. The type and density of residential development allowed

under the MUCOD would have a lower trip generating potential than the allowed commercial activities.”

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. The applicant has stated, “As noted previously, the proposed amendment is not expected to alter the potential “worst case” scenario in terms of trip generation. Criterion 8 is met.”

Agency Comments

At this time, no comments have been received from Oregon Department of Transportation or Washington County regarding the proposed Plan Text Amendment.

On January 9, 2008 a letter was received from Oregon Department of Land Conservation and Development. The letter states, “The city should take steps to assure that needed street connections will be made”. Currently the City's Transportation Plan does not show any new streets within the area. Additionally, the Schneider site is one of the last underdeveloped properties in the area.

Please let me know if you have questions, ext 3036.

Supplemental Materials for:

- **Quasi-Judicial Plan Map Application (PMA-07-01)**
- **Plan Text Amendment Application (PTA-07-04)**

Submitted to:

City of Tualatin

Submitted by:

TCR Pacific Northwest Acquisitions LP

ATTACHMENTS:

- E-MAIL CORRESPONDENCE AND ATTACHMENTS BETWEEN CITY OF TIGARD AND KITTELSON & ASSOCIATES REGARDING TRANSPORTATION
- CITY OF DURHAM ENGINEER FOLLOW UP LETTER DATED 10/3/07 CONCURRING WITH APPLICANTS FINDINGS
- E-MAIL CORRESPONDENCE BETWEEN ODOT AND THE CITY OF DURHAM PLANNER DATED 10/1/07 FINDING THAT THE PROPOSED ZONE CHANGE WILL NOT HAVE A SIGNIFICANT AFFECT ON STATE TRANSPORTATION FACILITIES
- ESTIMATE OF AM PEAK HOUR TRIPS PREPARED BY KITTELSON & ASSOCIATES

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

From: Ron Bunch [mailto:ron@tigard-or.gov]

Sent: Friday, October 05, 2007 1:59 PM

To: Judith Gray

Cc: Markus Mead

Subject: Re: FW: Durham / Tualatin Housing and Retail / commercialproject

Hello Judith:

Thank you for informative message. I talked to Mike McKillip this morning and Kaaren at Tualatin. I expressed that Tigard's staff is not opposed to the Plan amendment/zone change for the Schneider property to allow attached housing and some commercial land uses. The plan amendment would allow the property to develop in a way that supports the region's need for mixed use development and higher density housing within a "town center" type of environment.

Tigard would like to be noticed at the time of actual development application to evaluate potential traffic impacts on its street system.

We plan to request this from both Durham and Tualatin.

We appreciate your time and efforts to keep us informed.

Best wishes

Ron Bunch
Assistant Community
Development Director
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223
503-718-2427
ron@tigard-or.gov

>>> "Judith Gray" <JGRAY@kittelson.com> 10/05 1:30 PM >>>

Hi Ron, Marah, and Markus,

I'm hoping to clarify some of the items that Ron pointed out below.

The

email was sent on 9/28. Markus Meade and I were in the middle of some email and phone correspondence at that time, so perhaps some of these concerns have already been resolved. These issues can get confusing given the multiple parcels and jurisdictions. Nevertheless, I'll try to address some of the key points...

1) Incremental Traffic Analysis

Most of the traffic increase that Ron mentions below will occur regardless of the proposed zone changes for Tualatin and Durham. As currently zoned, the potential traffic is estimated at approximately

435

trips (weekday p.m. peak hour). The underlying assumptions in the County and City travel demand models reflect this type of development and associated traffic.

Under TPR, the traffic analysis is supposed to study the INCREMENTAL trips between the existing industrial zone and the proposed residential zone. The study includes the following scenarios:

- 2007 Existing conditions: this reflects traffic counts conducted in June 2007.
- 2022 Background conditions: this assumes build out under Existing Zoning.
- 2022 Total conditions: this reflects build out under Proposed Zoning.

Current zoning: 435 trips

Maximum under proposed zoning: 720 trips

2) Impacts on Tigard Roadways

Regarding the impacts to Tigard intersections, we estimate that the proposed zone change would increase traffic on 72nd by approximately 1% and approximately 2% on Boones Ferry (under the maximum development scenario). That's why we didn't study any intersections north of Bridgeport.

3) Impact analysis of actual planned development It is worth noting that the actual development scenario that TCR hopes to achieve would have considerably lower traffic than the maximum potential. The trip generation estimate for the anticipated development is 490 trips. This is irrelevant to the TPR analysis. When it is time to submit a development application, we will look at this traffic level.

We

will include the following scenarios:

- Existing Conditions: June 2007 counts
- 2009 Background Traffic: June 2007 counts + planned developments and general growth
- 2009 Total Traffic: 2009 Background Traffic + ALL estimated Site Trips

But this stage only happens after the zone change applications are resolved.

Two attachments may be useful: One shows the estimated increase in traffic at key roadway locations; the second is a summary of trip generation estimates for each parcel under multiple analysis scenarios.

Please feel free to call me if you have any questions.

Thanks.

Judith Gray
Senior Transportation Planner

Kittelson & Associates, Inc.
610 SW Alder Street, Suite 700
Portland, OR 97205
www.kittelson.com
503.228.5230
503.273.8169 (fax)
Transportation Engineering / Planning
Baltimore | Boise | Fort Lauderdale | Orlando | Phoenix | Portland | Tucson

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

From: Ron Bunch [mailto:ron@tigard-or.gov]
Sent: Friday, September 28, 2007 4:10 PM
To: Marah.B.DANIELSON@odot.state.or.us
Cc: Bill.Holmstrom@state.or.us; Darren Wyss; Dick Bewersdorff; Kim Mcmillan;
Markus Mead; Tom Coffee
Subject: Durham / Tualatin Housing and Retail / commercial project

Hello Marah:

Thanks for checking back with us on the Schneider Trucking Zoning Map change. Our staff have discovered that at build out, the whole project will consist of 627 attached units and 22,500 sq. ft. of commercial / retail. Our concerns are with impacts on Tigard's street system. The consultant's report has assumed minimal impacts * between 490 and 610 new net trips depending on actual build-out. The applicant's Traffic Impact Analysis (TIA) states that 20% of the total trips would travel north toward Tigard by SW Upper Boones Ferry Road and SW 72nd Avenue. This yields a range of 98 to 122 trips toward the City of Tigard. At this time we think the impacts could be more substantial. Here are the reasons.

The consultants are using the term "new net trips". I believe they are subtracting the trips that would be generated by the existing Industrial Park land Use from the trips generated by the proposed multifamily residential and retail uses and then applying a pm peak factor. By going through a rough trip analysis of the project at buildout, the gross traffic

impact on Tigard's system could be 376 new pm peak residential trips (+) 88 new pm peak commercial trips for a total of 464 new trips at build out - four times the number that the consultant reports. This might pose a capacity and level of service problem for Tigard.

This might raise a Transportation Planning Rule issue , regardless of what is developed on the property, Industrial Park or Residential/Commercial. If the local street systems, Tigard's, Durham's and Tualatin's can't manage it then we need to work together and develop solutions. Perhaps a trip cap as proposed by DLCD may be necessary, or the developer can improve the local street system to mitigate the project's impacts. Other solutions may be necessary such as a Transportation Improvement District

We would like to know ODOT's perspective on this matter. We will likely comment next week to both Durham and Tualatin, after touching base with others in the organization.

We hope to hear from you.

Ron

Thank you

Ron Bunch
Assistant Community
Development Director
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223
503-718-2427
ron@tigard-or.gov

>>> Markus Mead 09/26 2:27 PM >>>

At full build-out, the zone change would permit approximately 627 multi-family residential units and 22,000 square feet (s.f.) of retail/commercial development generating between 490 and 610 new net trips depending on actual build-out. The applicant's Traffic Impact Analysis (TIA) states that 20% of the total trips would travel north toward Tigard by SW Upper Boones Ferry Road and SW 72nd Avenue. This yields a range of 98 to 122 trips toward the City of Tigard.

This is included in the updated memorandum.

	Existing Zoning	Proposed Zoning Original TIA	Maximum Analyzed Supplemental Analysis	Anticipated Development
Tualatin 1300	General Commercial	CG/MUCOD		
	78.4 KSF Retail	355 trips	78.4 KSF Retail	355 trips
Durham 1400	Industrial Park	MF/MD		
	70 KSF Industrial Park	170 trips	276 apartments	170 trips
Tualatin 1800/1900	Light Manufacturing	CG/MUCOD		
	13 KSF Light Industrial	10 trips	16.3 KSF Retail	10 trips
Total	435 trips	655 trips	720 Trips	490 trips

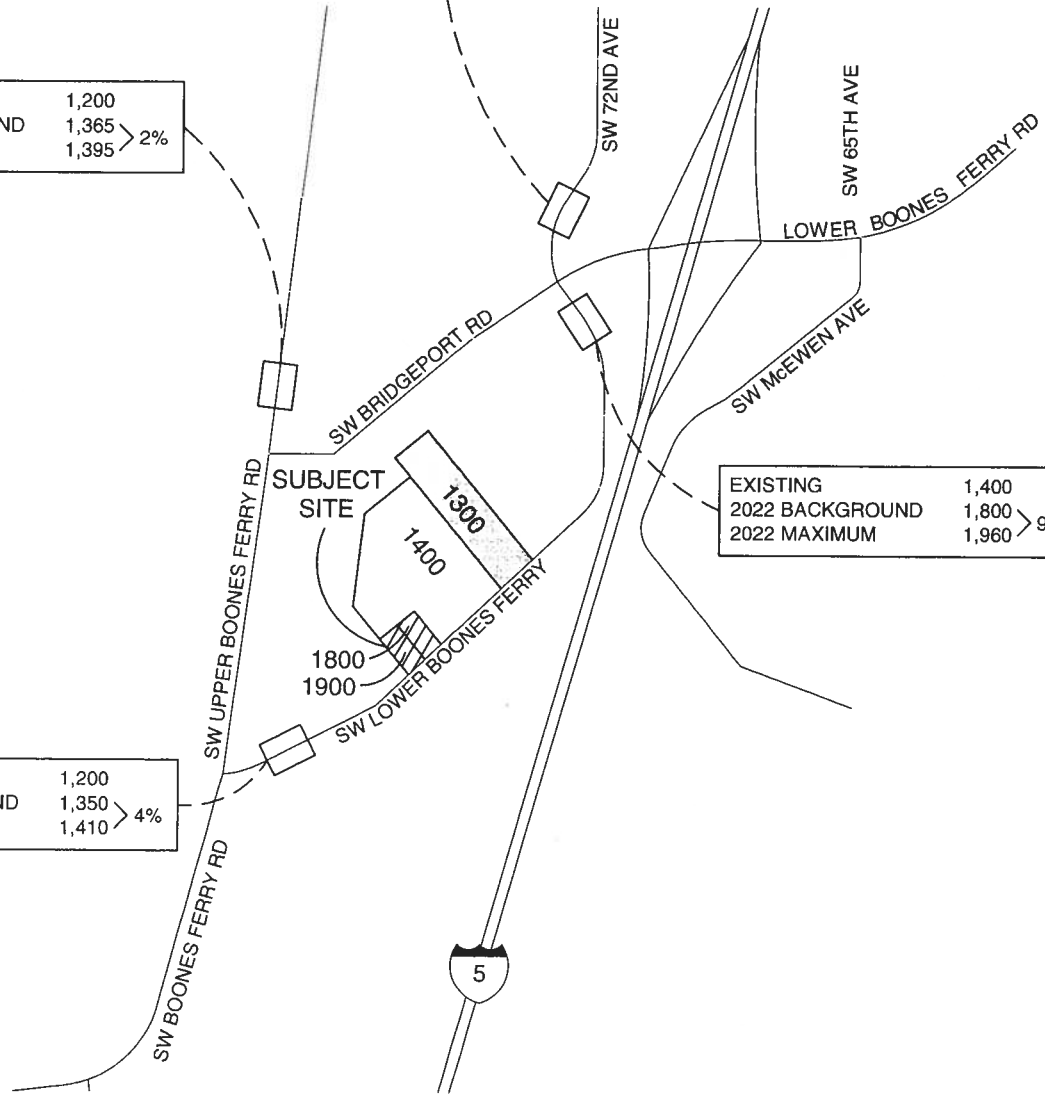


EXISTING	1,200
2022 BACKGROUND	1,365 > 2%
2022 MAXIMUM	1,395

EXISTING	1,580
2022 BACKGROUND	1,845 > 1%
2022 MAXIMUM	1,865

EXISTING	1,400
2022 BACKGROUND	1,800 > 9%
2022 MAXIMUM	1,960

EXISTING	1,200
2022 BACKGROUND	1,350 > 4%
2022 MAXIMUM	1,410



H:\profile\6578 - Bridgeport Village Residential\dwg\figs\Tualatin_1800 1900\18578_1800 1900.dwg Oct 05 2007 - 10:44am - mbell Layout Tab: H-1

LEGEND

1300 - CITY OF TUALATIN
 1400 - CITY OF DURHAM
 1800 & 1900 - CITY OF TUALATIN

EXISTING & FORECAST TRAFFIC VOLUMES TUALATIN, OR

FIGURE
H-1

October 3, 2007

Mr. Roland Signet
City of Durham
17160 SW Upper Boones Ferry Rd
Durham, OR 97224-7004

**SUBJECT: REVIEW OF SUPPLEMENTAL MATERIALS –
DURHAM TAX LOT 1400 ZONE CHANGE**

Dear Mr. Signet:

In response to your request, I have reviewed supplemental materials pertaining to the proposed zone change for Durham tax lot 1400. Included in these materials are a letter from William Holmstrom of the Oregon TGM program, dated September 17, 2007; a memorandum from Cathy Corliss of Angelo Planning Group, dated September 24, 2007; and a memorandum from Judith Gray of Kittelson and Associates, dated September 20, 2007. The key points from a traffic analysis perspective are addressed below.

1. Full Accounting of All Site Trips

In my previous comments, dated September 17, 2007, I largely concurred with the original traffic analysis provided by Kittelson and dated July 20, 2007. However, I noted that the analysis of tax lot 1400 was part of a larger zone change application in which some of the parcels were inside the city of Tualatin. I noted that the applicant's analysis should have accounted for all the parcels for which a zone change is proposed to allow for an accurate assessment of the impacts to the study area intersections.

The supplemental materials provided by the applicant include a traffic impact analysis memorandum prepared by Kittelson and Associates and dated July 20, 2007. This analysis was performed in support of the proposed zone change of the Tualatin parcels from Light Manufacturing to General Commercial with a MUCOD overlay. In response to my comments the applicant stated that the July 20 traffic analysis assumed that the Tualatin development would occur after the Durham development. Therefore, the Durham site generated trips were included in the background volumes. My review of the memorandum confirms this claim. The applicant has demonstrated to my satisfaction that the two study area intersections inside Durham are expected to operate adequately under full site buildout conditions.

2. Trip Cap

Mr. Holmstrom notes an inconsistency in the TIA about the extent of development allowed under the proposed zoning. The TIA states that the proposed zoning would allow 205 residential units, but the Public Facilities Analysis states that the zoning would allow up to 276 units. Mr. Holmstrom recommends implementation of a trip cap that limits the number of PM peak hour trips to that which would be generated by 205 residential units.

Mr. Roland Signet
October 3, 2007
Page 2

The applicant explained the reason for this inconsistency as follows: "The 205-unit scenario was based on a preliminary site plan for the combined 8.95-acre project site; the 276 -unit scenario reflects a maximum potential buildout of 60 dwelling units per acre on the Durham parcel." The applicant has also provided revised traffic analysis that accounts for the more intensive development and corresponding higher trip generation. The applicant's revised analysis shows that the transportation system is adequate to accommodate the projected site traffic resulting from the proposed zone change. In light of the applicant's explanation and updated analysis, I do not believe a trip cap is appropriate in this case.

3. Street Connectivity

Mr. Holstrom states that a key missing ingredient in the Bridgeport Village area is a well-connected local street system that provides convenient local access and circulation. He recommends a number of potential north-south and east-west connections that would traverse the subject parcels. I agree that a robust local street network could provide significant benefits. However, the subject Durham parcels are largely surrounded by developed land under the jurisdiction of Tualatin and therefore outside of the applicant's control. I concur with the applicant's statement that it is important for the cities of Durham and Tualatin to continue working together on this long-range planning issue.

If you have any questions or need any further information concerning this review, please call me at 503-223-6663.

Sincerely,

DAVID EVANS AND ASSOCIATES, INC.

Christian Snuffin, PE
Transportation Engineer



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

File code: PLA9-2A -

ODOT Case No: 2855

October 1, 2007

City of Durham
Planning Department
PO Box 23483
Durham, OR 97281-3483

Attn: KJ Won, Planner

Subject: 579-07: Schneider Trucking Site ZC
I-5/Bridgeport Rd Interchange

Dear KJ,

ODOT staff has reviewed the proposed zone change from Industrial Park to Multi Family Overlay District. The subject site is adjacent to Lower Boones Ferry Rd and in the vicinity of the I-5/Bridgeport Rd interchange. The following intersections have ODOT facilities: SW 72nd Ave/SW Bridgeport Rd, SW Bridgeport Rd/ SW Upper Boones Ferry Rd, and SW Lower Boones Ferry Rd/SW Upper Boones Ferry Rd intersections. Kate Freitag PE, ODOT Traffic Analyst has review the traffic impact study submitted with the land use application. Ms Freitag has determined that ODOT performance measures for the planning horizon are met. All ODOT intersections are operating below the mobility standards. Therefore, ODOT has concluded that the proposed zone change will not have a significant affect of State transportation facilities.

Due to the success of the Bridgeport Village development, the surrounding area of Tigard, Tualatin and Durham are seeing incremental land use changes. These land use changes to a mix of uses have similar characteristics to the town center Metro designations. ODOT would support a planning effort that would provide the three cities and the State an opportunity to participate in a land use and transportation plan for this area.

Thank you for coordinating with the Oregon Department of Transportation. If you have any questions regarding this case, I can be reached at (503) 731-8258.

Sincerely,

Marah Danielson
Development Review Planner

C: Lainie Smith, Kathleen Freitag, ODOT Region 1
Bill Holmstrom, DLCD
Dayna Johnson, City of Tualatin
Ron Bunch, City of Tigard

Table 1 Estimated Weekday PM (AM) Peak Hour Trips

Parcel	Existing Zoning	Proposed Zoning Original TIA	Maximum Analyzed Supplemental Analysis	Anticipated Development
Tualatin 1300	General Commercial	CG/MUCOD		
	78.4 KSF Retail	78.4 KSF Retail	78.4 KSF Retail	276 apartments
Durham 1400	Industrial Park	MF/MD		
	70 KSF Industrial Park	70 (65) trips	170 (140) trips	205 apartments
Tualatin 1800/1900	Light Manufacturing	CG/MUCOD		
	13 KSF Light Industrial	10 (<5) trips	130 (5) trips	75 apartments 22 KSF retail
Total	435 (125) trips	655 (195) trips	720 (245) Trips	490 (300) trips



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

685 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>



January 9, 2008

Cindy L. Hahn, AICP
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97224

Via FAX: 503-692-3512

Re: Proposed Code Amendments to Tualatin MUCOD
Tualatin File PTA 07-06
DLCD File 007-07

Dear Ms. Hahn,

We recently received notice of proposed amendments to the Tualatin Development Code (TDC) for the Mixed Use Commercial Overlay District (MUCOD). These amendments would make some minor modifications to the MUCOD in regards to design standards for multi-family residential buildings. These changes mainly are proposed in order to improve compatibility with various chapters of the TDC, particularly the Central Design District. The department agrees the proposed changes accomplish this goal, as far as they go.

However, we do have concerns regarding the additional site design and connectivity standards of the MUCOD as compared to the Central Design District. As the applicants note¹, the MUCOD allows the densest levels of residential development in the city. The recent change to extend this zone to properties in the Bridgeport Village area raises questions about the appropriate level of street and pedestrian connectivity for this evolving mixed use area.

Since the uses and densities are so similar, the proposal establishes identical architectural design standards for the MUCOD as in the Central Design District. It would make sense to adopt similar standards for local street and walkway connections, as the transportation system should match the increase in density. This includes adding language including the MUCOD in TDC sections 73.110, 73.120, 73.600 and 73.610, similar to the proposal to include the MUCOD in TDC section 73.130.

¹ "The residential densities are highest in the City and exceed those within the Central Design District." Applicants' Submittal, page II-1.

Moving forward, the City should work closely with the City of Durham on the review of the proposed development on the Schneider Trucking site. A key missing ingredient in the vicinity is a well-connected network of local streets to provide for convenient local access and circulation. This is quite clear for the Schneider Trucking site, which at approximately 9 total acres is the largest underdeveloped property in the area. It is centrally located, but is bordered only by Lower Boones Ferry Road, which is a high traffic street. Additional planning for local streets is critical to assure that the resulting development is part of a coherent functional network of streets.

The city should take steps to assure that needed street connections will be made. Conditions of approval should require street connections be provided as part of the site review. Since many of the surrounding properties are already developed, it may not be possible to develop street connections immediately. In those situations the city should consider requiring a walkway connection or preserving an easement or right of way so that a street connection can be established if and when these properties are redeveloped in the future. It is appropriate to plan for these connections now while the city is evaluating the rezoning and relation of this property to the surrounding neighborhood to provide clear guidance for subsequent reviews. Future development proposals for the property are likely to be made incrementally, where the city is not able to consider the entire site and connections to surrounding areas.

We request that this letter be entered into the record of the proceedings. When additional information such as staff reports or revised drafts becomes available, we would appreciate receiving a copy. If there are significant changes to the proposal or significant new evidence, we would request that the record be held open at least seven days (but preferably fifteen days) pursuant to Oregon Revised Statutes (ORS) 197.763(4)(b), to allow us time to review and respond. Submitting files via email can speed our review. We also request a copy of the final decision, within five working days as required by ORS 197.610.

If you have any questions, please do not hesitate to contact me at (503)373-0050 extension 265, or bill.holmstrom@state.or.us.

Sincerely,



William A. Holmstrom
Transportation Planner

Cc: Roland Signett, City of Durham (via e-mail)
Sheri Oeser, Metro (via e-mail)
Marah Danielson, ODOT Region 1 (via e-mail)
Darren Nichols, DLCD Community Services Division Manager (via e-mail)
Marguerite Nabeta, DLCD Regional Representative (via e-mail)
Gloria Gardiner, DLCD Urban Planning Specialist (via e-mail)
Bob Cortright, DLCD Transportation & Growth Management Coordinator (via e-mail)



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *SL*

FROM: Brenda Braden, City Attorney *BB*

DATE: January 28, 2008

SUBJECT: AN ORDINANCE RELATED TO AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN AN IBPOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 AND 69.065 (PTA-07-05).

ISSUE BEFORE THE COUNCIL:

Whether to approve an ordinance that would amend the Industrial Business Park Overlay Planning District (IBPOD) to allow a child day care center use in an IBPOD development greater than 10 acres in size.

RECOMMENDATION: Staff recommends that the City Council approve the ordinance granting PTA-07-05.

EXECUTIVE SUMMARY:

On January 14, 2008, the City Council held a legislative hearing (PTA-07-05) to decide whether to amend the Industrial Business Park Overlay Planning District (IBPOD) to allow a child day care center use in an IBPOD development greater than 10 acres in size. At the close of the public hearing, Council approved the Staff Report by a vote of 4-0 with one abstention and directed Staff to bring back an ordinance adopting PTA-07-05.

FINANCIAL IMPLICATIONS:

Approving or denying the proposed amendment will not result in financial outlays by the City of Tualatin. The applicant has paid the required application fee.

Approved By Tualatin City Council
Date *January 28, 2008*
Recording Secretary *[Signature]*

STAFF REPORT: PTA-07-05

January 28, 2008

Page 2 of 2

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting on September 19, 2007, and the City Council's public hearing was held on January 14, 2008.

Attachments:

- A. Ordinance
- B. Exhibit A – Affidavit of Publication
- C. Exhibit B – Affidavit of Posting
- D. Exhibit C – Affidavit of Mailing
- E. Exhibit D – Staff Report dated January 14, 2008

ORDINANCE NUMBER 1251-08

AN ORDINANCE RELATED TO AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN AN IBPOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 AND 69.065 (PTA-07-05).

WHEREAS upon the application of Mike Berry of Berry Properties, owner and developer of the 17-acre Meridian Business Park development, a public hearing was held before the City Council of the City of Tualatin on January 14, 2008, related to amending the Industrial Business Park Overlay Planning District (IBPOD) to allow a child day care center use as a permitted use when the IBPOD is applied to a property in the Light Manufacturing (ML) and selected General Manufacturing (MG) Planning District areas when the site is 10 acres or greater; amending TDC Chapter 69 – IBPOD Sections 69.020 and 69.065 (PTA-07-05); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on December 20, 2007, in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS a notice of public hearing was given as required by mailing to affected property owners, which is evidenced by the Affidavit of Mailing marked "Exhibit C," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on January 14, 2008, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application by a vote of 4-0, with Councilor Harris not participating and Councilors Truax and Barhyte absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit D," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended. Therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 69.020 is amended to read as follows:

Section 69.020 Permitted Uses.

(1) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 10 acres or greater:

- (a) Business offices.
- (b) Commercial offices.
- (c) Branch banks and banking kiosks.
- (d) General offices, but not government offices.
- (e) Medical and healing arts offices.
- (f) Real estate offices.

(g) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(2) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 20 acres or greater:

- (a) Retail Uses:
 - (i) Food store of less than 4,000 square feet of gross floor area.
 - (ii) Restaurant, without drive-up or drive through facilities.

(b) Service Uses:

- ~~(i) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.~~

~~(ii) (i) Correspondence, trade and vocational schools, except vocational high schools.~~

- ~~(iii) (ii) Health or fitness facility.~~
- ~~(iv) (iii) Job training and related services.~~
- ~~(v) (iv) Mailing operations.~~
- ~~(vi) (v) Reproduction, photocopying.~~

(3) The properties in the General Manufacturing (MG) District where the Industrial Business Park Overlay District may be applied in accordance with TDC 69.040 are:

- (a) North of the G.I. Joe's/Safeway Shopping Center and more particularly described as:
 - (i) Tax Map T2S, R1W, Section 13A, Tax Lot 800. (As of September 1, 1994 described as T2S, R1W, 13AA, Tax Lot 1200).
 - (ii) Tax Map T2S, R1E, Section 18BB, Tax Lots 2200, 2300, and 2400.
 - (iii) Tax Map T2S, R1E, Section 18BC, Tax Lots 200, 300, and 400. (As of September 1, 1994 described as T2S, R1E, 18BC, Tax Lots 200, 202, 300, and 400).

(b) PacTrust Area (Upper and Lower Boones Ferry Road) and more particularly described as Tax Map T2S, R1W, Section 24B, Tax Lots 1000, 1007, and 1008.

(c) Drake Management Company ownership at the northwest corner of SW Tualatin-Sherwood Road and Avery Street and more particularly described as Tax Map TS1, R1W, Section 27B, Tax Lots 100, 102 and 200.

Section 2. TDC 69.065 is amended to read as follows:

Section 69.065 Mixed Use Percentage.

(1) When the Industrial Business Park Overlay District site size is 10.00 to 19.99 acres, the **combined** gross floor area of office **and child day care center** uses shall not be greater than 50 percent of the total gross floor area of buildings on the site. **The gross floor area of a child day care center use listed in TDC 69.020(1)(g) may occupy up to 10 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).**

(2) When the site size is 20.00 acres or greater:

(a) The gross floor area of office, service and retail buildings combined shall not be greater than 50 percent of the total gross floor area of buildings on the site.

(b) The gross floor area of office uses listed in TDC 69.020(1) may occupy up to 50 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(c) The gross floor area of retail uses listed in TDC 69.020(2)(a) may occupy up to 10 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

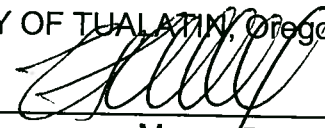
(d) The gross floor area of service uses listed in TDC 69.020(2)(b) **and a child day care center use listed in TDC 69.020(1)(g)** may occupy up to 10 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(3) The percentages in (1) and (2) of this section shall not be exceeded and may be reduced in the Architectural Review decision when information shows the impact, or the cumulative impact, of the development generated by the uses allowed through the Industrial Business Park Overlay District exceed the capacity of the onsite or offsite public infrastructure to support the development.

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

CITY OF TUALATIN, Oregon

BY



Mayor Pro tem

APPROVED AS TO LEGAL FORM



CITY ATTORNEY

ATTEST:

BY



City Recorder



6605 SE Lake Road, Portland, OR 97222 • PO
 Box 22109 • Portland, OR 97269
 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

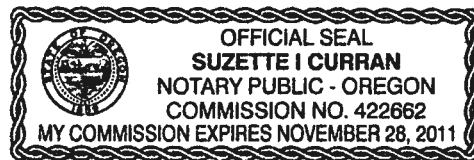
City of Tualatin
 Notice of Hearing
 TT11067

a copy of which is hereto attached, was published in the entire issue of said newspaper for
 1
 weeks in the following issues
 December 20, 2007

Charlotte Allsop
 Charlotte Allsop (Accounting Manager)
 December 20, 2007

Suzette I Curran
 NOTARY PUBLIC FOR OREGON
 My commission expires Nov. 28, 2011

Acct #108462
 Stacy Fonseca
 City of Tualatin
 18880 SW Martinazzi Avenue
 Tualatin, OR 97062



Size: 2 x 7
 Amount Due \$126.70
 *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, January 14, 2008, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA) 07-05—AN ORDINANCE AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IPBOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are 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 was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

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 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 reasonable cost. For information contact William Harper at (503) 691-3027. This meeting and any materials being considered can be made accessible upon request.
 CITY OF TUALATIN, OREGON By: Sherilyn Lombos, City Recorder
 Publish 12/20/2007 TT11067

EXHIBIT A

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

I, Stacy Fonseca, 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 12th day of December, 2007, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:

1. U.S. Post Office - Tualatin Branch
2. City of Tualatin City Center Building


Dated this 12th day of December, 2007.



Stacy Fonseca

Subscribed and sworn to before me this 17th day of December, 2007.





Notary Public for Oregon
My Commission expires: 2-5-11

RE: PLAN TEXT AMENDMENT (PTA) 07-05—AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IBPOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

EXHIBIT B



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

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, January 14, 2008, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA) 07-05—AN ORDINANCE AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IPBOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are 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 was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

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 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 reasonable cost. For information contact William Harper at (503) 691-3027. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on
(December 20, 2007).

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

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

That on the 12th day of December, 2007, 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 Fonseca
Stacy Fonseca

SUBSCRIBED AND SWORN to before me this 17th day of Dec., 2007.

Julie A. Cohen
Notary Public for Oregon
My commission expires: 2-5-11



RE: PLAN TEXT AMENDMENT (PTA) 07-05—AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IBPOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

EXHIBIT C



21E18BB02300
JAMES E BERREY LLC
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BB02400
STEPHEN M BERREY
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BB02401
STEPHEN M BERREY
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BC00600
DIANA CRAWFORD
3811 SW BARBUR BLVD
PORTLAND OR, 97239

21E18BC00501
DIANA CRAWFORD
3811 SW BARBUR BLVD
PORTLAND OR, 97239

21E18BC00300
STEPHEN BERREY TRUST
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BC00700
DIANA CRAWFORD
3811 SW BARBUR BLVD
PORTLAND OR, 97239

21E18BC00301
STEPHEN BERREY TRUST
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BC00800
BERREY PROPERTIES
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BC00900
DIANA CRAWFORD
3811 SW BARBUR BLVD
PORTLAND OR, 97239

21E18BC00400
NORMAN F HARRISON
17540 SW 63RD AVE
LAKE OSWEGO OR, 97035

21E18BC00500
DIANA CRAWFORD
3811 SW BARBUR BLVD
PORTLAND OR, 97239

21E18BC01001
MADRONA WATUMULL LLC
210 SW MORRISON STE 600
PORTLAND OR, 97204

21E18BC01104
SAFEWAY INC
1371 OAKLAND BLVD STE 200
WALNUT CREEK CA, 94596

21E18BC01000
STEPHEN M BERREY
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18BC01103
STEPHEN M BERREY
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18CB01900
STEPHEN M BERREY
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

21E18CB00400
FARDANESH ENTERPRISES LLC
6155 SW SEYMOUR ST
PORTLAND OR, 97221

21E18CB00600
FIRST WESTERN INVEST ASSOC
8129 LAKE BALLINGER WAY #104
EDMONDS WA, 98026

21E18CB00701
KATHLEEN STEIN-MEYER
PO BOX 459
LEXINGTON OR, 97839

2S113AA01200
JAMES E BERREY LLC
6305 SW ROSEWOOD ST STE D
LAKE OSWEGO OR, 97035

2S113AD00200
TUALATIN-LAKE OSWEGO LLC
1919 NW 19TH AVE
PORTLAND OR, 97209

2S113AD00100
HALTINER REV LIVING TRUST
23812 SW ROBSON TER
SHERWOOD OR, 97140

2S113AD00400
GOLDEN KEY LLC
309 10TH AVE
LAKE OSWEGO OR, 97034

2S113AD00300
FAHEY INVESTMENT LLC
8148 NW THOMPSON RD
PORTLAND OR, 97229

2S113AD00700
LON & JOAN B MARTIN
6700 SW BRADBURY CT
PORTLAND OR, 97224

2S113AD00600
SOUTH LAKE CENTER LLC
PO BOX 529
EUGENE OR, 97440

2S113AD01100
LAURETA M MARQUARDT
6870 NW HELVETIA RD
HILLSBORO OR, 97124

2S113AD00601
SOUTH LAKE CENTER LLC
PO BOX 2609
CARLSBAD CA, 92018

2S113DA00100
ORWA PIONEER LLC
8320 NE HIGHWAY 99
VANCOUVER WA, 98665



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

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, January 14, 2008, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA) 07-05—AN ORDINANCE AMENDING THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IPBOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are 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 was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

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 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 reasonable cost. For information contact William Harper at (503) 691-3027. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder


NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on (December 20, 2007).





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, AICP, Associate Planner 

DATE: January 14, 2008

SUBJECT: PTA-07-05—AMEND THE INDUSTRIAL BUSINESS PARK OVERLAY PLANNING DISTRICT (IBPOD) TO ALLOW A CHILD DAY CARE CENTER USE IN IPBOD DEVELOPMENT GREATER THAN 10 ACRES IN SIZE; AMENDING TDC 69.020 & 69.065

ISSUE BEFORE THE CITY COUNCIL:

A request for a Plan Text Amendment (PTA) to the Tualatin Development Code (TDC) Chapter 69-Industrial Business Park Overlay Planning District (IBPOD), which would allow child day care center use as a permitted use when the IBPOD is applied to a property in the ML (Light Manufacturing) and selected MG (General Manufacturing) Planning District areas when the site is 10 acres or greater.

RECOMMENDATION:

The Tualatin Planning Advisory Committee (TPAC) voted 5-0 on December 13, 2007, recommending that the City Council approve PTA-07-05.

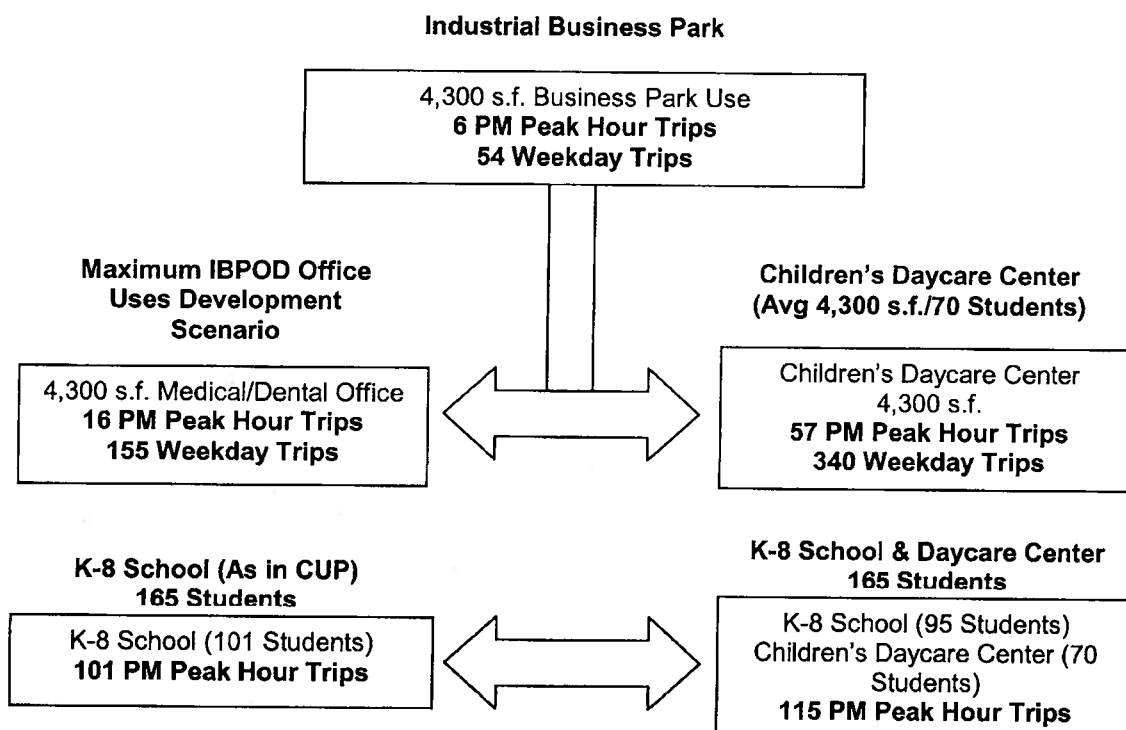
Staff recommends the City Council consider the staff report and supporting attachments and direct staff to prepare an ordinance granting PTA-07-05 based on the draft ordinance in Attachment C.

EXECUTIVE SUMMARY:

- This matter, which is a proposed amendment to the TDC and a decision by the City Council, is a legislative action.
- This matter is a Plan Text Amendment to the Tualatin Development Code.
- The applicant is Mike Berry of Berry Properties.
- Because the applicant has property that will be affected by an action on the amendment, traffic information for the nearby SW 65th Avenue/Lower Boones Ferry Road intersection is provided.

- The IBPOD was created in 1987 per Ordinance 716-87. The purpose was "...to recognize and accommodate the changing Industrial Commercial marketplace by allowing mixed uses...to recognize that it is not necessarily appropriate to assume that all industrial, office, service and retail uses are incompatible and, therefore, must be separated based on planning districts...to allow selected retail and service uses that are supportive of and secondary to the industrial and office uses." The IBPOD is allowed on developments greater than 10 acres in any ML Planning District and in three specifically noted MG Planning District areas (north of the Joe's/Safeway Marketplace, west of the intersection of Upper and Lower Boones Ferry Road and north of SW Tualatin-Sherwood Road at SW 112th Avenue).
- In addition to the uses allowed in the base ML and MG Planning Districts, the IBPOD allows various office uses as a permitted use and allows service and certain retail uses as permitted uses in IBPOD developments greater than 20 acres. A child day care center is listed as a service use and permitted in developments greater than 20 acres.
- Currently, there are two established IBPOD developments. Berry Properties (the applicant) is the owner and developer of the 17-acre Meridian Business Park IBPOD located in the ML (Light Manufacturing) and MG (General Manufacturing) Planning Districts on SW 65th Avenue, SW Rosewood Avenue and SW 63rd Avenue. The second existing IBPOD is the 35-acre Franklin Business Park located in the MG Planning District on SW 112th Avenue, SW Amu Street and SW Tualatin-Sherwood Road. A map showing the locations of existing IBPOD is included as Attachment A. The Applicant's materials are included as Attachment B.
- The applicant is the developer of the Meridian Business Park IBPOD and is in the process of constructing Buildings E and F. The applicant has a tenant (The Children's Hour Academy) moving into Building E that seeks to establish a children's daycare business in conjunction with a K-6 school approved as a conditional use in CUP-07-02. The Children's Hour intends to have about 40% of the school's student capacity as daycare age students. The traffic information for the CUP and ultimately the approval of the CUP was based on a maximum 165 students. At capacity, 65 or 66 students of the 165 students allowed by the CUP for the Children's Hour Academy would be daycare age.
- Currently, a child day care center use is allowed in the ML and MG Districts as a permitted use provided it is in a building with manufacturing, processing or warehousing [TDC 60.020(25)] and is a permitted use in the IPBOD when the development is greater than 20 acres and the service use is limited to 10% of the developments gross floor area [TDC 69.020(2)(b)]. Because the applicant's tenant is not eligible for a daycare use under current ML & MG requirements and is in an IBPOD less than 20 acres, the applicant proposes the amendment to the IBPOD standards to allow a child day care center in IBPOD developments greater than 10 acres.
- The submitted traffic analysis (Attachment B, Lancaster Engineering 11-30-07 Letter), based on a worst case development scenario, states that allowing a child day care center in a IBPOD with 10 acres or more will not reduce or worsen the performance of any existing or planned transportation facility.

- At the request of staff, the applicant provided additional traffic information describing the differential in vehicle trips associated with the day care center use in a 10-acre or greater IBPOD development in comparison to existing allowed uses (Attachment B, Lancaster Engineering 12-10-07 letter). Because the Children’s Hour Academy proposes approximately 40% of the business will be daycare students, the vehicle trips for a daycare use similar in size to the Children’s Hour Academy School/Daycare business are considered part of, not in addition to, the vehicle trips assigned to the school use in the CUP process.



The trip generation comparison shows an average day care use (of a similar size floor area to the applicant’s prospective tenant) will have more evening peak hour trips and more average weekday trips than a manufacturing use or an IBPOD office use (medical/dental office) and slightly more PM Peak trips than a school use. The City of Tualatin Engineering Division agrees with the Lancaster Engineering Transportation Planning Rule (TPR) analysis and “Near Term Operational Analysis” addressing Plan Amendment Criterion #8 (Attachment F).

- The proposed staff version of the PTA language is provided in Attachment C. The Applicant has prepared a narrative that addresses the Plan Amendment approval criteria (Attachment B), and staff has reviewed the Applicant’s material and included pertinent excerpts in the Analysis and Findings section of this report (Attachment E).

- The applicable policies and regulations that apply to the proposal include: TDC 1.032-Amendments; TDC 7.030 & 7.040-Objectives and Manufacturing Planning District Objectives; TDC 8.070-Day Care Facilities; TDC Chapter 60-Light Manufacturing Planning District; TDC Chapter 61-General Manufacturing Planning District; and TDC Chapter 69-Industrial Business Park Overlay Planning District. The Analysis and Findings section of this report (Attachment E) considers the applicable policies and regulations.
- Before granting the proposed PTA, the City Council must find that the criteria listed in TDC 1.032 are met. The Analysis and Findings section of this report (Attachment E) examines the application with respect to the criteria for a Plan Amendment.

OUTCOMES OF DECISION:

Approval of the PTA request will result in the following:

1. Allows child day care centers as a permitted use in IBPOD developments when the site is 10 acres or greater.
2. Allows the applicant's tenant to conduct a child day care use in the applicant's Meridian Business Park IBPOD development.
3. This action will not reduce the function, capacity or safety of the SW 65th Avenue and SW Lower Boones Ferry Road intersections or other transportation facilities in the vicinity of the Meridian Business Park IBPOD development.

Denial of the PTA request will result in the following:

1. The current provisions allowing a child day care center as a service use in an IBPOD development greater than 20 acres will remain unchanged.
2. The applicant or the applicant's tenants will not be allowed to operate a daycare center activity in the 17-acre Meridian Business Park development under the current IBPOD provisions.

ALTERNATIVES TO RECOMMENDATION:

The alternatives to the staff recommendation for Council are:

- Approve the proposed PTA with alterations.
- Deny the request for the proposed PTA.
- Continue the discussion of the proposed PTA and return to the matter at a later date.

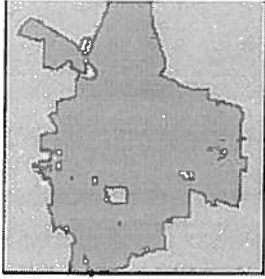
FINANCIAL IMPLICATIONS:

The Applicant paid the required application fee, which is contained in the FY 07/08 budget for revenue.

PUBLIC INVOLVEMENT:

The Applicant conducted a Neighbor/Developer meeting on September 19, 2007, at 6:00 p.m. at the Berry Properties' office on SW Rosewood Street, to explain their development and PTA proposal to neighboring property owners and to receive comments. No members of the public (nearby property owners/developers) attended the meeting.

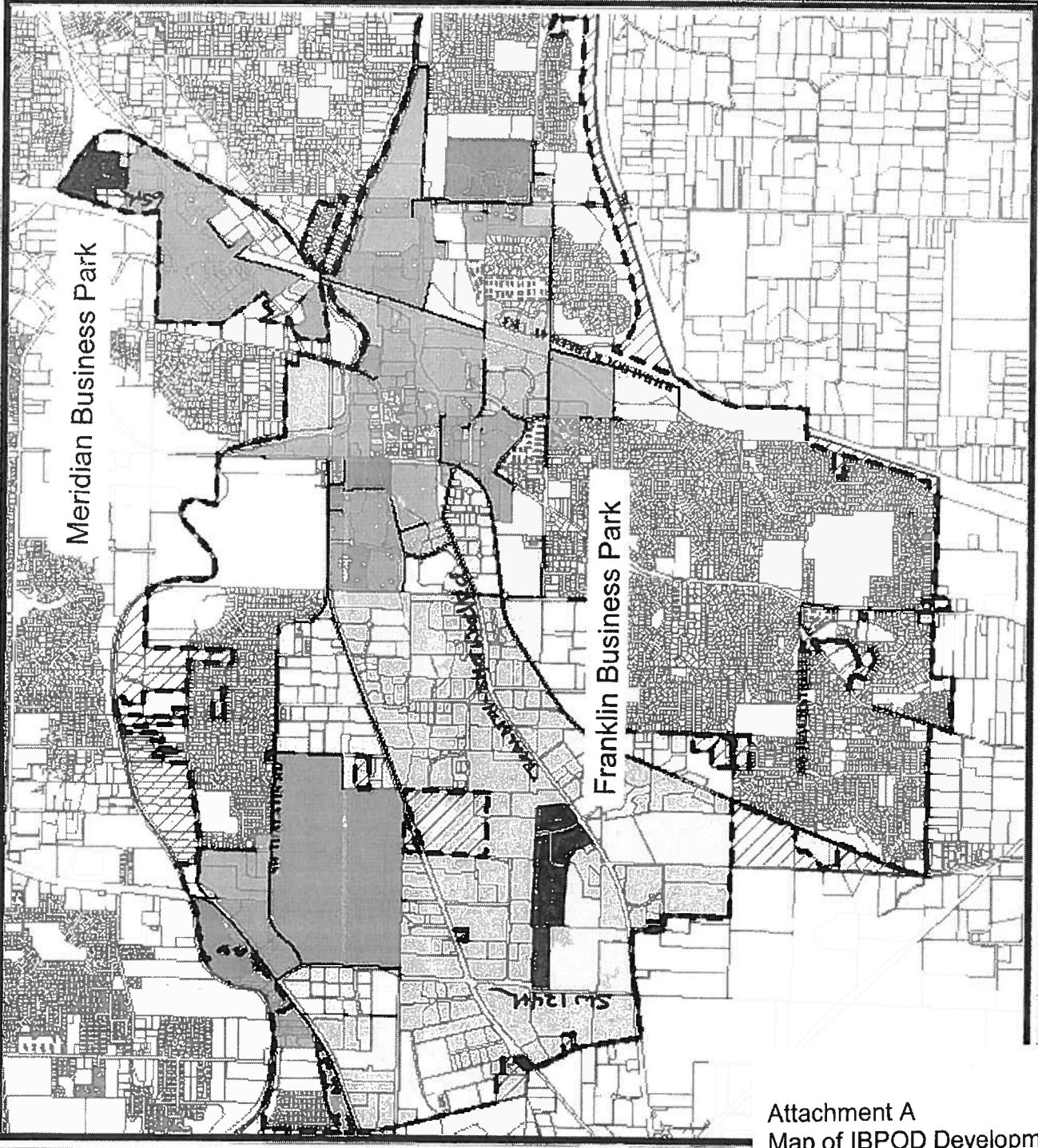
- Attachments:**
- A. Map of IBPOD Developments
 - B. Applicant's Materials and Supporting Information
 - C. Staff version of proposed Text Amendment Language-TDC 69.020 & 69.065
 - D. Background Information
 - E. Analysis and Findings
 - F. Engineering Division Memorandum



**PTA-07-05 IBPOD
Developments**

Legend

**Scale 1:37,125
1 in = 3,094 ft**





4445 SW BARBUR BLVD., SUITE 200
 PORTLAND, OREGON 97239
 TEL: 503.226.1285 FAX: 503.226.1670
 E-MAIL: info@cidainc.com
 www.cidainc.com

October 31, 2007

City of Tualatin, Planning Department
 Attn: Will Harper
 18880 SW Martinazzi Avenue
 Tualatin, Oregon 97062

RE: Tualatin Community Plan Text Amendment
 IBPOD-Daycare in site under 20 acres
 CIDA Project Number: 060018.05

Dear Will:

The following addresses the burden of proof criteria set forth by the Tualatin Development Code, Section 1.032 for approval of a Text Amendment:

We are requesting the following change:

69.020 (1) The following additional uses area permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 10 acres or greater:

add: (g) *Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.*

69.020 (2) The following additional uses area permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 20 acres or greater:

remove: (b) *Service Use:*
 (i) *Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.*

A. Is granting the amendment in the public interest?

Child day care centers provide a support service to employment areas, including industrial and commercial districts. By locating the day care centers in these employment areas, parents are able to be closer to their children during their workday. Employees who commute to the industrial business park district can minimize their use of the public transportation infrastructure by utilizing services provided close to their place of employment. It is also better for childhood education to minimize child travel time and to maximize proximity to parents. Permitting a daycare in a smaller IBPO district allows the beneficial juxtaposition of the daycare and employment for a greater number of parents.

Daycare centers are already directly allowed as a permitted use in the underlying ML zone, 'provided they are in a building with manufacturing, processing, assembling, warehousing or wholesaling uses...'. Allowing a daycare that is in a separate building would only serve to provide a safer proximity within the industrial zones.

B. Is the public interest protected by granting the plan text amendment at this time?

The public interest is protected and improved by this proposal. Although child day care centers are currently allowed in IBPO districts 20 acres or greater, these usage areas are unique in that they include varied employment uses, from industrial, to office, to commercial in close proximity.

The mixed employment usage creates a day care demand of similar nature to day care centers located in larger sites. The benefits to the public interest are protected as most of the usage areas adjacent to the IBPO districts are developed and operating at this time. Providing a day care facility on a smaller IBPO site provides the same public benefits as on larger sites as defined in the code.

There are no known or anticipated harmful impacts to the public interest due to reducing the required size of the Overlay district. The public interest is definitely enhanced by allowing this use in terms of safe access, educational diversification options, proximity of current employment use, and the current lack of local day care education facilities serving existing commercial/industrial uses.

Further, the conditions already outlined in 69.020 will still be in effect, namely allowing the daycare use only if it is a minimum of 400 feet of any automobile service station. Approval of this proposal also serves to support the purpose of 69.010 due to the existing employment uses, by accommodating the changing industrial commercial marketplace by offering employees with children, an opportunity for safe, diversified childhood day care near the working environment. Allowing this service use at a smaller site would also enhance the compatibility of industrial commercial office uses by providing services not currently present or allowed.

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

Section 8.070 states: 'Because day care is needed both by residents and employees who commute into the City, day care facilities should be located in areas convenient for commuters, residential, and some industrial areas.'... 'Day care facilities should not be located close to automobile service stations, or where they will be surrounded by industrial uses. However, industrial perimeter areas where they can easily serve both residential and employees of nearby firms are suitable.'

Section 8.070 (1) states: 'Accordingly, day care centers should be allowed as permitted uses in commercial and light industrial areas.'

The Community plan indicates that day care facilities are suitable for 'industrial perimeter areas'. Allowing day care facilities to be located in a smaller Industrial Business Park Overlay only reduces the likelihood that they would in fact be 'surrounded by industrial uses.' The existing usages in the IBPOD areas are currently quite diverse and do not present the 'standard' homogeneous industrial usage condition.

The IBPOD can only be applied to Light Manufacturing and select General Manufacturing areas. Because of the nature of the Business Park Overlay, the designation generally results in a light industrial area. The Community plan indicates that day care centers should be allowed as permitted uses in such areas.

The purpose of Section 60.010 stresses that the ML district to provide industrial uses that are compatible with adjacent commercial and residential uses. Allowance of day care centers would provide services that enhance this compatibility between the light industrial and commercial uses by providing educational day care for employees of both types of facilities *fairly adjacent* them.

D. Explain how each of the factors listed below was consciously considered. If a particular factor is not applicable, state the reason why it is not applicable.

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

This factor would generally apply to a map amendment rather than a text amendment. The proposed text amendment would apply to a variety of sites that are eligible for or have implemented the Industrial Business Park Overlay District designation; therefore there is not a single area or set of characteristics to address.

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

Again, this factor would generally apply to a map amendment. The proposed text amendment would apply to a variety of sites and not a single area. In general, the IBPOD eligible areas have presumably been selected based on their suitability for office, retail and services uses, of which day care is included.

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

The need and practicality of large scale developments is gradually diminishing as property costs rise. Companies are necessarily becoming more efficient with their use of space, resulting in increased density. Subsequently, the number of employees which would be serviced by a day care facility in a 10 + acre industrial business district is on the rise, and this proposal directly addresses this upsurge.

(4). *Property values.*

A day care facility located closely in a residential neighborhood could have the potential to negatively impact residential property values. However, this is not the case in the proposed industrial area where the proximity of a service use directly benefits the employees in the area. Integration of this facility into the proposed development will provide an asset to an industrial commercial area utilized during the general working hours, and not located nearer a residential land use. Due to a broader day care service being closely available, industrial commercial property values should be enhanced by approval of this proposal.

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

The needs of the industrial commercial land uses in the IBPOD's should be accommodated by presenting current and future industrial commercial parent/employees a full service day care education facility near their work place. This provides these employees a service that is not being addressed at this time. Any limitation of day care facilities would not serve the current economic needs, much less those of the future.

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

The sites that are eligible for the IBPOD designation are generally located in existing areas with good access, appropriate and safe for such uses. Allowing a day care use in a smaller industrial business district would not adversely impact the availability of needed right-of-way, as local traffic areas are currently succinct and developed to provide both regional and interstate accesses.

(7). *Natural resources of the City and the protection and conservation of said resources.*

Allowing an integrated day care use in a smaller industrial business district would not have any negative impact on the City's natural resources, and it would in fact serve to eliminate the potential development of 'free-standing' day care at another location closer to natural resources.

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

Allowing a day care use in a smaller industrial business district would only serve to reduce the likelihood of any prospective development nearer natural resources in the City.

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

Day cares are needed by employees who commute into the City and should be located in areas convenient for employees, and healthful for the education of the children. The public need for healthful and safe conditions and aesthetic surroundings is served by being able to locate day cares within the Industrial Business Park Overlay districts, regardless of their size, and takes the intent of the development code and further refines the general intent of the development code to provide affordable, safe, and available day care to the Industrial Commercial community.

(10). *Proof of change in a neighborhood or area.*

The proposed text amendment does not apply to a specific neighborhood or area.

(11). *A mistake in the Community Plan or plan text for the property under consideration.*

The proposed text amendment is not a result of a mistake in the Community Plan or plan text.

In addition, below is a summary of how the proposed text amendment addresses Oregon's Statewide Planning Goals:

1. ***CITIZEN INVOLVEMENT*** Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

The proposed text amendment does not impact any opportunities for citizens to be involved in the planning process.

2. ***LAND USE PLANNING*** Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive

plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

The proposed text amendment does not impact the City's ability to implement a comprehensive plan. The amendment does comply with the City's adopted comprehensive plan as outlined above.

3. **AGRICULTURAL LANDS** *Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.*

The proposed text amendment does not impact any agricultural lands as defined.

4. **FOREST LANDS** *This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."*

The proposed text amendment does not impact any forest lands as defined.

5. **OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES** *Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.*

Allowing an integrated day care use in a smaller industrial business district would not have any negative impact on any open spaces, scenic or historic areas, or natural resources. It would in fact serve to eliminate the potential development of 'free-standing' day care at another location closer to one of these resources.

6. **AIR, WATER AND LAND RESOURCES QUALITY** *This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.*

The proposed text amendment will only serve to allow a use with less air, water and land resources quality issues than those in a typical industrial area.

7. **AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS** *Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.*

The proposed text amendment does not impact areas known to be subject to natural hazards such as floods or landslides.

8. **RECREATION NEEDS** *This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts.*

The proposed text amendment does not impact areas that would be suitable for community recreation development or destination resorts.

9. **ECONOMY OF THE STATE** *Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.*

The proposed text amendment contributes to the diversification of uses, which will improve the economic viability of the area. The economic needs of the industrial commercial land uses in the IBPOD's should be accommodated by presenting current and future industrial commercial parent/employees a full service day care education facility near their work place. This provides these employees a service that is not being addressed at this time. Any limitation of day care facilities would not serve the current economic needs, much less those of the future.

10. **HOUSING** *This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.*

The proposed text amendment does not impact land suitable for residential development.

11. **PUBLIC FACILITIES AND SERVICES** *Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.*

The areas impacted by the proposed text amendment are already served by adequate public services such as law enforcement and fire protection. Impacted areas that do not have utilities in the immediate vicinity, have access to adequate services in the proximity that will be extended as needed.

12. **TRANSPORTATION** *The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."*

Child day care centers provide a support service to employment areas, including industrial and commercial districts. By locating the day care centers in these employment areas, parents who commute to the industrial business park district can minimize their use of the public transportation infrastructure by utilizing services provided close to their place of employment. Approval of the text amendment will not restrict the provision for a safe, convenient and economic transportation system.

13. **ENERGY** *Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."*

Other than energy as it relates to transportation, the proposed text amendment will not impact the energy utilization. As discussed above, allowing a daycare to be located in a smaller overlay zone will provide a convenient service for the surrounding businesses, thus potentially reducing the overall energy used for transportation.

14. **URBANIZATION** *This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.*

The proposed amendment will not impact the future growth and land zoning in the area or the UGB.

15. **WILLAMETTE GREENWAY** *Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.*

The proposed text amendment will not impact lands along the Willamette Greenway.

16. **ESTUARINE RESOURCES** *This goal requires local governments to classify Oregon's 22 major estuaries in four categories; natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."*

The proposed text amendment will not impact any of Oregon's 22 estuaries.

17. **COASTAL SHORELANDS** *The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses.*

The proposed text amendment will not impact any of Oregon's coastal shore lands.

18. **BEACHES AND DUNES** *Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.*

The proposed text amendment will not impact any of Oregon's Beaches or Dunes.

19. **OCEAN RESOURCES** *Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.*

The proposed text amendment will not impact any of Oregon's Ocean Resources.

In summation, the integration of day care usages in the smaller IBPOD's, with respect to all other code requirements, will improve the purpose of the overlay districts as defined in the code. In addition, it adheres to the principals outlined in Oregon's statewide planning goals.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tara W. Lund', written over a horizontal line.

Tara W. Lund
Project Manager



4445 SW BARBUR BLVD., SUITE 200
PORTLAND, OREGON 97239
TEL: 503.226.1285 FAX: 503.226.1670
E-MAIL: info@cidainc.com
www.cidainc.com

COMMUNITY DEVELOPMENT
PLANNING DIVISION
DEC 3 2007
CITY OF TUALATIN
RECEIVED

November 29, 2007

City of Tualatin Planning Division
Attn: Will Harper
18880 SW Martinazzi Ave
Tualatin, OR 97062-7092

RE: Text Amendment Addenda
MRF Plan Criteria
CIDA Project Number: 060018.03

Dear Mr. Harper:

Per your request, following is an analysis on how the proposed Text Amendment meets the following Metro criteria:

- **Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

The Metro Functional Plan, Title IV, deals with Industrial and Employment land. It limits non-industrial development in Regionally Significant Industrial Areas. None of the areas that would be impacted by the proposed text amendment have been identified on the 'Employment and Industrial Areas' map as a Regionally Significant Industrial Area.

Title IV, also limits non-industrial uses in Industrial Areas to less than 20,000 square feet or 10% of the Industrial Area. The TDC addresses this restriction in another section (Section 60.021), which will not be precluded by the propose text amendment.

Title IV, limits retail uses in Employment Areas to less than 60,000 square feet. The proposed text amendment does not involve retail uses.

In short, the proposed text amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

Sincerely,

Tara W. Lund,
Project Architect



November 30, 2007

William Harper
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97062



*RE: Industrial Business Park Overlay District: Proposed Text Amendment
Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis*

Dear Will,

This letter is intended to address the potential traffic concerns associated with a proposed Tualatin Development Code text amendment. The discussion in this document addresses the Transportation Planning Rule (TPR) as it relates to the proposed text amendment to allow a child day care center within the Industrial Business Park Overlay District for sites of 10 acres or greater. The primary references for this letter are the City of Tualatin's Community Development Code and the TPR as established by the Oregon Administrative Rules (OAR) 660-012-0060.

Transportation Planning Rule

The primary test of the TPR is to determine if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation will "significantly affect" an existing or planned transportation facility. The definition of significant affect is addressed in the following sections of this letter. The proposed text amendment is not an amendment to a functional plan or acknowledged comprehensive plan; however it does include a change to a land use regulation. As such, the TPR is addressed here.

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 plan or land use regulation amendment significantly affects a transportation facility if it would:



William Harper
November 30, 2007
Page 2 of 3

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

The proposed text amendment will not change or necessitate changes to the functional classification of any area roadways.

(b) Change standards implementing a functional classification system; or

The proposed text amendment will not change the standards underlying the City's 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; 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.

Under the current text of Tualatin Development Code, 60.020(25), a child day care center is permitted in a Light Manufacturing (ML) District, "provided it is in a building with manufacturing, processing, assembling, warehousing or wholesaling uses and provided all exterior walls and outdoor play areas shall be at least 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between." Since child day care center is already a permitted use, the result of the text amendment would not be to allow a child day care center in a district where one would have otherwise been prohibited, but rather to allow a child day care center to be constructed outside of a building containing manufacturing, processing, assembling, warehousing or wholesaling uses.

For traffic analysis under the Transportation Planning Rule, we evaluate the potential impacts of a proposed change based on the "reasonable worst-case" analysis. This means we must compare the maximum traffic that could be generated under existing conditions to the maximum that could be generated upon implementation of the proposed change. In this case, the "reasonable worst-case" scenario includes a child day care center either with or without the proposed text amendment. Since no limits on the size of child day care facilities are included in the current code language, there will be no change in traffic volumes for the "reasonable worst-case" analysis with the proposed text amendment. Since there is no change in the maximum number of



William Harper
November 30, 2007
Page 3 of 3

trips that can be generated within the district, the proposed text amendment will not reduce or worsen the performance of any existing or planned transportation facilities.

Near-Term Traffic Impacts

Although the proposed text amendment would result in no change for a “reasonable worst-case” analysis of surrounding transportation facilities, there will likely be near-term traffic impacts if the text amendment is approved. The text amendment was proposed in order to allow a previously-approved conditional-use school located on SW 65th Avenue to include child day care facilities within the school building. Since a child day care center generates slightly more traffic than the approved school during the evening peak hour, we examined the operation of the intersection of SW Lower Boones Ferry Road at SW 65th Avenue in order to ensure that the intersection will continue to operate acceptably if a day care operates within the school building. The morning peak hour was not examined since day care trip generation rates are lower than private school rates during the morning peak hour.

Although the day care center is intended to represent only a small portion of the building, our operational analysis assumed that a successful day care center within the school building could operate comparably to a free-standing day care center. Based on data provided in the ITE Trip Generation Manual, it was determined that the average free-standing day care center accommodates 70 students. The approved school can accommodate a total of 165 students, so for this analysis 70 students were assumed to be enrolled in the day care and the remaining 95 students were assumed to attend the school.

Based on the analysis a net increase of 14 trips is expected during the evening peak hour. These trips were added to the intersection of SW Lower Boones Ferry Road at SW 65th Avenue, with the trips distributed as they were for the school analysis. The results of the operational analysis indicate that the intersection is projected to operate at level of service D during the evening peak hour. Upon full build-out of the surrounding district, the intersection is projected to continue to operate at level of service D. This operation is acceptable, and no mitigations are recommended.

If you have any questions regarding this analysis, please do not hesitate to call.

Yours truly,

Michael Ard, PE
Senior Transportation Engineer



TRIP GENERATION CALCULATIONS

Land Use: Private School (K-8)
Land Use Code: 534
Variable: Students
Variable Value: 165

AM SCHOOL PEAK HOUR

Trip Rate: 0.9

	Enter	Exit	Total
Directional Distribution	61%	39%	
Trip Ends	91	58	149

PM SCHOOL PEAK HOUR

Trip Rate: 0.61

	Enter	Exit	Total
Directional Distribution	41%	59%	
Trip Ends	41	60	101

Source: TRIP GENERATION, Seventh Edition



TRIP GENERATION CALCULATIONS

Land Use: Day Care Center
Land Use Code: 565
Variable: Students
Variable Value: 70

AM PEAK HOUR

Trip Rate: 0.80

	Enter	Exit	Total
Directional Distribution	53%	47%	
Trip Ends	30	26	56

PM PEAK HOUR

Trip Rate: 0.82

	Enter	Exit	Total
Directional Distribution	47%	53%	
Trip Ends	27	30	57

WEEKDAY

Trip Rate: 4.48

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	157	157	314

SUNDAY

Trip Rate: 0.37

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	13	13	26

Source: TRIP GENERATION, Seventh Edition



TRIP GENERATION CALCULATIONS

Land Use: Private School (K-8)
Land Use Code: 534
Variable: Students
Variable Value: 95

AM SCHOOL PEAK HOUR

Trip Rate: 0.9

	Enter	Exit	Total
Directional Distribution	61%	39%	
Trip Ends	58	34	86

PM SCHOOL PEAK HOUR

Trip Rate: 0.61

	Enter	Exit	Total
Directional Distribution	41%	59%	
Trip Ends	24	34	58

Source: TRIP GENERATION, Seventh Edition

HCS+™ DETAILED REPORT

General Information		Site Information	
Analyst	MTA	Intersection	Lower Boones Ferry/65th Avenue
Agency or Co.	Lancaster Engineering	Area Type	All other areas
Date Performed	11/30/2007	Jurisdiction	ODOT
Time Period	PM Peak Hour	Analysis Year	2008 BK + Site (Mitigated)
		Project ID	Hale - Meridian Private School/Day Care

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Number of Lanes, N _i	1	2	1	1	3	0	1	1	0	0	1	1
Lane Group	L	T	R	L	TR		L	LTR			LT	R
Volume, V (vph)	314	990	549	128	1182	62	421	39	31	166	67	400
% Heavy Vehicles, %HV	2	2	2	2	2	2	2	2	2	2	2	2
Peak-Hour Factor, PHF	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98
Pretimed (P) or Actuated (A)	A	P	P	A	P	P	A	A	A	A	A	A
Start-up Lost Time, I _s	2.0	2.0	2.0	2.0	2.0		2.0	2.0			2.0	2.0
Extension of Effective Green, e	2.0	2.0	2.0	2.0	2.0		2.0	2.0			2.0	2.0
Arrival Type, AT	3	3	3	3	3		3	3			3	3
Unit Extension, UE	3.0	3.0	3.0	3.0	3.0		3.0	3.0			3.0	3.0
Filtering/Metering, I	1.000	1.000	1.000	1.000	1.000		1.000	1.000			1.000	1.000
Initial Unmet Demand, Q _b	0.0	0.0	0.0	0.0	0.0		0.0	0.0			0.0	0.0
Ped / Bike / RTOR Volumes	0	0	72	0	0	1	0	0	0	0	0	72
Lane Width	12.0	12.0	12.0	12.0	12.0		12.0	12.0			12.0	12.0
Parking / Grade / Parking	N	0	N	N	0	N	N	0	N	N	-4	N
Parking Maneuvers, N _m												
Buses Stopping, N _b	0	0	0	0	0		0	0			0	0
Min. Time for Pedestrians, G _p	3.2			3.2			3.2			3.2		
Phasing	Excl. Left	EB Only	Thru & RT	04	NB Only	SB Only	07	08				
Timing	G = 6.0	G = 12.5	G = 27.5	G = 0.0	G = 22.5	G = 11.0	G = 0.0	G = 0.0				
	Y = 4	Y = 4	Y = 4.5	Y = 0	Y = 4	Y = 4	Y = 0	Y = 0				
Duration of Analysis, T = 0.25						Cycle Length, C = 100.0						

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Adjusted Flow Rate, v	320	1010	487	131	1268		430	72			237	335
Lane Group Capacity, c	398	1561	697	106	1385		398	391			202	606
v/c Ratio, X	0.80	0.65	0.70	1.24	0.92		1.08	0.18			1.17	0.55
Total Green Ratio, g/C	0.22	0.44	0.44	0.06	0.28		0.22	0.22			0.11	0.38
Uniform Delay, d ₁	36.7	21.9	22.6	47.0	35.1		38.8	31.3			44.5	24.6
Progression Factor, PF	1.000	1.000	1.000	1.000	1.000		1.000	1.000			1.000	1.000
Delay Calibration, k	0.35	0.50	0.50	0.50	0.50		0.50	0.11			0.50	0.15
Incremental Delay, d ₂	11.4	2.1	5.7	163.8	10.9		68.4	0.2			117.9	1.1
Initial Queue Delay, d ₃	0.0	0.0	0.0	0.0	0.0		0.0	0.0			0.0	0.0
Control Delay	48.1	24.0	28.4	210.8	46.1		107.1	31.6			162.4	25.7
Lane Group LOS	D	C	C	F	D		F	C			F	C
Approach Delay	29.4			61.5			96.3			82.4		
Approach LOS	C			E			F			F		
Intersection Delay	54.8			X _c = 0.96			Intersection LOS			D		

HCS+™ DETAILED REPORT

General Information				Site Information			
Analyst	MTA			Intersection	Lower Boones Ferry/65th Avenue		
Agency or Co.	Lancaster Engineering			Area Type	All other areas		
Date Performed	11/30/2007			Jurisdiction	ODOT		
Time Period	PM Peak Hour			Analysis Year	2009 BK + Site + Bus. Park		
				Project ID	Hale - Meridian Private School/Day Care		

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Number of Lanes, N _i	1	2	1	1	3	0	1	1	0	0	1	1
Lane Group	L	T	R	L	TR		L	LTR			LT	R
Volume, V (vph)	324	1009	549	128	1205	64	421	40	31	171	71	434
% Heavy Vehicles, %HV	2	2	2	2	2	2	2	2	2	2	2	2
Peak-Hour Factor, PHF	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98	0.98
Pretimed (P) or Actuated (A)	A	P	P	A	P	P	A	A	A	A	A	A
Start-up Lost Time, I _t	2.0	2.0	2.0	2.0	2.0		2.0	2.0			2.0	2.0
Extension of Effective Green, e	2.0	2.0	2.0	2.0	2.0		2.0	2.0			2.0	2.0
Arrival Type, AT	3	3	3	3	3		3	3			3	3
Unit Extension, UE	3.0	3.0	3.0	3.0	3.0		3.0	3.0			3.0	3.0
Filtering/Metering, I	1.000	1.000	1.000	1.000	1.000		1.000	1.000			1.000	1.000
Initial Unmet Demand, Q _b	0.0	0.0	0.0	0.0	0.0		0.0	0.0			0.0	0.0
Ped / Bike / RTOR Volumes	0	0	72	0	0	1	0	0	0	0	0	72
Lane Width	12.0	12.0	12.0	12.0	12.0		12.0	12.0			12.0	12.0
Parking / Grade / Parking	N	0	N	N	0	N	N	0	N	N	-4	N
Parking Maneuvers, N _m												
Buses Stopping, N _b	0	0	0	0	0		0	0			0	0
Min. Time for Pedestrians, G _p	3.2			3.2			3.2			3.2		
Phasing	Excl. Left	EB Only	Thru & RT	04	NB Only	SB Only	07	08				
Timing	G = 9.4	G = 9.0	G = 27.5	G = 0.0	G = 22.7	G = 10.9	G = 0.0	G = 0.0				
	Y = 4	Y = 4	Y = 4.5	Y = 0	Y = 4	Y = 4	Y = 0	Y = 0				
Duration of Analysis, T = 0.25						Cycle Length, C = 100.0						

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Adjusted Flow Rate, v	331	1030	487	131	1294		430	73			246	369
Lane Group Capacity, c	396	1437	641	166	1385		402	395			200	602
v/c Ratio, X	0.84	0.72	0.76	0.79	0.93		1.07	0.18			1.23	0.61
Total Green Ratio, g/C	0.22	0.40	0.40	0.09	0.27		0.23	0.23			0.11	0.37
Uniform Delay, d ₁	37.0	24.9	25.6	44.3	35.4		38.7	31.2			44.6	25.5
Progression Factor, PF	1.000	1.000	1.000	1.000	1.000		1.000	1.000			1.000	1.000
Delay Calibration, k	0.37	0.50	0.50	0.34	0.50		0.50	0.11			0.50	0.20
Incremental Delay, d ₂	14.4	3.1	8.3	22.1	12.9		64.7	0.2			139.3	1.9
Initial Queue Delay, d ₃	0.0	0.0	0.0	0.0	0.0		0.0	0.0			0.0	0.0
Control Delay	51.5	28.0	33.8	66.4	48.2		103.3	31.4			183.8	27.3
Lane Group LOS	D	C	C	E	D		F	C			F	C
Approach Delay	33.8			49.9			92.9			89.9		
Approach LOS	C			D			F			F		
Intersection Delay	53.6			X _c = 0.98			Intersection LOS			D		



December 10, 2007

William Harper
City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, OR 97062

RE: Trip Generation of Day Care Centers vs. Business Park Land Uses

Dear Will,

This letter is intended to describe the trip generation characteristics of day care centers and provide a comparison to other potential business park land uses of similar size.

The average day care center accommodates about 70 students and has a gross floor area of about 4,300 square feet. A day care facility of this size generates about 55 trips during the morning peak hour, 57 trips during the evening peak hour and 340 trips during an average weekday.

A similarly-sized business park building would be expected to generate about 6 trips during the morning peak hour, 6 trips during the evening peak hour and 54 trips during an average weekday. A similarly-sized medical/dental office building would be expected to generate about 11 trips during the morning peak hour, 16 trips during the evening peak hour and 155 trips during the average weekday.

If you have any questions regarding this analysis, please do not hesitate to call.

Yours truly,

Michael Ard, PE
Senior Transportation Engineer



TRIP GENERATION CALCULATIONS

Land Use: Day Care Center
Land Use Code: 565
Variable: 1000 Sq Ft Gross Floor Area
Variable Value: 4.3

AM PEAK HOUR

Trip Rate: 12.79

	Enter	Exit	Total
Directional Distribution	53%	47%	
Trip Ends	29	26	55

PM PEAK HOUR

Trip Rate: 13.18

	Enter	Exit	Total
Directional Distribution	47%	53%	
Trip Ends	27	30	57

WEEKDAY

Trip Rate: 79.26

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	170	170	340

SATURDAY

Trip Rate: 6.21

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	13	13	26

Source: TRIP GENERATION, Seventh Edition



TRIP GENERATION CALCULATIONS

Land Use: Business Park
Land Use Code: 770
Variable: 1000 Sq Ft Gross Floor Area
Variable Quantity: 4

AM PEAK HOUR

Trip Rate: 1.43

	Enter	Exit	Total
Directional Distribution	84%	16%	
Trip Ends	5	1	6

PM PEAK HOUR

Trip Rate: 1.29

	Enter	Exit	Total
Directional Distribution	23%	77%	
Trip Ends	1	5	6

WEEKDAY

Trip Rate: 12.76

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	27	27	54

SATURDAY

Trip Rate: 2.56

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	6	6	12

Source: TRIP GENERATION, Seventh Edition



TRIP GENERATION CALCULATIONS

Land Use: Medical-Dental Office Building
Land Use Code: 720
Variable: 1,000 Sq Ft Gross Floor Area
Variable Quantity: 4.3

AM PEAK HOUR

Trip Rate: 2.48

	Enter	Exit	Total
Directional Distribution	79%	21%	
Trip Ends	8	2	11

PM PEAK HOUR

Trip Rate: 3.72

	Enter	Exit	Total
Directional Distribution	27%	73%	
Trip Ends	4	12	16

WEEKDAY

Trip Rate: 36.13

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	78	78	155

SATURDAY

Trip Rate: 8.96

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	19	19	39

Source: TRIP GENERATION, Seventh Edition

PROPOSED PLAN TEXT AMENDMENT PTA-07-05
CITY OF TUALATIN

Staff Proposed Tualatin Development Code Amendments (12-6-07)
Added Text shown in *Bold Italic*/ Deleted text shown in ~~Strikethru~~.

Chapter 69 Industrial Business Park Overlay Planning District

Section 69.020 Permitted Uses.

(1) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 10 acres or greater:

- (a) Business offices.
- (b) Commercial offices.
- (c) Branch banks and banking kiosks.
- (d) General offices, but not government offices.
- (e) Medical and healing arts offices.
- (f) Real estate offices.
- (g) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.*

(2) The following additional uses are permitted when the Industrial Business Park Overlay District is applied to a property in the Light Manufacturing (ML) District or to a property in one of the selected General Manufacturing (MG) District areas and the site is 20 acres or greater:

- (a) Retail Uses:
 - (i) Food store of less than 4,000 square feet of gross floor area.
 - (ii) Restaurant, without drive-up or drive through facilities.
- (b) Service Uses:
 - ~~(i) Child day care center, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.~~
 - (ii) Correspondence, trade and vocational schools, except vocational high schools.
 - (iii) Health or fitness facility.
 - (iv) Job training and related services.
 - (v) Mailing operations.
 - (vi) Reproduction, photocopying.

Section 69.065 Mixed Use Percentage.

(1) When the Industrial Business Park Overlay District site size is 10.00 to 19.99 acres, the *combined* gross floor area of office *and child day care center* uses shall not be greater than 50 percent of the total gross floor area of buildings on the site. *The gross floor area of a child day care center use listed in TDC 69.020(1)(g) may occupy up to*

10 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(2) When the site size is 20.00 acres or greater:

(a) The gross floor area of office, service and retail buildings combined shall not be greater than 50 percent of the total gross floor area of buildings on the site.

(b) The gross floor area of office uses listed in TDC 69.020(1) may occupy up to 50 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(c) The gross floor area of retail uses listed in TDC 69.020(2)(a) may occupy up to 10 per-cent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(d) The gross floor area of service uses listed in TDC 69.020(2)(b) ***and a child day care center use listed in TDC 69.020(1)(g)*** may occupy up to 10 percent of the total gross floor area of buildings on the site, except as provided in TDC 69.065(2)(a).

(3) The percentages in (1) and (2) of this section shall not be exceeded and may be reduced in the Architectural Review decision when information shows the impact, or the cumulative impact, of the development generated by the uses allowed through the Industrial Business Park Overlay District exceed the capacity of the onsite or offsite public infrastructure to support the development.

END OF PROPOSED AMENDMENT

ATTACHMENT D

PTA-07-05: BACKGROUND INFORMATION

Pertinent background information obtained from the submitted application for PTA-07-05 and other supporting documents is summarized in this section.

The applicant is Mike Berry of Berry Properties, the owner of the 17-acre Meridian Business Park development located on SW 65th Avenue, SW Rosewood Street and SW 63rd Avenue located in the ML (Light Manufacturing) and MG (General Manufacturing) Planning Districts. The Meridian Business Park is an Industrial Business Park Overlay District (IBPOD) development. Currently, there are two established IBPOD developments. The second existing IBPOD is the 35-acre Franklin Business Park located in the MG Planning District on SW 112th Avenue, SW Amu Street and SW Tualatin-Sherwood Road. A map showing the locations of existing IBPOD developments is included as Attachment A.

The applicant is in the process of constructing Meridian Business Park Buildings E and F. The applicant has a tenant (The Children's Hour Academy) preparing to occupy Building E that seeks to establish a children's daycare business in conjunction with a K-8 school approved as a conditional use in CUP-07-02. Currently, a child day care center use is allowed in the ML and MG Districts as a permitted use provided it is in a building with manufacturing, processing or warehousing [TDC 60.020(25)] and is a permitted use in the IBPOD when the development is greater than 20 acres [TDC 69.020(2)(b)]. Because the applicant's tenant is not eligible for a daycare use under current ML & MG requirements and is in an IBPOD less than 20 acres, the applicant proposes the amendment to the IBPOD standards to allow a child day care center in IBPOD developments greater than 10 acres.

The submitted traffic analysis (Attachment B, Lancaster Engineering Letters), based on a worst case development scenario, allowing a child day care center in a IBPOD with 10 acres or more will not reduce or worsen the performance of any existing or planned transportation facility. The trip generation comparison shows an average day care use (of a similar size to the applicant's prospective tenant) will have more evening peak hour trips and more average weekday trips than a manufacturing use or an IBPOD office use (medical office). The City of Tualatin Engineering Division agrees with the Lancaster Engineering Transportation Planning Rule (TPR) analysis and "Near Term Operational Analysis" addressing Plan Amendment Criterion #8 (Attachment F).

ATTACHMENT E

PTA-07-05: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 1.032 must be met if the proposed PTA is to be granted. The Applicant has prepared a narrative that addresses the criteria (Attachment B), and staff has reviewed the Applicant's material and included pertinent excerpts below.

A. Granting the amendment is in the public interest.

The proposed amendment to the Tualatin Development Code (TDC) Chapter 69 Industrial Business Park Overlay Planning District section 69.020-Permitted Uses, to allow to allow a child day care center in IBPOD developments greater than 10 acres. The public interest is to allow office and selected service and retail uses to mix with industrial uses in an IBPOD in a manner that is flexible and responsive to the Industrial/Commercial marketplace. The public interest is to allow selected service uses that are supportive of and secondary to the industrial and office uses allowed in IBPOD developments. The public interest is to ensure the impacts of the development generated by the uses allowed through the IBPOD will not exceed the capacity of the public infrastructure to support the development.

The purpose of the IBPOD as stated in TDC 69.010 is *"...to recognize and accommodate the changing Industrial Commercial marketplace by allowing mixed uses within the context of an enforceable Master Plan reviewed and approved during Architectural Review. Industrial uses are emphasized, but office and selected service and retail uses are allowed through the operation of the Industrial Business Park Overlay District. A second purpose of this district is to recognize that it is not necessarily appropriate to assume that all industrial, office, service and retail uses are incompatible and, therefore, must be separated based on planning districts."* In an IBPOD, a child daycare center is one of the service uses allowed and is a permitted use in ML and MG when occupying the same building as an industrial use. Allowing a child daycare center as a service use in a 10-acre or greater IBPOD development is a very minor expansion of an industrially compatible and supportive service use that is already allowed in larger (+ 20 acres) IBPOD. The proposal creates additional flexibility and is responsive to the market for daycare services in industrial/commercial employment areas, meeting the public interest.

The applicant states, "Child daycare centers provide a support service to employment areas, including industrial and commercial districts. Permitting a daycare in a smaller IBPOD allows the beneficial juxtaposition of the daycare and employment for a greater number of parents." (Attachment B, pp. 1-2) The IBPOD provisions of TDC Chapter 69 establish a service such as a child daycare center as secondary and supportive to the industrial and office uses allowed in an IPBOD development. Allowing a daycare in a 10-20 acre IPBOD development will be supportive of the industrial and office uses in that size development, meeting the public interest.

At the request of staff, the applicant provided additional traffic information describing the differential in vehicle trips associated with the day care center use in a 10-acre or greater IBPOD development in comparison to existing allowed uses (Attachment B, Lancaster Engineering 12-10-07 letter). Because the Children's Hour Academy proposes approximately 40% of the business will be daycare students, the vehicle trips for a daycare use similar in size to the Children's Hour Academy School/Daycare business are considered part of, not in addition to, the vehicle trips assigned to the school use in the CUP process. The trip generation comparison shows an average day care use (of a similar size floor area to the applicant's prospective tenant) will have more evening peak hour trips and more average weekday trips than a manufacturing use or an IBPOD office use (medical/dental office) and slightly more PM Peak trips than a school use. The City of Tualatin Engineering Division notes that a similar size stand-alone daycare use (proposed for the IBPOD 10 acre plus development) will create no more trips than a daycare located in a building with industrial uses (Attachment F).

The trip generation potential of IBPOD uses as well as ML or MG uses are considered in Architectural Review when evaluating the traffic impacts of a new IBPOD development building. The proposed amendment would limit a child day care use to a maximum of 10% of the IBPOD gross floor area (based on the combined gross floor areas of the buildings in an IBPOD development). The IBPOD provisions in TDC 69.065 allow the amount of office and service use area to be limited in the AR process when staff review determines the impact or cumulative traffic impact of the mix of uses in an IBPOD development exceeds the capacity of the infrastructure to support the development. Without an AR for a new facility (child care tenant moving into an existing IBPOD facility), the traffic impacts of a child daycare use will be considered with all other IBPOD uses in the applicable AR for the facility. Because the vehicle trip differential between child daycare facility uses and other IBPOD uses will have a minimal impact on the overall vehicle trips associated with a IBPOD development and because an evaluation of the development's traffic impact considers the range of IBPOD uses in an AR process, the safety and capacity of the public infrastructure including the street system is retained and the public interest is met.

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

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

The applicant notes that areas eligible for IBPOD development "...include varied employment uses, from industrial, to office, to commercial in close proximity." and "Providing a daycare facility on a smaller IBPOD site provides the same public benefits as on larger sites as defined in the code." There are no known or anticipated harmful impacts to the public interest due to reducing the required size of the Overlay District. The public interest is definitely enhanced by allowing this use in terms of safe access, educational diversification options, proximity to current employment use, and the current lack of local daycare education facilities serving existing commercial industrial uses." (Attachment B, Applicant's Response, pg. 2).

The applicant seeks to amend the IBPOD standards to allow a child daycare center use to occupy Building E of the Meridian Business Park IPBOD development (currently under construction and approved for a K-6 school conditional use). The opportunity to allow the Children's Hour Academy tenant to occupy the Meridian Business Park Building E exists in the current development conditions.

If adopted at this time, the proposed amendment would allow the applicant and a Meridian Business Park IBPOD tenant to establish a daycare use with the approved K-6 school consistent with the applicant's development schedule and in the current development conditions.

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

Criterion "B" is met.

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

The applicable objectives of the Tualatin Community Plan are presented below.

TDC 8.070: "Because daycare is needed both by residents and employees who commute into the City, daycare facilities should be located in areas convenient for commuters as well as residents, including commercial, residential, and some industrial areas. Daycare centers should be located with good access to arterial or collector streets, and should be close to the City's park areas. Daycare facilities should not be located close to automobile service stations, or where they will be surrounded by industrial uses. However, industrial perimeter areas where they can easily serve both residents and employees of nearby firms are suitable."

The proposed amendment will allow daycare centers in IBPOD developments greater than 10 acres, increasing the opportunity for the use to serve employment areas of Tualatin. The proposed amendment conforms to TDC 8.070.

TDC 8.070(1) "Facilitate creation of adequate childcare facilities within the community by limiting local requirements, recognizing the role of the State's Children's Services Division in certifying such facilities. Accordingly, daycare centers should be allowed as permitted uses in commercial and light industrial areas."

The proposed amendment will allow daycare centers in IBPOD developments greater than 10 acres as a permitted use in light industrial and mixed commercial areas. The proposed amendment conforms to TDC 8.070(1).

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

Criterion "C" is met.

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

The various characteristics of areas in the City.

The characteristics of the area of the City affected by this amendment are the industrial developments eligible for an IBPOD and the two existing IBPOD developments (Shown on Attachment A). The character of the IBPOD areas are primarily industrial uses with a mix of office uses and service and limited commercial uses allowed in developments greater than 20 acres. The IBPOD requires increased landscaping amounts and developments are more employment and campus in style. A child daycare use serves industrial employment uses and is appropriate in IBPOD developments.

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

As indicated above, the proposed amendment will allow a child daycare center use in 10-acre and greater IBPOD developments such as the existing Meridian Business Park. The IBPOD standards anticipate mixing office, service and retail uses with primarily industrial activities in a more campus-style development. IBPOD developments are suitable for a daycare center use.

Trends in land improvement and development.

The applicant states, "Increased employee density is a trend in development, and the number of employees served by a daycare facility in a 10+ acre IBPOD development is on the rise." Allowing a daycare center in 10-acre or larger IBPOD developments responds to this trend (Attachment B, pg. 3).

Property values.

IBPOD developments are allowed in ML and certain MG Planning Districts locations and are not residential properties. Residential property values will not be affected. The applicant states, "Due to a broader daycare service being closely available, industrial commercial property values should be enhanced by approval of this proposal." (Attachment B, pg. 3) Allowing daycare uses in IBPOD developments larger than 10 acres will not negatively affect the suitability of areas for particular land uses and improvements and therefore not negatively affect property values.

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

The applicant states, "The needs of the industrial commercial land uses in the IBPODs should be accommodated by presenting current and future industrial commercial parent/employees a full service daycare education facility near their work place." (Attachment B, pg. 2) Staff concurs.

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

The applicant states, "The sites that are eligible for the IBPOD designation are generally located in existing areas with good access, appropriate and safe for such uses." (Attachment B, Applicant's Response, pp.3-4). Access for existing IBPOD developments or other industrial developments is addressed in Architectural Review or Subdivision. The proposed plan amendment will not affect needed right of way and access associated with IBPOD and neighboring developments.

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

Not applicable because the child daycare center amendment does not impact or alter natural resources associated with a development.

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

Not applicable because the child daycare center amendment does not impact or alter natural resources associated with a development.

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

The applicant states, "Day cares are needed by employees who commute into the city and should be located in areas convenient for employees, and healthful for the education of the children. The public need for healthful and safe conditions and aesthetic surroundings is served by being able to locate day cares within the IBPOD districts, regardless of their size." (Attachment B, pg. 2) Staff concurs.

Proof of a change in a neighborhood or area.

The IBPOD amendment does respond to a change or represent a change in a neighborhood or area.

A mistake in the plan map or text.

None is alleged.

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

Criterion "D" is met.

E. The criteria in the Tigard-Tualatin School District Facility Plan were considered.

The criteria in the Facility Plan were considered and found to not be applicable to this amendment regarding child daycare centers in the IBPOD, because the provision does not apply to existing school sites and does not represent a constraint or conflict with land available for future school sites.

F. Oregon Statewide Planning Goals

Of the 14 Statewide Goals, each of the goals were considered and found to not be applicable to this amendment regarding child daycare centers in IBPOD developments. The applicant comments on the Goals in Attachment B, pp 4-8. The applicant briefly addresses Goal 12-Transportation and the Transportation Planning Rule in the traffic analysis (Attachment B, Applicant's Response, Lancaster Engineering November 30, 2007 Letter).

Statewide Planning Goal 12, Transportation is implemented by the Transportation Planning Rule (TPR) in OAR-660-012-060. The TPR requires that any amendment to comprehensive plans or land use regulations (such as this Plan Text Amendment) that "significantly affect a transportation facility..." must assure that the allowed land uses..."are consistent with the identified function, capacity and performance standards of the facility." The affected transportation facilities associated with the two IBPOD developments are SW 65th Avenue and Lower Boones Ferry Road (Meridian Business Park) and SW 112th Avenue and SW Tualatin Sherwood Road (Franklin Business Park).

The traffic information submitted with the application states that the proposed child daycare center amendment to the IBPOD standards will not result in significant impacts to the transportation facilities associated with the applicant's Meridian Business Center development (Attachment B, Lancaster Engineering Letter). The function, capacity and performance of SW 65th Avenue and SW Lower Boones Ferry Road are not significantly affected. Goal 12 and the TPR are satisfied. The City of Tualatin Engineering Division agrees with the Lancaster Engineering Transportation Planning Rule (TPR) analysis. (Attachment F).

G. Metro's Urban Growth Management Functional Plan (UGMFP).

The UGMFP and TDC Map 9-4 Design Type Boundaries, identify the Meridian Business Park IBPOD development as "EA Employment Area" and the Franklin Business Park IBPOD development as "IA-Industrial Area". TDC 7.040(2)(b)(i) and 7.404(2)(b)(i) provide standards for sizes of retail, service and professional uses in ML and MG industrial/employment areas and exempt IBPOD Districts uses such as a child daycare center. The applicant addresses the UGMFP in Attachment B, Tara Lund Letter. The proposed amendment allowing child daycare centers on IBPOD developments greater than 10 acres is consistent with the type and intensity of development expected and allowed in the EA and IA classifications.

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 traffic information submitted with the application that the proposed child daycare center amendment to the IBPOD standards will not result in significant impacts to the transportation facilities associated with the applicant's Meridian Business Center development (Attachment B, Lancaster Engineering November 30, 2007, Letter). The traffic information determined that function, capacity and performance of SW 65th Avenue and SW Lower Boones Ferry Road are not significantly affected, and Criterion 8 is met. The City of Tualatin Engineering Division agrees with the Lancaster Engineering "Near Term Operational Analysis" addressing Plan Amendment Criterion #8 (Attachment F).

At the request of the City of Tualatin Engineering Division and the Planning Division the applicant provided additional traffic information assessing the differential in vehicle trips associated with the daycare center use in a 10-acre or greater IBPOD development (Attachment B, Applicant's Response, Lancaster Engineering December 10, 2007 Letter). The information states that an average day care center will generate more trips during the AM and PM peak hours than other uses within an IBPOD, but no more than a day care center use located in a building with other industrial uses (currently allowed in ML and MG developments). The information was discussed at the December 13, 2007 TPAC meeting. The Engineering Division reviewed the trip generation in Attachment F.

MEMORANDUM

DATE: December 28, 2007

TO: Will Harper, AICP
Associate Planner

FROM: Dayna Johnson, PE
Project Engineer *DJ*

SUBJECT: **PTA-07-05, Allow a Stand Alone Daycare in the Industrial Business Park Overlay District (IBPOD) in development 10-20 acres in size**

On November 6, 2007 the Engineering Division received Plan Text Amendment Application Notice PTA 07-05 to allow a stand-alone daycare in the Industrial Business Park Overlay Districts (IBPOD) in developments 10-20 acres in size. On November 30, 2007 we received from Lancaster Engineering, Industrial Business Park Overlay District: Proposed Text Amendment Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis. Additionally, on December 10, 2007 a Trip Generation of Day Care Centers vs. Business Park Land Uses was received from Lancaster Engineering.

A child day care facility is currently permitted in Light Manufacturing (ML) District provided it is in a building with manufacturing, processing, assembling, warehousing or wholesaling uses and provided all exterior walls and outdoor play areas shall be at least 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

Since the child day care center is already a permitted use, the result of the text amendment would not be to allow a child day care center in a district where one would have otherwise been prohibited, but rather to allow a child day care center to be constructed outside of a building containing manufacturing, processing, assembling, warehousing or wholesaling uses.

The applicant submitted an Industrial Business Park Overlay District: Proposed Text Amendment Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis from Lancaster Engineering dated November 30, 2007. The analysis conclusion states the following:

- Since the child day care center is already a permitted use, the result of the text amendment would not be to allow a child day care center in a district where one would have otherwise been prohibited, but rather to allow a child day care center to be constructed outside of a building containing

- manufacturing, processing, assembling, warehousing or wholesaling uses.
- Based on the analysis a net increase of 14 trips is expected during the evening peak hour. These trips were added to the intersection of SW Lower Boones Ferry Road at SW 65th Avenue, with the trips distributed as they were for the school analysis. The results of the operational analysis indicate that the intersection is projected to operate at level of service D during the evening peak hour. This operation is acceptable, and no mitigations are recommended.

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.

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.

Based on the following review and analysis, the proposed text amendment will not significantly affect any transportation facilities in the area.

(a) Change the functional classification of an existing or planned transportation facility

SW 65th Avenue adjacent to the site is a City of Tualatin facility, and is designated a Local-Commercial Industrial street.

SW Lower Boones Ferry Road east of SW 65th Avenue is a Clackamas County facility, and is designated as a Major Arterial. SW Lower Boones Ferry Road west of SW 65th Avenue is an Oregon Department of Transportation facility, and is designated as a District Highway. The City of Tualatin designates SW Lower Boones Ferry Road adjacent to the subject site as a Major Arterial.

As shown in the Industrial Business Park Overlay District: Proposed Text Amendment Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis from Lancaster Engineering the additional traffic created by the proposed stand alone Day Care Center will maintain an acceptable LOS and v/c ratio. The proposed Plan Text Amendment will not necessitate a change in the functional classification of an existing or planned transportation facility.

(b) Change standards implementing a functional classification system

The proposed Plan Text Amendment will not necessitate changes to the standards implementing the 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;

The City of Tualatin designates SW Lower Boones Ferry Road as a Major Arterial, and 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."

Under the current text of the Tualatin Development Code, 60.050(25), a child day care center is permitted in a Light Manufacturing Districts, provided it is located in a building with industrial land uses. Based on this, the stand alone day care center is consistent with the types of land uses and levels of development that would typically be found adjacent to a Local Commercial-Industrial street, and will not result in types or levels of travel or access that is 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

ODOT established a mobility standard of volume-to-capacity (v/c) ratio of 0.99 for intersections.

The minimum acceptable performance standards identified in the City of Tualatin TSP states that intersections should be improved to operate at a LOS of at least D and E for signalized and unsignalized intersections, respectively.

The Industrial Business Park Overlay District: Proposed Text Amendment Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis from Lancaster Engineering shows that all intersections will operate within acceptable levels of service and v/c ratios in 2009.

(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.

No study intersections are projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

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 EA (Employment Area) Design Type. The submitted Analysis shows that the study intersections are forecast to operate acceptably during the weekday p.m. peak hour assuming "reasonable maximum" build-out under the proposed zone change. The proposed zoning designation would result in future traffic volumes that are consistent with the functional classifications of the roadways in the study area. The Lancaster Analysis shows that the SW Lower Boones Ferry Road/SW 65th Avenue signalized intersection will operate at a Level of Service D, which exceeds the required Level of Service E for the p.m. peak hour.

Agency Comments

Clackamas County submitted comments stating they had no comments.

At this time, no comments have been received from Oregon Department of Transportation or Washington County regarding the proposed Plan Text Amendment.

Trip Generation

Lancaster Engineering submitted a Trip Generation Letter comparing trips generated by a day care centers compared to other allowed uses in the Industrial Business Park Overlay District. An average day care center will generate more trips during the AM and PM Peak Hours, than other uses within the IBPOD. A similar sized stand alone day care center will create no more trips than a day care center located within a building with other industrial uses.

Near-Term Traffic Impacts

Although the proposed text amendment would result in no change for a "reasonable worst-case" analysis, there will likely be near-term traffic impacts. The proposed day care center will generate slightly more traffic than the approved school during the evening peak hour, approximately 14 additional trips. The SW Lower Boones Ferry Road/SW 65th Avenue intersection will continue to operate at an acceptable level.

Based on the above information, the City Engineer generally supports the proposed Plan Text Amendment and agrees with the submitted Industrial Business Park Overlay District: Proposed Text Amendment Transportation Planning Rule (TPR) Analysis and Near-Term Operational Analysis from Lancaster Engineering dated November 30, 2007 and Trip Generation of Day Care Centers vs. Business Park Land Uses, dated December 10, 2007.

Please let me know if you have questions, ext 3036.



STAFF REPORT CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos, City Manager *sl*

FROM: Michael A McKillip, City Engineer *mck*
Dayna Johnson, Project Engineer *DJ*

DATE: January 28, 2008

SUBJECT: COMMUTER RAIL TRAIN HORN NOISE MITIGATION UPDATE

ISSUE BEFORE THE COUNCIL:

Staff update on the Commuter Rail Train Horn Noise Mitigation.

RECOMMENDATION:

This is an informational item for Council.

EXECUTIVE SUMMARY:

After the October 29, 2007 Council Work Session on Commuter Rail Noise and Safety, staff followed up by hosting a meeting with all affected parties, including Federal Rail Administration, Oregon Department of Transportation, Portland & Western Railroad, Tri-Met and Washington County. At this time we learned about the Oregon process for Quiet Zones and Wayside Horns. Staff has reviewed each crossing and is holding a Diagnostic Team Review on January 23, 2008 to review detailed requirements at each crossing to implement Quiet Zones and/or Wayside Horns. At the January 28, 2008 staff will report outcome of the meeting.

OUTCOMES OF DECISION:

Not Applicable.

FINANCIAL IMPLICATIONS:

None at this time.

Approved By Tualatin City Council
Date *January 28, 2008*
Recording Secretary *G Kirby*