



# TUALATIN CITY COUNCIL AND TUALATIN DEVELOPMENT COMMISSION

Monday, October 22, 2012

CITY COUNCIL CHAMBERS  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062

**WORK SESSION** begins at 5:00 p.m.  
**REGULAR MEETING** begins at 7:00 p.m.

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**Mayor Lou Ogden**  
**Council President Monique Beikman**  
**Councilor Wade Brooksby    Councilor Frank Bubenik**  
**Councilor Joelle Davis        Councilor Nancy Grimes**  
**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Announcements, 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 City website at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings), the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

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

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by live *streaming video* on the City's website, the day of the meeting at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings).

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

## 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. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished 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, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

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

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all provided all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 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)* employment of personnel; *ORS 192.660(2)(b)* dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



## OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 22, 2012

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### A. CALL TO ORDER

Pledge of Allegiance

### B. ANNOUNCEMENTS

1. Presentation of Two Oregon Recreation and Parks Association Awards
2. Proclamation Honoring Dan Boss Upon the Occasion of His Retirement

### 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

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, 1) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Approval of the Minutes for the Meeting of October 8, 2012
2. Fiscal Year 2011/2012 Water System Development Charge (SDC) Report

### E. SPECIAL REPORTS

### F. PUBLIC HEARINGS – Legislative or Other

1. Amending Medium Low Density Residential Planning District (RML) Conditional Uses; and Amending TDC 41.030 (PTA-12-04)

### G. PUBLIC HEARINGS – Quasi-Judicial

### H. GENERAL BUSINESS

1. Resolution Recognizing the Formation of Citizen Involvement Organization Four (CIO 4)
2. An Ordinance Relating to Development; Amending the Manufacturing Business Park Planning District by Adding the Tonquin Light Manufacturing Overlay; Amending Tualatin Development Code 31.060 to Add a Definition of "Call Center or Customer Service Center;" Amending Tualatin Development Code Map 9-5; and Adding New Provisions (PTA-12-01)

**I. 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.*

**J. COMMUNICATIONS FROM COUNCILORS**

**K. EXECUTIVE SESSION**

**L. ADJOURNMENT**



**City Council Meeting**

**B. 1.**

**Meeting Date:** 10/22/2012

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**ANNOUNCEMENTS**

Presentation of Two Oregon Recreation and Parks Association Awards

**SUMMARY**

The City of Tualatin has won the *2012 Outstanding Management Award* from the Oregon Recreation and Parks Association (ORPA) for management of the Tualatin Commons. This award is presented to the best managed recreation area, park, trail system, athletic field/complex, urban mall, recreation center or aquatic facility in Oregon. It recognizes outstanding management of a public facility through its programs, operation, and maintenance.

The City also received the *2012 SPRINT Program Award* for the Tualatin TRYathlon, a popular triathlon for kids aged 6-15.

Stephanie Redman, Executive Director of the Oregon Recreation and Parks Association, will present the City with these awards.

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**Attachments**

A - PowerPoint ORPA Awards



**City of Tualatin - Recipient of Two  
Oregon Recreation and Park Association Awards:  
2012 Outstanding Management (Tualatin Commons)  
2012 SPRINT Program Award (Tualatin TRYathlon)**







ArtSplash art show and sale







ArtWalk and Chalk it Up!









Permitted  
Events











Model Boating and  
Fun Runs











Summer  
Reading at the  
Commons



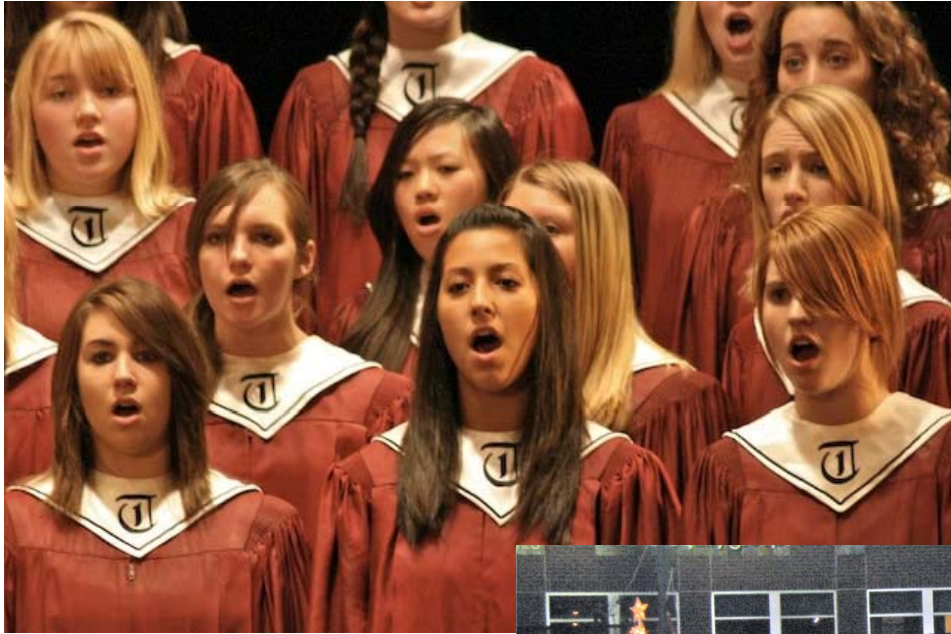




West Coast Giant Pumpkin Regatta







*Happy Holidays*  
from  
*The City of Tualatin*



*Starry Nights*  
and *Holiday*  
Lights







**City Council Meeting**

**B. 2.**

**Meeting Date:** 10/22/2012

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**ANNOUNCEMENTS**

Proclamation Honoring Dan Boss Upon the Occasion of His Retirement

**SUMMARY**

Upon Dan's retirement herein attached is a proclamation declaring October 19, 2012 as Dan Boss Day

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**Attachments**

A - Proclamation Honoring Dan Boss

# Proclamation

## Proclamation Declaring October 23, 2012 as "DANIEL J. BOSS DAY" in the City of Tualatin

WHEREAS Daniel J. Boss began his career with the City of Tualatin as a Public Works Foreman on October 30, 1978 and was promoted and served as the City's Operations Director with distinction, for the past 34 years; and

WHEREAS Dan has provided effective leadership in maintaining the City's infrastructure including the parks, trails, natural areas, public buildings, streets, water system and the storm and sanitary sewer utilities; and

WHEREAS Dan developed and managed the City's Pavement Maintenance System which has become a model for financing public street maintenance; and has saved ratepayers thousands of dollars by instituting systems for reducing water purchases and promoting water conservation measures at critical times; and

WHEREAS Dan led development of the City's Emergency Management system and served as the Incident Commander for the responses and recoveries from the windstorm of 1995 and the floods of 1996 and 1997. Dan has assisted other communities and agencies in planning for and responding to emergencies and disaster recovery on a state-wide basis; and

WHEREAS Dan has expanded his portfolio by serving as the Interim Finance Director in 2007, bringing his calm, thoughtful approach to the Finance Department and helping smooth the transition to a new Finance Director; and

WHEREAS Dan enjoys the respect of his peers within the City and other professional and service organizations. He has served the American Public Works Association, Kiwanis Club, Boy Scouts of America as well as served in various leadership capacities with other organizations; and

WHEREAS Dan has received numerous awards and recognitions over the years, including one of the Ten Top Public Works Directors by the American Public Works Association as well as receiving the Business Person of the Year award from the Tualatin Chamber of Commerce for 2004; and

WHEREAS Dan's calm and thoughtful approach and can-do personality, along with his leadership skills and persistence on delivering exceptional customer service, has earned him and the City a consistently high level of credibility and support with the City's residential, commercial, and industrial customers and partners in all the areas of maintenance overseen during his 34 years of service.

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

Tuesday, October 23, 2012 is proclaimed as **DANIEL J. BOSS DAY** in the City of Tualatin.

INTRODUCED AND ADOPTED this 22<sup>nd</sup> day of October, 2012.

CITY OF TUALATIN, OREGON

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

ATTEST:

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



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Maureen Smith, Deputy City Recorder

**DATE:** 10/22/2012

**SUBJECT:** Approval of the Minutes for the Meeting of October 8, 2012

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

The issue before the Council is to approve the minutes of the meeting of October 8, 2012.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

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**Attachments:** [A - Meeting Minutes of October 8, 2012](#)





## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR OCTOBER 8, 2012

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Present: Council President Monique Beikman; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Mayor Lou Ogden; Councilor Wade Brooksby

Staff Present: Community Development Director Alice Rouyer; City Attorney Sean Brady; Police Chief Kent Barker; Operations Director Dan Boss; Community Services Director Paul Hennon; Planning Manager Aquilla Hurd-Ravich; Information Services Manager Lance Harris; Parks and Recreation Manager Carl Switzer; Teen Program Specialist Julie Ludemann; Program Coordinator Kathy Kaatz; Water Division Manager Mick Wilson; Maintenance Services Division Manager Clayton Reynolds; Senior Planner Will Harper; Deputy City Recorder Maureen Smith

### **A. CALL TO ORDER**

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

The Pledge of Allegiance was led by Councilor Grimes.

### **B. ANNOUNCEMENTS**

#### **1. Youth Advisory Council Update, October 2012**

Members of the Youth Advisory Council (YAC) were present in costume to promote their upcoming Haunted House event. This year's theme is "Mutants Massacre." A PowerPoint was shown on past events and upcoming activities and events the YAC participate in, that include the Pumpkin Regatta, Haunted House, and . Among the upcoming events include the Giant Pumpkin Regatta, and a youth delegation that will be in attendance at the National League of Cities conference in November.

#### **2. 9th Annual West Coast Giant Pumpkin Regatta Announcement**

Parks and Recreation Manager Carl Switzer announced the City's 9th Annual West Coast Giant Pumpkin Regatta will be held on October 20, 2012, at Tualatin Commons. He gave a run-down of the activities that will be happening, and showed a short video put together by Comcast about the event.

## C. CITIZEN COMMENTS

*Gillian Stratton and Ginger Moshofsky, Mask and Mirror Community Theatre* , gave an update on the "Mask and Mirror" Theatre, a non-profit theatre company operating in the Tualatin-Tigard area. Ms. Stratton recited the various activities and events that are available. Ms. Moshofsky spoke on the need for available performance space and to let them know of any possible space that may come available. They are happy to provide community theatre in Tualatin and will be applying for the grant that is due Friday.

*Mike Riley, chair of Tualatin Planning Commission (TPC)* , spoke on the issue of high speed rail, noting the TPC strongly supports the alternative of bringing the rail through to Tualatin, not Oregon City, and is supportive in general.

*Kathy Newcomb, Tualatin OR* , spoke on the status of the Transportation System Plan (TSP) and distributed her comments for the record. She said two concerns haven't been addressed as yet, setting sufficient priorities, and why Tualatin-Sherwood Road is not included in the east/west bus loop in the draft Transportation System Plan. Ms. Newcomb commented that the first priority should be public transit and reviewed her suggestions to Council.

Mayor Pro tem Beikman asked and Acting City Manager Rouyer replied that Ms. Newcomb's comments/concerns can be taken to the next Transportation Task Force meeting.

*Linda Moholt, Chamber of Commerce* , said she agreed with Kathy Newcomb's comments about the importance of transit. She also spoke on the upcoming 5K Regatta Run/Walk held in conjunction with the West Coast Giant Pumpkin Regatta, Saturday, October 20, at 9:00am. This event is a fundraiser for the Corporal Matthew Lembke Memorial Scholarship Fund.

## D. CONSENT AGENDA

MOTION by Councilor Joelle Davis, SECONDED by Councilor Nancy Grimes to adopt the Consent Agenda as read.

**Vote:** 5 - 0 MOTION CARRIED

1. Approval of the Minutes for the Work Session and Meeting of September 24, 2012
2. Resolution No. **5123-12** Awarding the Bid for the SW Cherokee Street and SW 86th Avenue Waterline Improvements
3. Approval of a New Liquor License Application for Stafford Hills Club
4. Recommendations from the Council Committee on Advisory Appointments

## E. SPECIAL REPORTS

1. Operations Department Annual Report - 2011/12

Operations Director Dan Boss presented the Operations Department Annual Report for 2011/12. A PowerPoint was presented, noting the foremost goal of the department to provide exceptional service. Operations Director Boss continued with review the highlights of programs and accomplishments of the department and divisions in the past fiscal year.

Director Boss introduced the management staff of Operations that make the department what it is: Program Coordinator Kathy Kaatz, Water Manager Mick Wilson, Street/Storm/Sewer Manager Bert Olheiser, Parks Maintenance Manager Tom Steiger, and Facilities Manager Clay Reynolds.

Council acknowledged Operations Director Boss and his tenure of 34 years with the City, noting he will be difficult to replace upon his retirement at the end of the month. Council thanked him for his many years of service and dedication to the City of Tualatin.

2. Report from City Attorney Regarding Tow Ordinance

City Attorney Sean Brady gave an update on the "tow ordinance." He noted there is a draft ordinance and staff has been receiving comments. The plan is to bring the draft ordinance to the November 13, 2012 Work Session to discuss, review the comments, state requirements, etc. and determine a direction.

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

1. Amending the Tualatin Development Code (TDC) Chapter 64 - Manufacturing Business Park Planning District- Adding Provisions for a Tonquin Light Manufacturing Overlay. Adding TDC 64.036 and a Definition to TDC 31.060 and Amending TDC Map 9-5 Plan Text Amendment 12-01

Planning Manager Aquilla Hurd-Ravich and Senior Planner Will Harper presented the staff report and entered the entire staff report into the record.

Senior Planner Harper continued with a review of the proposed amendment. The Tonquin Industrial Group (TIG) includes nine business owners, approximately 50 acres north of SW Tonquin Road and west of the Railroad tracks. None of the TIG properties are currently annexed to the City and several uses are classified as non-conforming with Washington County zoning. When Council adopted the Southwest Concept Plan and implementing plan amendments, Council directed staff to continue to work with the TIG to find a way to develop an "overlay" that would allow the existing businesses to annex to the City as "conforming" uses. The TIG members participated in the SWCP process and the implementing Plan Map and Plan Text Amendment process to advocate for their concerns about planning and development issues that affect their property. The concern has been about non-conforming uses. The proposed overlay would apply only to TIG properties and would add as allowed uses existing permitted uses, new permitted uses, and conditional uses. Staff noted that Council had discussed the need for a drive-thru service restaurant in the industrial area, and questioned the reasoning of the proposed language allowing a restaurant, and restricting it as with or without drive-ups or drive-throughs. Staff worked with the TIG members developing language and arrived at an overlay that is beneficial to both Tualatin and the TIG, noting that members of the TIG and their legal counsel were present at this hearing.

Planning Commission Chair Mike Riley was present and noted the Planning Commission reviewed and voted to approve the amendment unanimously.

#### PROPOSERS

*Wendie Kellington, attorney, Bruce Vincent, planning consultant, and Ross Conner, commercial real estate broker*, representing the TIG. Mr. Vincent began the discussion by acknowledging five members of the TIG that were present. He noted his involvement over the years with the TIG, and hopes that Council will approve the overlay.

Attorney Wendie Kellington spoke on the overlay process and included a report in the record. She said staff was great to work with and thanked Community Development Director Alice Rouyer, Planning Manager Aquilla Hurd-Ravich, and Senior Planner Will Harper. It wasn't easy to get where it is now and involved a lot of good faith, and stressed the importance of the overlay for the businesses. Commercial Real Estate Broker Ross Conner was also present to answer any questions.

*Mark Brown, Brown Transfer Company*, said he has been at his location for many years, and is glad to be getting to the end of this.

*Nick Storie, EMJ Properties*, wanted to thank everyone for the hard work and long road, but he is glad to be moving forward.

*Linda Moholt, Chamber of Commerce*, thanked the TIG for their patience and staff stepping up and facilitating this process. It is a positive movement to the

community, the Chamber is in support and it is an important step forward.

OPPONENTS - None.

Mayor Pro tem Beikman closed the oral portion of the public hearing.

#### COUNCIL DISCUSSION

Councilor Truax spoke on the process leading up to the outcome and how it has arrived at a very workable solution and proposed a motion.

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis to direct staff to prepare an ordinance granting Plan Text Amendment 12-01.

It was asked by City Attorney Brady about inclusion of the drive-up/drive-through option. Council let the Motion stand, but said the issue can be addressed in a broader scale in the future.

**Vote:** 5 - 0 MOTION CARRIED

#### **G. PUBLIC HEARINGS – Quasi-Judicial**

#### **H. GENERAL BUSINESS**

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

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

Councilor Davis noted she attended the League of Oregon Cities conference last week and came back with a lot of information and great things and will pass on to the rest of the Council.

Councilor Bubenik said a safety issue reminder to aware of the darkness as it is coming earlier in the evenings, and can be difficult to see pedestrians in crosswalks.

#### **K. EXECUTIVE SESSION**

An executive session pursuant to ORS 192.660(2)(e) to discuss real property transactions and pursuant to ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection was held before the start of the Work Session.

#### **L. ADJOURNMENT**

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Nancy Grimes to adjourn the meeting at 8:10 p.m.

**Vote:** 5 - 0 MOTION CARRIED

Alice Rouyer, Acting City Manager

A handwritten signature in cursive script that reads "Maureen Smith".

Maureen Smith / Recording Secretary



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Matt Warner, Accounting Supervisor  
Don Hudson, Finance Director

**DATE:** 10/22/2012

**SUBJECT:** Fiscal Year 2011/2012 Water System Development Charge (SDC) Report

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

In 1991, Ordinance 833-91 established the System Development Charge (SDC) for connection to the City's water system. The attached report fulfills the requirement of ORS 223.311 to give an annual accounting of the SDC and to recommend any changes to the City's water SDC ordinance.

### **RECOMMENDATION:**

It is recommended the Council accept the attached report. No change to methods, procedures, or fees is recommended at this time.

### **EXECUTIVE SUMMARY:**

- In FY 11/12, the amount of water SDCs collected was \$213,954.00.
- These funds, along with prior years SDCs, were used for water system improvements and capital projects totaling \$125,622.54. Unspent funds are available to be used on projects in the next fiscal year and become part of the beginning fund balance.

### **FINANCIAL IMPLICATIONS:**

This revenue and the capital project expenses are reflected in the FY 12/13 Budget in the Water/SDC Fund #32 beginning balance.

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**Attachments:** [Report](#)

## FISCAL YEAR 2011/2012

### WATER SYSTEM DEVELOPMENT CHARGE (SDC) REPORT

#### Introduction

In 1991, the City of Tualatin adopted Ordinance 833-91, which established a System Development Charge (SDC) for connection to the City of Tualatin water system. This SDC fee was based on projected needs of the system and the portion of the system's projected needs that were attributable to growth in the City which placed an additional demand on the water system.

#### Purpose

The purpose of this report is to fulfill the requirements of ORS 223.311, which requires an annual accounting of SDCs to be performed, and to recommend any changes in the water SDC as adopted by the City of Tualatin.

#### Revenue

During the period of this report (July 1, 2011 to June 30, 2012) the City of Tualatin collected **\$213,954.00** in water SDC fees in accordance with Ordinance 833-91. Interest earned on the SDC fees was **\$ 2,162.70**. These fees were collected by meter sizes as shown:

| <b>Meter Size</b> | <b>No. of Meters</b> | <b>Total SDC Collected</b> |
|-------------------|----------------------|----------------------------|
| 3/4" x 5/8"       | 19                   | 52,954.00                  |
| 1"                | 1                    | 8,165.00                   |
| 1-1/2"            | 3                    | 48,341.00                  |
| 2"                | 1                    | 11,146.00                  |
| 3"                | -                    | -                          |
| 4"                | 2                    | 93,348.00                  |
| <b>Totals</b>     | <b>26</b>            | <b>\$213,954.00</b>        |

#### Credits

There were 4 applications for credits received towards the payment of water SDCs in fiscal year 2011 / 2012 for a total of \$90,286



Expenditures

The water SDC fees were determined by the ordinance methodology and retained in the Water/SDC Fund. Any unspent funds are available to be used on projects in the next fiscal year and will become part of the beginning fund balance.

Projects funded in fiscal year 2011/2012 by the water SDC revenues were as follows:

| <b>Project</b> |                         | <b>SDC Amount</b>    |
|----------------|-------------------------|----------------------|
| WD0401         | ASR Production Well Dev | 112,457.54           |
| WD1201         | Marquis Waterline       | 13,165.00            |
|                |                         |                      |
|                |                         |                      |
|                |                         |                      |
| <b>Total</b>   |                         | <b>\$ 125,622.54</b> |

Recommendation

It is recommended the Council accept this report and have the City Engineer continue to monitor issues that may arise and review their impact on the water SDC fees. No change to methods, procedures or fees as outlined in Ordinance 833-91 is recommended at this time.



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Colin Cortes, Assistant Planner  
Alice Rouyer, AICP, Community Development Director

**DATE:** 10/22/2012

**SUBJECT:** Amending Medium Low Density Residential Planning District (RML) Conditional Uses; and Amending TDC 41.030 (PTA-12-04)

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

The issue before Council is consideration of Plan Text Amendment 12-04 that restores the original list of conditional uses to the code that were mistakenly deleted. PTA-09-09 deleted the conditional uses by accidentally duplicating the list of permitted uses within the Medium Low Density Residential Planning District (RML). This clerical error resulted in identical lists of permitted and conditional uses. PTA-12-04 restores the distinction between permitted and conditional uses. See Attachment E for a visual description of what happened.

### **RECOMMENDATION:**

During its October 2, 2012 meeting, the Tualatin Planning Commission (TPC) reviewed the proposed Plan Text Amendment 12-04 and recommended that the Council approve PTA-12-04 as proposed in the staff report. Approval was 5-0; Commissioners Grile and Klingerman were absent.

Staff recommends that the City Council consider the staff report and supporting attachments and direct staff to prepare an ordinance granting PTA-12-04.

### **EXECUTIVE SUMMARY:**

This matter is a land use action requiring a legislative public hearing: a Plan Text Amendment to the Tualatin Development Code (TDC). The applicant is the City.

The objectives of the amendment are to:

- Correct a clerical error in the TDC
- Eliminate confusion about whether a use within RML is permitted or conditional

In 2010, PTA-09-09 amended listed conditional uses in the Low Density Residential (RL)

Planning District (TDC 40) and the listed permitted uses in the RML Planning District (TDC 41). The adopted Ordinance 1317-10 did not intend to change the RML list of conditional uses; the only intended revision of RML uses was to add “nursing facility” as a permitted use and specify the maximum density of such a use.

However, due to a clerical error, PTA-09-09 deleted the conditional uses by accidentally duplicating the list of permitted uses within RML. This clerical error resulted in identical lists of permitted and conditional uses.

If the Council approves this PTA to correct the error, it would adopt the enabling ordinance during its next meeting on November 12, 2012.

The applicable local policies and regulations that apply to the amendment are in TDC Section 1.032 Amendments “Burden of Proof.” Before granting the proposed Plan Text Amendment, the City Council must find that the application meets the plan amendment criteria listed in TDC 1.032. The Analysis and Findings section of this report (Attachment C) examines the amendment. Because the amendment is a legislative action, the 120-day rule codified in Oregon Revised Statutes (ORS) 227.178(2) is not applicable.

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

Approval of the PTA request results in the following:

- Correct the clerical error and restore the original list of conditional uses in TDC 41.030
- Eliminates confusion about whether a use within RML is permitted or conditional

Denial of the PTA request results in the following:

- Does not correct the clerical error
- Causes confusion for applicants about whether a use within RML is permitted or conditional

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

The alternatives to the recommendation are:

- Council could approve the proposed Plan Text Amendment with alterations.
- Council could deny the proposed Plan Text Amendment.
- Council could continue the discussion of the proposal and return to the matter at a later date.

#### **FINANCIAL IMPLICATIONS:**

The FY 2012/13 budget accounts for the cost of City-initiated land use applications.

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**Attachments:**    [A - Original TDC 41.020 & 41.030](#)  
                          [B - Draft Amending Text](#)  
                          [C - PTA-12-04 Analysis & Findings](#)  
                          [D - PTA-09-09 Analysis & Findings](#)  
                          [E - Logic Diagram](#)  
                          [F - Affidavit of Posting](#)  
                          [G - Affidavit of Publication](#)

## H - PowerPoint Presentation

## Chapter 41

### Medium Low Density Residential Planning District (RML)

**Sections:**

- 41.010 Purpose.**
- 41.015 Permitted Density.**
- 41.020 Permitted Uses.**
- 41.030 Conditional Uses Permitted.**
- 41.040 Lot Size for Permitted Uses.**
- 41.050 Lot Size for Conditional Uses.**
- 41.060 Setback Requirements for Permitted Uses.**
- 41.070 Setback Requirements for Conditional Uses.**
- 41.075 Setback Requirements Adjacent to the Norwood Expressway.**
- 41.080 Projections Into Required Yards.**
- 41.090 Structure Height.**
- 41.100 Access.**
- 41.110 Off-Street Parking and Loading.**
- 41.120 Floodplain District.**
- 41.130 Community Design Standards.**
- 41.140 Landscape Standards.**
- 41.150 Shift of Density for Multi-Family Residential Development Adjacent to a Greenway or Natural Area.**
- 41.320 Density Transfer Project Savings Clause.**

**41.010 Purpose.**

To provide areas of the City suitable for townhouses, condominiums, duplexes, triplexes and other multi-family dwellings, as well as areas for small-lot, small home subdivisions, and manufactured dwelling parks in designated areas, except as otherwise provided in TDC 41.320. [Ord. 590-83 §1, passed April 11, 1983; Ord. 661-85 §6, passed March 25, 1985; Ord. 719-87 §1, passed May 11, 1987; Ord. 828-91 §3, passed March 25, 1991; Ord. 868-92 §4, passed May 11, 1992; Ord. 921-94 §3, passed April 25, 1994; Ord. 933-94 §18, passed Nov. 28, 1994; Ord. 956-96 §18, passed Jan. 8, 1996; Ord. 988-97 §5, passed Dec. 8, 1997; Ord. 1025-99 §2, passed Jul. 26, 1999.]

**41.015 Permitted Density.**

Housing density shall be at least 80% of the maximum density allowed. Housing density shall not exceed 10 dwelling units per net acre, except as set forth below:

(1) Where provided by TDC 41.150.

(2) The maximum density for single-wide manufactured dwelling parks or parts of parks used for single-wide units shall not exceed 12 dwelling units per net acre. The 80% minimum density shall be based on 10 dwelling units per net acre, not 12.

(3) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 15 dwelling units per net acre. The 80% minimum density shall be based on 10 dwelling units per net acre, not 15. [Ord.

956-96 §19, passed Dec. 8, 1996. Amended by Ord. 1026-99 §29, passed Aug. 9, 1999.]

**41.020 Permitted Uses.**

No building, structures or land shall be used, and no building or structures shall be erected, enlarged or altered, except for the following uses:

(1) Townhouses and multi-family dwellings, including duplexes and triplexes.

(2) Condominiums constructed in accordance with TDC 40.030(2).

(3) Manufactured dwelling parks, in the locations designated by the Tualatin Community Plan Map and constructed in accordance with TDC 34.190.

(4) Single family dwellings in a small lot subdivision.

(5) Greenways, and Natural Areas, including but not limited to bike and pedestrians paths and interpretive stations.

(6) Density transfer project approved by the City prior to April 25, 1994, subject to TDC 41.320.

(7) Residential homes.

(8) Residential facilities.

(9) Family day care provider, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump is-

Attachment A

Original TDC 41.020 & 41.030

(Revised 05/03)

lands of any automobile service station, irrespective of any structures in between.

(10) Sewer and water pump stations and pressure reading stations.

(11) Wireless communication facility attached, provided it is not on a single family dwelling or its accessory structures.

(12) Wireless communication facility located within 300 feet of the centerline of I-5.

(13) Accessory dwelling units in a small lot subdivision as provided in TDC 34.300 - 34.310.

(14) Transportation facilities and improvements. [Ord. 590-83 §1, passed April 11, 1983; Ord. 661-85 §6, passed March 25, 1985; Ord. 614-84 §3, passed Jan. 9, 1984; Ord. 824-91 §2, passed Feb. 11, 1991; Ord. 828-91 §4, passed March 25, 1991; Ord. 849-91 §12, passed Nov. 25, 1991; Ord. 866-92 §3, passed April 27, 1992; Ord. 885-93 §1, passed Feb. 8, 1993; Ord. 921-94 §4, passed April 25, 1994; Ord. 965-96 §10, passed Dec. 9, 1996; Ord. 979-97 §11, passed July 14, 1997; Ord. 988-97 §6, passed Dec. 8, 1997; Ord. 1025-99 §3, passed July 26, 1999; Ord. 1026-99 §30, passed Aug. 9, 1999.] (Ord. 1103-02, Amended, 03/25/2002)

#### 41.030 Conditional Uses Permitted.

The following uses and their accessory uses are permitted as conditional uses when authorized in accordance with TDC Chapter 32.

(1) A conditional use listed in TDC 40.030(4).

(2) Small-lot subdivisions conforming to the following:

(a) All subdivision improvements shall conform to TDC Chapter 36.

(b) All dwelling units constructed shall conform to the construction standards of the State of Oregon Uniform Building Code as adopted by the City of Tualatin.

(c) The minimum lot area shall be 4,500 square feet.

(d) The minimum average lot width shall be 30 feet.

(e) The minimum lot width shall be 30 feet on a cul-de-sac street.

(f) The maximum building coverage shall be 45 percent.

(g) For flag lots the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(8) - (12).

(3) Wireless communication facility, except within approved small lot subdivisions. [Ord. 590-83 §1, passed April 11, 1983; Ord. 661-85 §6, passed March 25, 1985; Ord. 614-84 §4, passed Jan. 9, 1984; Ord. 923-94 §4, passed May 9, 1994; Ord. 965-96 §11, passed Dec. 9, 1996; Ord. 1025-99 §4, passed July 26, 1999; Ord. 1026-99 §31, passed Aug. 9, 1999.]

Proposed Text Amendment relating to Amending Medium Low Density Residential Planning District (RML) Conditional Uses, and Amending TDC 41.030 (PTA-12-04)

Section 1. TDC 41.030 is amended to read as follows:

~~No building, structures or land shall be used, and no building or structures shall be erected, enlarged or altered, except for the following uses:~~

- ~~(1) Townhouses and multi-family dwellings, including duplexes and triplexes.~~
- ~~(2) Condominiums constructed in accordance with TDC 40.030(2).~~
- ~~(3) Manufactured dwelling parks, in the locations designated by the Tualatin Community Plan Map and constructed in accordance with TDC 34.190.~~
- ~~(4) Single family dwellings in a small lot subdivision.~~
- ~~(5) Greenways, and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.~~
- ~~(6) Density transfer project approved by the City prior to April 25, 1994, subject to TDC 41.320.~~
- ~~(7) Residential homes.~~
- ~~(8) Residential facilities.~~
- ~~(9) Nursing facility.~~
- ~~(10) Family day care provider, 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.~~
- ~~(11) Sewer and water pump stations and pressure reading stations.~~
- ~~(12) Wireless communication facility attached, provided it is not a single-family dwelling or its accessory structures.~~
- ~~(13) Wireless communication facility located within 300 feet of the centerline of I-5.~~
- ~~(14) Accessory dwelling units in a small lot subdivision as provided in TDC 34.300-34.310.~~
- ~~(15) Transportation facilities and improvements.~~

The following uses and their accessory uses are permitted as conditional uses when authorized in accordance with TDC Chapter 32.

(1) A conditional use listed in TDC 40.030(4).

(2) Small-lot subdivisions conforming to the following:

(a) All subdivision improvements shall conform tot TDC Chapter 36.

(b) All dwelling units constructed shall conform to the construction standards of the State of Oregon Uniform Building Code as adopted by the City of Tualatin.

(c) The minimum lot area shall be 4,500 square feet.

(d) The minimum average lot width shall be 30 feet.

(e) The minimum lot width shall be 30 feet on a cul-de-sac street.

(f) The maximum building coverage shall be 45 percent.

(g) For flag lots the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(8)-(12).

(3) Wireless communication facility, except within approved small lot subdivisions.



## **PTA-12-04 ATTACHMENT C:**

### **ANALYSIS & FINDINGS**

In 2010 PTA-09-09 amended listed conditional uses in the Low Density Residential (RL) Planning District (TDC 40) and the listed permitted uses in the Medium Low Density Residential (RML) Planning District (TDC 41). The adopted Ordinance 1317-10 did not intend change the RML list of conditional uses; the only intended revision of RML uses was to add “nursing facility” as a permitted use and specify the maximum density of such a use.

PTA-12-04 corrects the clerical error by restoring the original list of conditional uses to the code that were mistakenly overwritten and thereby restores the distinction between permitted and conditional uses.

Notice of public hearing was given as required under the TDC 1.031 by publication in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked “Exhibit E,” 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 G,” attached and incorporated by this reference.

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

#### **1. Granting the amendment is in the public interest.**

This PTA corrects a clerical error. PTA-09-09 overwrote TDC 41.030 through accidental duplication of the text of TDC 41.020. TDC 41.020 listed permitted uses within the Medium Low Density (RML) Planning District, while TDC 41.030 listed conditional uses within RML. The error resulted in confusingly identical lists of permitted and conditional uses. This correction restores the distinction.

PTA-09-09 also addressed this criterion. This PTA-12-04 eliminates confusion about permitted and conditional uses among the City, potential developers, and the public and serves the objectives to:

- Correct a TDC error
- Eliminate confusion about whether a use within RML is permitted or conditional
- Facilitate receipt of an anticipated application for a small-lot subdivision (of the property at 9355 SW Stono Drive), which is a conditional use within RML

The amendment serves the goal of eliminating TDC errors.

For these reasons, granting the amendment is in the public interest.

Attachment C

Analysis & Findings

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

PTA-09-09 also addressed this criterion by allowing for additional conditional uses that allow broader use of private property in the RML Planning District, such as a small-lot subdivision. This PTA-12-04 facilitates receipt of an anticipated application for a small-lot subdivision (of the property at 9355 SW Stono Drive), making it both needed and timely.

For these reasons, the public interest is best protected by granting the amendment at this time.

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

PTA-09-09 also addressed this criterion. Within the Tualatin Community Plan, which is the City comprehensive plan and Chapters 1-30 of the TDC, TDC 4.050 Community Growth Objective (6) states, "Arrange the various land uses so as to minimize land use conflicts and maximize the use of public facilities as growth occurs."

The changes to the list of conditional uses allowed in residential planning districts was intended to minimize conflicts between residential development and non-residential uses that have an activity level, scale of building and facility and traffic impacts that are not suitable or appropriate for residential areas. PTA-09-09 conformed to TDC 4.050(6). This PTA-12-04 would not interfere with conformance.

For the reasons above, the proposed amendment conforms with the applicable objectives of the Tualatin Community Plan.

**4. The following factors were consciously considered:**

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

As described under Criterion 1, this PTA corrects a clerical error.

This factor does not apply because this PTA-12-04 proposes no change to the permitted uses within the RML Planning District. Additionally, by their nature conditional uses are subject to review and approval based on the criteria within TDC 32.030, including the fourth criteria that, "The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district," which is similar to this factor. Therefore, the factor is consciously considered.

**The suitability of the areas for particular land uses and improvements in**

**the areas.**

This factor does not apply because this PTA-12-04 proposes no change to the permitted uses within the RML Planning District. Additionally, by their nature conditional uses are subject to review and approval based on the criteria within TDC 32.030, including the second criteria that, "The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features," which is similar to this factor. Therefore, the factor is consciously considered.

**Trends in land improvement and development.**

This factor does not apply because this PTA-12-04 proposes no change to the permitted uses within the RML Planning District. Additionally, by their nature conditional uses are subject to review and approval based on the criteria within TDC 32.030, including the third criteria that, "The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use," which is similar to this factor. Therefore, the factor is consciously considered.

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

As described under Criterion 1, this PTA corrects a clerical error. PTA-09-09 also addressed this criterion by allowing for additional conditional uses that allow broader use of private property in the RML Planning District. This PTA-12-04 would not interfere with conformance. The factor is consciously considered.

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

As described under Criterion 1, this PTA corrects a clerical error. This factor directly applies to a Plan Map Amendment (PMA) or a PTA involving specific tax lots within a planning district. Because neither PTA-09-09 nor this PTA-12-04 address specific properties as a subset of the RML Planning District, the factor does not apply. The factor is consciously considered.

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

Neither PTA-09-09 nor this PTA-12-04 involved or involve any revisions affecting natural resources. Additionally, both the environmental overlays district such as the Natural Resource Protection Overlay (NRPO) in TDC 72 and Clean Water Services (CWS) regulations protect and conserve said resources regardless of planning district. This PTA-12-04 would not interfere with conformance. The factor is consciously considered.

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

Neither PTA-09-09 nor this PTA-12-04 involved or involve any revisions affecting natural resources. Additionally, both the environmental overlays district such as the Natural Resource Protection Overlay (NRPO) in TDC 72 and Clean Water Services (CWS) regulations protect and conserve said resources regardless of planning district. This PTA-12-04 would not interfere with conformance. The factor is consciously considered.

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

Neither PTA-09-09 nor this PTA-12-04 involved or involve any revisions affecting health, safety, or aesthetics. TDC 73 Community Design Standards regulates said surroundings and conditions regardless of planning district. Additionally, the review and approval of a conditional use through TDC 32 allows the City to consider this factor and impose conditions as needed. This PTA-12-04 would not interfere with conformance. The factor is consciously considered.

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

Because the City as the applicant does not assert proof of change in a neighborhood or area, the factor does not apply and is consciously considered.

**Mistake in the Plan Text or Plan Map.**

As described under Criterion 1, this PTA corrects a clerical error. This factor applies to this PTA-12-04 because the PTA corrects a mistake in the Tualatin Development Code, which incorporates the Tualatin Community Plan. The factor is consciously considered.

**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.**

Because neither PTA-09-09 nor this PTA-12-04 affected or affects such a plan, the criterion does not apply.

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

Statewide Planning Goals 1 Citizen Involvement, 2 Land Use Planning, and 8 Recreational Needs applied to PTA-09-09, which did not interfere with conformance

with them. Because this PTA-12-04 does not relate to or interfere with conformance with these goals, the criterion does not apply.

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

PTA-09-09 addressed this criterion through applicable Urban Growth Management Functional Plan (UGMFP) Titles 1 and 7 by not interfering with the supply of affordable or market rate housing. Because this PTA-12-04 does not affect these supplies or other UGMFP titles, the criterion does not apply.

**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.**

Because neither PTA-09-09 nor this PTA-12-04 affected or affects vehicle trip generation, the criterion does not apply.

## ATTACHMENT C

### PTA-09-09: 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 Plan Amendment criteria are addressed below.

#### A. 1. Granting the amendment is in the public interest.

The proposed amendment to the Tualatin Development Code (TDC) amends the lists of uses in TDC Chapters 40 Low-Density Residential (RL) and 41 Medium Low-Density Residential (RML), amends the provisions allowing expansion of certain non-conforming uses in TDC Chapter 35 and amends terms and definitions in TDC 31.060. The public interest is to:

- 1) Review the conditional uses allowed in residential planning districts and determine whether the uses are or are not suitable or desirable for location within a residential area. Determine uses to be retained as a conditional use, changed to a permitted use, or removed as an allowed use in all or certain residential districts. Modify the terms and definitions of certain uses for suitability in residential districts and consistency with current State of Oregon provisions and development practices.
- 2) Consider the impacts on existing conditional uses in residential planning districts when removing or revising the lists of conditional uses. Consider providing existing conditional uses that become non-conforming through the proposed amendment and are determined to be an appropriate facility in a particular location, a viable means to continue a reasonable operation or to change the planning district designation to a one that allows the use.
- 3) Consider the effect of changing the list of allowed uses in residential planning districts on the residential land supply in respect to Statewide Land Use Planning Goal 10-Housing and the Metro Urban Growth Management Functional Plan (MUGMFP) Title 1–Table 1 Dwelling Unit Capacity.

Based on the Council's discussions and direction from the five Work Sessions on conditional uses in residential planning districts, staff prepared draft language amending the lists of uses in TDC Chapters 40 (RL), 41 (RML), amending the provisions allowing expansion of certain non-conforming uses in TDC Chapter 35 and amending terms and definitions in TDC 31.060.

As proposed in the draft language, schools, churches, child day-care centers, governmental structures, hospital, water reservoir, golf course (country club), and retirement housing will remain as conditional uses allowed in residential districts. Public parks, playgrounds and recreation buildings will be classified as permitted uses. Nursing homes will be removed from RL, redefined, and allowed in the RML, RMH (Medium-High Density Residential), RH (High Density Residential) and RH/HR (High Density/High Rise Residential) Planning Districts.

Cemeteries; colleges; business, services, storage & other activities incidental to permitted uses; retail nursery; sanitarium; private club; keeping of agricultural animals; and electrical substation or above ground natural gas pump station will no longer be

listed as allowed uses in residential planning districts. The existing cemetery and power substation currently with conditional use permits in RL will become non-conforming and allowed to expand or enlarge on the property.

A “school” use in residential district will be specified as “Kindergarten-12th Grade” and “country club” will be specified as “Country Club with golf course”. Additional building height is proposed to be reduced from the 75 ft. currently allowed as a conditional use in residential planning districts to a maximum 50 ft. height. (Attachment A, pg. 2)

Public Interest #1. The City Council began the review of conditional uses in residential planning districts in response to concerns about the suitability and appropriateness of the conditional uses currently allowed in the RL planning district and other residential districts and the Council’s ability to address development issues in the conditional use and quasi-judicial land use process.

The list of conditional uses in residential areas in the current TDC is similar to the list of conditional uses in earlier versions of Tualatin’s Zoning Code from the 60’s & 70’s and the Community Plan/ Development Code from 1978 thru today. Allowing schools, churches, community buildings, parks, country clubs, hospitals, government and public facilities in residential areas as a conditional use is very common among cities in Oregon and other states. Traditionally and practically, these uses (especially schools & churches) have been considered semi-public uses that belong with and are supportive of residential neighborhoods, subject to conditions deemed necessary by the local government.

With changing urban and residential development trends and with changes to how residents view the benefits and impacts of public and private facilities located in or near their neighborhood, the older or existing lists of conditional uses may include outdated terms or in today’s development marketplace, include activities that may not be viewed as compatible with residential areas as they maybe once were. From just the aspect of building or facility size, siting even a traditionally acceptable and desired use such as a new school or church in a residential area can be a controversial and difficult land use issue to consider in a conditional use permit process.

Since the current lists were established, another change significantly affected how a City can address a conditional use permit land use application. Conditional use permits can no longer be employed as a way to restrict locating a listed use and its improvements on a property where decision makers, neighboring property owners or other interests believe it is unsuitable. Following decisions by Oregon courts on land use and conditional uses, local decision-makers are constrained from denying a conditional use permit unless it can be shown that the proposal does not meet the conditional use criteria and any specific harms or impacts cannot be legally or physically mitigated. A conditional use permit applicant must show that the applicable Development Code provisions are met (eg. specific Planning District standards for setbacks or lot size and TDC Chapter 73 Community Design standards for screening of outdoor activities, etc.) and the five criteria for conditional use approval in TDC 32.030

(1-5) are satisfied. In the public hearing, the local decision makers must make a judgment if the applicable standards or the conditional use permit criteria are met as proposed, or not. If a standard or criteria could be met or mitigated by a limitation or required improvement, the City can grant the particular conditional use with conditions of approval such as requiring additional parking or screening of outdoor storage.

The conditions of approval must meet the legal tests of having a direct relationship between the proposed use and meeting a particular standard, and are proportional to the specific impacts of the use to public facilities or surrounding properties. A condition requiring a large-scale (ie. costly), off-site public facility improvement may not meet legal tests in a conditional use permit process, but may be legally defensible as a condition in a specific development project in an Architectural Review or Subdivision decision. Denial of a conditional use permit is difficult because it would require detailed findings of fact showing that the proposed use will cause specific harms or impacts that cannot be legally or physically mitigated.

As discussed by the Council in the Work Sessions and proposed in the draft language, schools, churches, child day-care centers, governmental structures, hospital, water reservoir, golf course (country club), and retirement housing will remain as conditional uses allowed in residential districts. The Council agreed that the uses were desirable facilities in the community and generally appropriate in a residential planning district given the level of activity in comparison to residential uses, the scale of typical facilities and agreed that the existing facilities located in residential districts were examples of that appropriateness. The proposed language includes revisions for clarity such as adding “Kindergarten thru 12<sup>th</sup> Grade” to the “schools” conditional use and specifying that a country club “with golf course” is the allowed use.

Also the Council believed that “additional building height” conditional use be reduced from 75 ft. to 50 ft. for compatibility with neighboring residential development. The need for a future review of the criteria and standards for conditional uses with an additional review of the list of conditional uses was discussed at Work Sessions IV and V.

In discussion, the Council believed that public parks, playgrounds and recreation buildings were very appropriate uses in residential areas and recommended they be allowed as permitted uses. Each public park in Tualatin has conditional use approval for location in a residential planning district. The City’s parks and recreation facilities are designed to fit in a residential setting and City park siting and design is subject to an extensive public involvement process administered by the Community Services Department and the Tualatin Parks Advisory Committee.

Out of the Council’s concern for the appropriateness of the scale of a large nursing home facility in comparison to nearby single family residential properties, the proposed amendment would remove Nursing Homes from the RL Planning District. Nursing homes are redefined in respect to current Oregon Department of Human Services terminology and the residential care services marketplace (ie. recently with the Marquis Companies assisted living, skilled nursing and independent living project). As proposed,



nursing homes will be allowed as conditional uses in the RML, RMH (Medium-High Density Residential), RH (High Density Residential) and RH/HR (High Density/High Rise Residential) Planning Districts where the scale of a care facility is comparable to multi-family developments allowed in those districts.

In Work Session, the Council determined that cemeteries; colleges; business, services, storage & other activities incidental to permitted uses; retail nursery; sanitarium; private club; keeping of agricultural animals; and electrical substation or above ground natural gas pump station are not appropriate as new conditional uses in residential planning districts. Concerns were expressed about the uses listed above for potential higher levels of on-site and off-site activity, the larger scale of buildings and facilities, an increase in traffic in residential areas and for potential conflicts with single family and multi-family residential use. The Council was also concerned about the ability to address issues of the compatibility of larger scale buildings compared to nearby residential development and traffic impacts to residential streets in the conditional use permit process.

The proposed language in amendment PTA-9-09 is a product of the Council's review of conditional uses in residential planning districts and the Council's determinations of uses that are desired and suitable for location in a residential area. The proposed language provides clarification, specifies certain forms of uses and provides updated terms and definitions of conditional uses allowed. The proposed amendment satisfies the Public Interest #1.

Public Interest #2. In Work Session, the Council examined existing conditional uses located in residential districts as examples of how the use was suitable for the residential location and to consider the impact on individual facilities such as schools, churches, day care centers, cemeteries and others if the use was no longer listed as an allowed use and became a non-conforming use. The Council members believed that the existing Winona Cemetery (Only cemetery in residential area)(Located in RML on SW Tualatin Road) and the existing PGE Substation (Only power substation in residential area) (Located in RL on SW Borland Road) conditional uses are suitable in their current locations and, subject to their respective conditional use permits, should be allowed to expand or enlarge on the property the facility was approved on. The proposed amendment to TDC Chapter 35 is intended to allow the "grandfathering" of the Winona Cemetery and the PGE substation as exceptions to standards in TDC 35.020 limiting the expansion or enlargement of non-conforming uses.

The revisions to the Non-conforming Use provisions and identification of the existing cemetery and existing electrical substation as eligible for grandfathering satisfies Public Interest #2.

Public Interest #3. The Council was observant of the effects of actions such as creating non-conforming uses that would have the potential to remove land from the City's residential land inventory. The proposed PTA-09-09 amendments to conditional uses in the residential districts will not change schools, churches and parks as allowed uses.

The typically large property size of the three uses represents the largest amount acreage of non-residential uses in RL and other residential districts. The proposed amendment does not force or encourage school, church or public park facility to seek a change to a commercial or institutional planning district. The existing cemetery and electrical substation are allowed to expand at their existing locations, remaining in the residential district. The uses proposed to be removed from residential districts (and not grandfathered) are not existing conditional uses and do not represent a reduction of the residential land supply.

The City's residential land supply, minimum residential density, multi-family mix and residential capacity obligations for Oregon Goal 12 and Metro Regional Urban Growth Functional Plan are not expected to be affected by the proposed amendment. Public Interest #3 is met.

The public interest items 1-3 are met and granting the amendment is in the public interest. Criterion "1" is met.

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

As stated above, the proposed amendment is the product of City Council interest in having suitable and appropriate uses in residential areas. The Council has responded to concerns about the non-residential use currently allowed in the RL- RH Planning Districts and carefully considered which ones are suitable and represent minimal impacts on residential development. Granting the amendment at this time, rather than delaying its implementation to a later date, will ensure that non-residential development and larger scale development in the residential areas can be compatible and adequately mitigated where necessary.

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

Criterion "2" is met.

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

The applicable objectives of the Tualatin Community Plan are presented below.

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

The proposed changes to the list of conditional uses allowed in residential planning districts is intended to minimize conflicts between residential development and non-residential uses that have an activity level, scale of building and facility and traffic impacts that are not suitable or appropriate for residential areas. The proposed amendment conforms to TDC 4.050(6).

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

Criterion "3" is met.

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

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

RL Planning Districts are primarily characterized by low-density, detached, single-family dwelling development. The RML, RMH, RH Planning Districts are primarily characterized by the attached, 2-3 story, multi-family housing developments. Schools, churches, parks are the predominant non-residential use in terms of land acreage and facility size.

The proposed amendment changing the lists of allowed uses in the RL and RML Planning District acknowledges the compatibility of schools, churches and parks and retains other non-residential uses that are consistent with the scale, appearance, activity levels and traffic patterns of residential housing development. The intent of the proposed amendment is to maintain or improve compatibility with the characteristics of the residential areas of Tualatin .

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

As discussed above, the Council examined the suitability of the non-residential conditional uses currently allowed in RL thru RH/HR Planning Districts. The proposed amendment refines the existing list somewhat and removes uses with the accompanying development improvements and activities that are considered unsuitable in the residential districts.

**Trends in land improvement and development.**

At this time, the existing re-developable or undeveloped land in Tualatin's residential districts is limited and often constrained by irregular lot configurations and environmental restrictions on natural features such as streams and wetlands. Market trends to smaller residential lot sizes and the prevalence of the physical constraints reduces the interest of residential development on the re-developable or undeveloped lots and makes the properties more viable for non-residential uses allowed by conditional use. In the future if Tualatin adds additional territory for residential uses, It will be important to have the desired kinds of uses such as schools, churches and infrastructure as allowed uses and a revised list of conditional uses deemed appropriate for residential districts.

**Property values.**

The proposed amendment is focused on residential districts and would not be expected to have effects on residential property values. The proposed changes to the list of conditional uses allowed in residential districts will have no effect on the property value of developments such as schools, churches and parks. There is little or no effect for

uses that are not established at this time or for the “grandfathered” uses of cemetery and power substation. Existing conditional uses proposed for removal from the list such as “private club” would become legal non-conforming and can remain as established or approved.

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

The proposed amendment emphasizes residential uses and residentially supporting uses in the RL, RML, RMH, RH and RH/HR Planning Districts.

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

The amendment does not affect right of way and access.

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

Not applicable because the proposed amendments do not impact or alter natural resources associated with a development.

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

Not applicable because proposed amendments do not impact or alter natural resources associated with a development.

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

The purpose of the proposed amendment is to revise the list of conditional uses in residential districts to emphasize residential uses and residentially supporting uses in the RL, RML, RMH, RH and RH/HR Planning Districts. The conditional uses allowed are compatible with residential development and ensure an aesthetic surrounding.

This protects the public need for healthful, safe and aesthetic surroundings and conditions.

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

The proposed amendment is focused on residential planning districts as a whole and not on a particular 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 "4" is met.

**E. 5. 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 conditional uses because it does change the conforming status of existing school sites and does not represent a constraint or conflict with land available for future school sites.

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

The Oregon Land Conservation and Development Commission acknowledged the Tualatin Community Plan in 1981, and through post-acknowledgement amendments, as complying with all the applicable Statewide Planning Goals. The proposed PTA is consistent with the State of Oregon Planning Goals and applicable Oregon Administrative Rules as follows:

Goal 1 – Citizen Involvement – The general public, through Tualatin’s local program of citizen involvement, including public TPAC committee meetings, has the opportunity to participate in the development and adoption of legislation needed to carry out the Tualatin Community Plan objectives. The proposed amendment will change the list of conditional uses in residential planning districts, allowing some, removing some from the current list and “grandfathering” an existing cemetery and power substation. Conditional Use Permits are considered in a quasi-judicial land use decision process that includes substantial opportunity for citizen involvement.

The proposed amendment is consistent with Statewide Planning Goal 1.

Goal 2 – Land Use Planning – The proposed amendments to the TDC are found to be internally consistent with the remainder of the elements of the TDC, with the METRO Urban Growth Management Functional Plan, and without exception to the Oregon Statewide Planning Goals. The proposed amendments are consistent with Statewide Planning Goal 2.

Goal 3 – Agricultural Lands – Not applicable.

Goal 4 – Forest Lands – Not applicable.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces – Not applicable.

Goal 6 – Air, Water and Land Resource Quality – Not applicable.

Goal 7 – Areas Subject to Natural Disasters and Hazards – Not applicable.

Goal 8 – Recreational Needs – The proposed amendment classifies public parks as a permitted use and continues to allow golf courses as a conditional use. The recreational needs of the City are not harmed by the proposal.



Goal 9 – Economic Development – Not applicable.

Goal 10 – Housing – The purpose of the proposed amendment is to promote and protect the general welfare of the City by ensuring that uses allowed in residential planning districts are compatible with residential development. The proposed amendment will not jeopardize the City maintaining its regional housing density and housing mix standards that are a principal element of Goal 10 implementation (in the Metropolitan Housing Rule, OAR-660-007). The amendment does not remove land from the inventory, does not change the density or designation of residential land and does not force a plan map amendment to change a property's designation from residential to another non-residential designation such as Institutional. Therefore, the proposed amendment complies with the Housing Rule. The Metropolitan Housing Rule is a State of Oregon Administrative Rule that applies to the cities and counties within the metropolitan Portland urban growth boundary. While applying to the Portland region, it is not imposed by Metro, the Regional Government

There is no evidence that the proposed amendment will create a barrier to development of new housing in residential districts. The proposed amendment, therefore, is in conformance with the intent of Goal 10, which is to provide for the housing needs of citizens of the state.

Goal 11 – Public Facilities and Services – The proposed amendment includes language allowing an existing power substation to expand or enlarge as a non-conforming use. New substations will not be allowed in residential planning districts, but will remain as allowed uses in commercial, industrial and institutional districts. The proposed amendment, therefore, is consistent with Statewide Planning Goal 11.

Goal 12 – Transportation – No change to transportation system demand or capacity is attributed to the conditional use in residential plan amendment. The proposed amendment is consistent with Statewide Planning Goal 12.

Goals 13 through 19 – Statewide Planning Goals 13 through 19 were considered and found not applicable to the proposed amendment.

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

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

Staff reviewed the PMA in terms of the Metropolitan Service District's Urban Growth Management Functional Plan as provided in Metro Code, Title III, Planning, Chapter 3.07 Urban Growth Management Functional Plan. The UGMFP and TDC Map 9-4 Design Type Boundaries, identify the Residential Planning District as "IN-Inner Neighborhood" and "ON-Outer Neighborhood". The proposed amendment revising the

list of non-residential conditional uses allowed in residential planning districts is consistent with the Functional Plan as follows:

Title 1 – Housing and Employment Accommodation – Table 1 in Title I states the City's housing capacity from 1994 and 2017 is 4,054 dwelling units. The housing capacity target is to be achieved by providing a potential for housing development within the City's Planning Area considering an amount of zoned and developable residential land (land designated in RL – RH/HR Residential Planning Districts) and an amount of land eligible for residential development (land in commercial or MC Planning Districts eligible for residential uses). The purpose of the proposed amendment is to sort out undesirable or incompatible non-residential conditional uses from residential planning districts. The opportunity achieve the target housing capacity is not reduced. The proposed amendment is consistent with Title 7

Title 2 – Regional Parking Policy – Not applicable.

Title 3 – Water Quality, Flood Management and Fish and Wildlife Conservation – Not applicable.

Title 4 – Industrial and Other Employment Areas – Not applicable.

Title 5 – Neighbor Cities and Rural Reserves – Not applicable.

Title 6 – Central City, Regional Centers, Town Centers and Station Communities – Not applicable.

Title 7 – Affordable Housing – The purpose of the proposed amendment is to sort out undesirable or incompatible non-residential conditional uses from residential planning districts. The opportunity for affordable housing is not affected. The proposed amendment is consistent with Title 7.

Title 8 – Compliance Procedures – Notice of the proposed amendment was mailed to the METRO Chief Operating Officer on October 15, 2010. The proposed amendment is consistent with Title 8.

Title 9 – Performance Measures – Not applicable.

Title 10 – Functional Plan Definitions – Not applicable.

Title 11 – Planning for New Urban Areas – Not applicable.

Title 12 – Protection of Residential Neighborhoods – Not applicable.

Title 13 – Nature in Neighborhoods – Not applicable.

Granting the amendment is consistent with the METRO's Urban Growth Management Functional Plan.

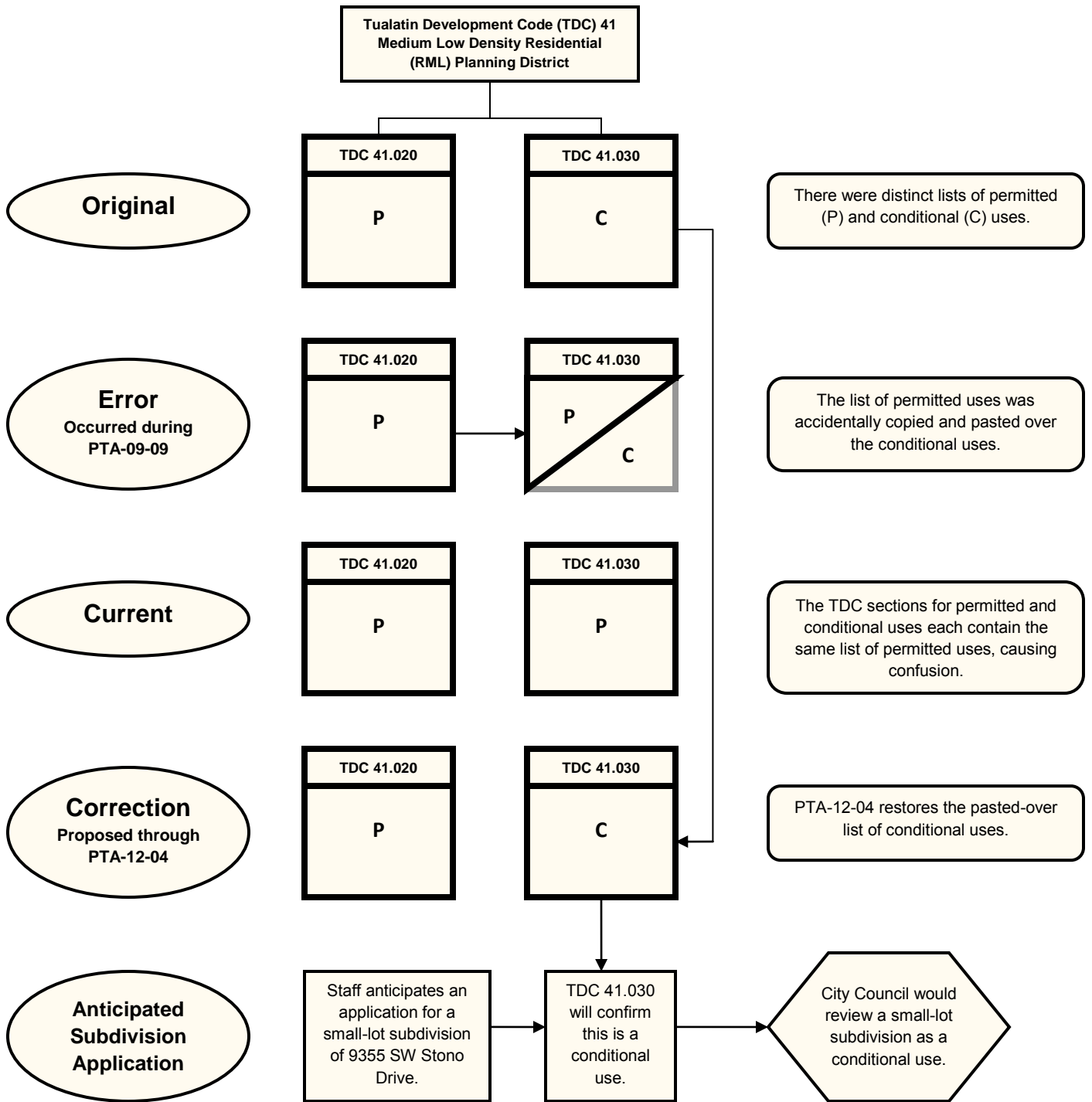
Criterion 7 is met.

- H. 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 proposed amendment does not result in any development, does not change any land use designations, and does not alter the carrying capacity or number of vehicle trips for transportation facilities. Therefore, the proposed amendment has no impact on transportation facility capacity



# PTA-12-04 Diagram





# AFFIDAVIT OF POSTING

STATE OF OREGON )  
 ) SS  
COUNTY OF WASHINGTON )

I, Lynette Sanford, 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 three copies of the Notice of Hearing on the 14 day of September 2012, a copy of which Notice is attached hereto; and that I posted said copies in three public and conspicuous places within the City, to wit:

1. City of Tualatin – Council Building
2. City of Tualatin – Development Services Building
3. City of Tualatin - Library

Dated this 14 day of September, 2012

Lynette Sanford  
Lynette Sanford

Subscribed and sworn to before me this 19th day of September, 2012.



Linda K Odermott  
Notary Public for Oregon

My Commission expires: March 30, 2013

**RE: PLAN TEXT AMENDMENT (PTA) 12-04 AN ORDINANCE AMENDING MEDIUM LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RML) CONDITIONAL USES; AND AMENDING TDC 41.030 (PTA-12-04)**



# City of Tualatin

[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, October 22, 2012 at the Council Building at 18880 SW Martinazzi Avenue to consider:

PLAN TEXT AMENDMENT (PTA) 12-04—AN ORDINANCE AMENDING MEDIUM LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RML) CONDITIONAL USES; AND AMENDING TDC 41.030 (PTA-12-04)

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 begin 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 more information contact Colin Cortes, AICP, CNU-A, Assistant Planner at [ccortes@ci.tualatin.or.us](mailto:ccortes@ci.tualatin.or.us) or 503-691-3024.* This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

NOTICE TO THE TUALATIN TIMES:

Please publish in the *Tualatin Times* on  
October 4, 2012

Attachement F  
Affidavit of Posting



8805 SE Lake Road, Portland, OR 97222 • PO Box 22108 Portland OR 97289-2109  
Phone: 503-684-0360 Fax: 503-820-3493  
E-mail: [logos@communitynewspapers.com](mailto:logos@communitynewspapers.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 Public Hearing/PTA12-04**  
**TT11715**

A copy of which is hereto annexed, was published  
in the entire issue of said newspaper for  
1  
week in the following issue:  
October 4, 2012

*Charlotte Allsop*

Charlotte Allsop (Accounting Manager)  
Subscribed and sworn to before me this  
October 4, 2012.

*Jaime N. McCaslin*  
NOTARY PUBLIC FOR OREGON  
My commission expires *Feb 20 2016*

Acct #108462  
Attn: Lynette Sanford  
City of Tualatin, Planning Department  
18880 SW Martinazzi Ave  
Tualatin, OR 97062

Size: 2 x 4.75"  
Amount Due: \$85.97  
\*Please remit to the address above.



**City of Tualatin**  
[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

**NOTICE OF HEARING**  
**CITY OF TUALATIN, OREGON**

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SW Martinazzi Avenue to consider:

PLAN TEXT AMENDMENT (PTA) 12-04--AN ORDINANCE AMENDING MEDIUM LOW  
DENSITY RESIDENTIAL PLANNING DISTRICT (RML) CONDITIONAL USES; AND  
AMENDING TOO 41.050 (PTA-12-04)

Before granting the proposed amendments, the City Council must find that: (1) Granting the  
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consciously considered; (5) The Tigard Tualatin School District Facility Plan was considered;  
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Hearings begin with a staff presentation, followed by testimony by proponents, testimony by  
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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 more information contact  
Cathy Corbett, AICP, CNUA, Assistant Planner at [ccorbett@ci.tualatin.or.us](mailto:ccorbett@ci.tualatin.or.us) or 503-691-  
3024. This meeting and any materials being considered can be made accessible upon  
request.

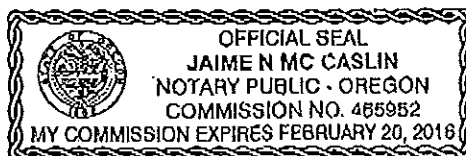
CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the *Tualatin Times* on  
October 4, 2012

**Publish 10/04/2012.**

**TT11715**





# Plan Text Amendment

## PTA-12-04

# Restore Conditional Uses to the Medium Low Density Planning District

October 22, 2012







*City of Tualatin*

# Background & Summary

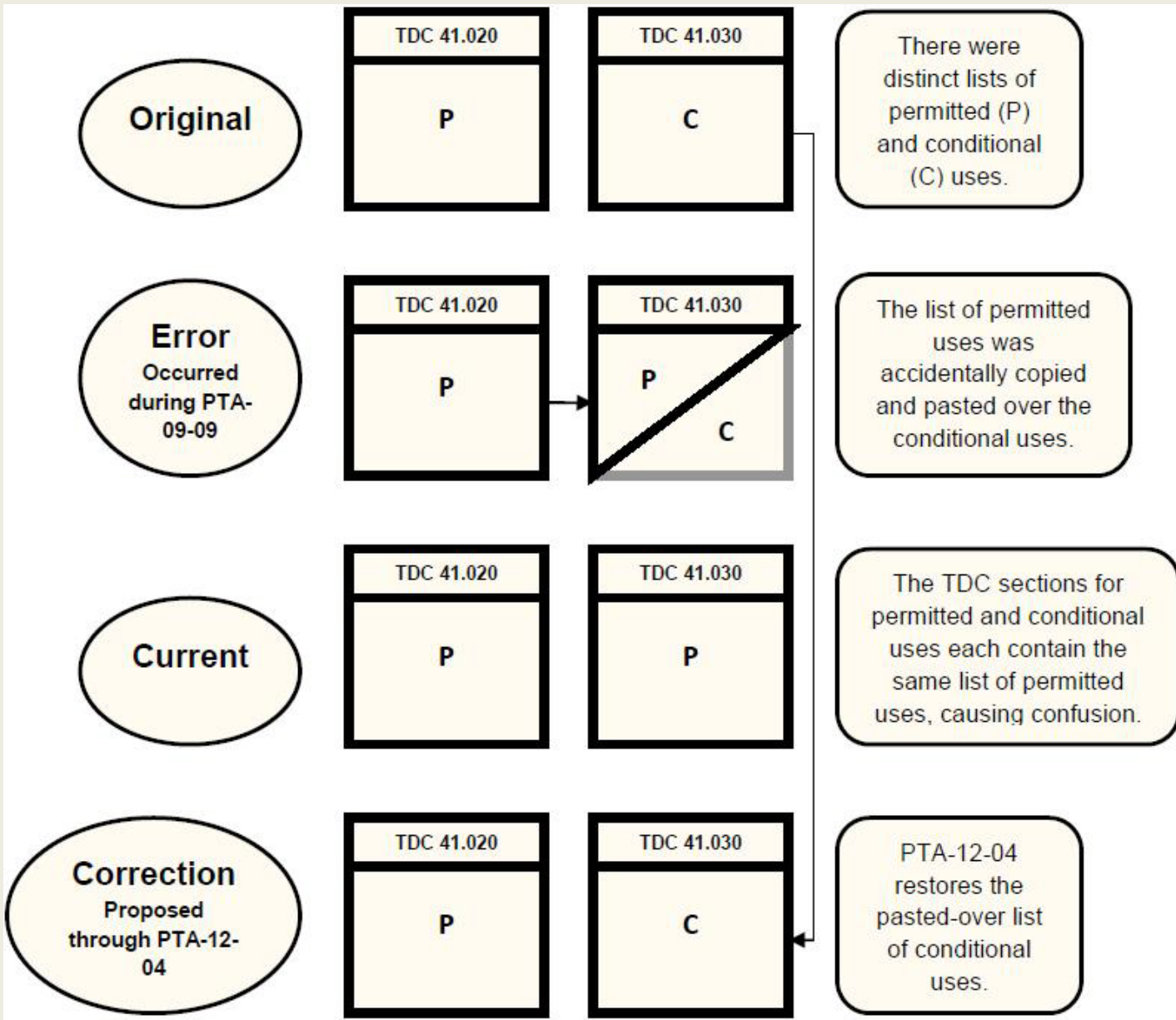
- In 2010 Plan Text Amendment 09-09 amended conditional uses in the Low Density Residential Planning District
- PTA-09-09 overwrote the conditional uses by accidentally duplicating the list of permitted uses
- The clerical error resulted in identical lists of permitted and conditional uses



*City of Tualatin*

# Action

- This amendment restores:
  - original list of conditional uses to the code that were mistakenly overwritten
  - distinction between permitted and conditional uses

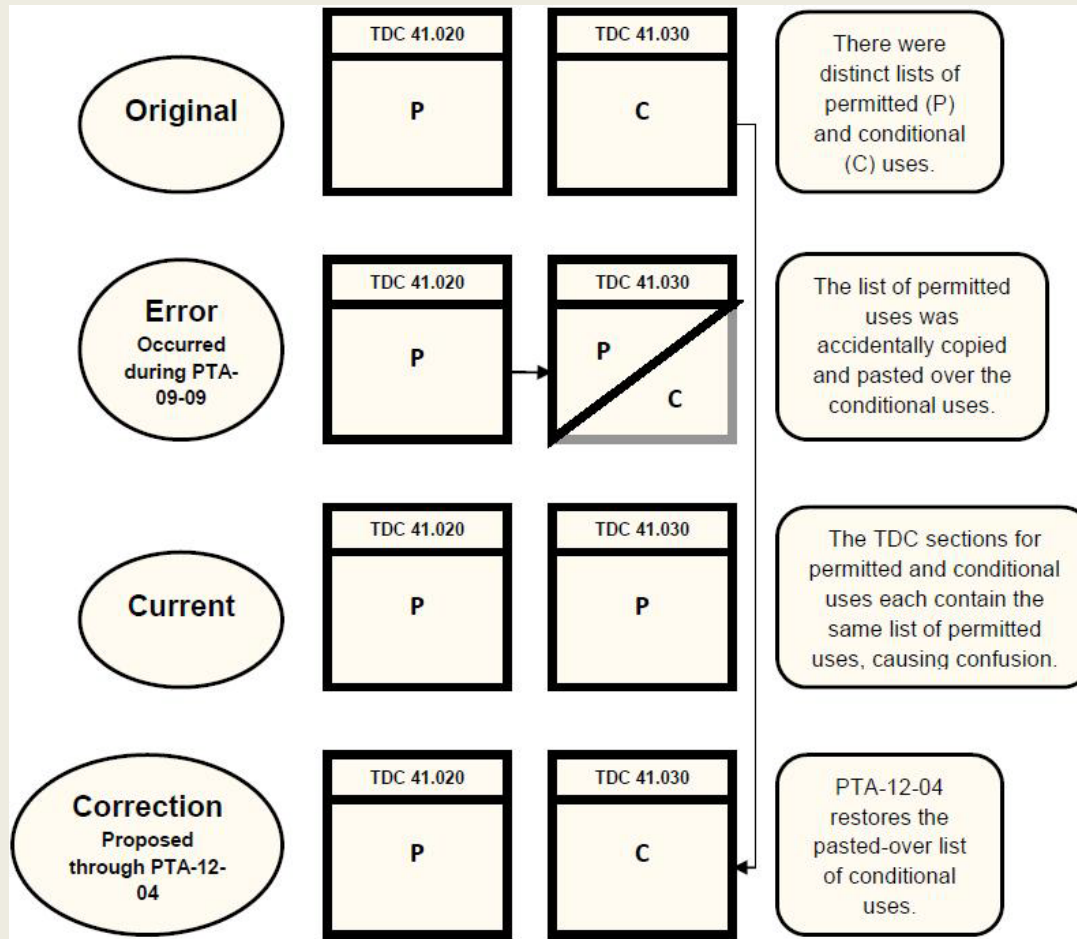






City of Tualatin

# Questions?





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Sara Singer, Deputy City Manager

**DATE:** 10/22/2012

**SUBJECT:** Resolution Recognizing the Formation of Citizen Involvement Organization Four (CIO 4)

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

According to Chapter 11-9-040 of the Tualatin Municipal Code, Citizen Involvement Organizations must meet the minimum standards set forth in the Code to be recognized by the City Council.

### **RECOMMENDATION:**

Staff recommends adopting the attached Resolution Recognizing the Formation of Citizen Involvement Organization Four (CIO 4).

### **EXECUTIVE SUMMARY:**

In July 2011, the City Council adopted Chapter 11-9 of the Tualatin Municipal Code which establishes and creates the Citizen Involvement Organization Program (CIOP). Included with the adoption of the code language was also the adoption of the CIOP Boundary Map (see Attachment A). The approved boundary map outlines six residential Citizen Involvement Organizations (CIOs), a Commercial CIO, and a Manufacturing CIO. The Code allows for citizens to come together and form their CIO by meeting the following standards in the Code:

- 1) The CIO must hold an annual election of officers;
- 2) All meetings shall be publicized at least seven days in advance of the meeting date, except in case of emergency, in which case at least 24 hours advance notice shall be given;
- 3) A current list of the names and addresses of the officers must be provided to the City;
- 4) After their initial organizational meeting in the first year of recognition, a minimum of two general meetings each year with time, place and purpose well publicized throughout the CIO prior to each meeting; and
- 5) CIOs must provide an executed copy of their current bylaws.

On July 19, 2012, CIO 4 held their organizational meeting where they voted to form the CIO, adopted their bylaws (see Attachment B), and elected their officers (see Attachment C). The newly elected officers have submitted all of the appropriate documents for review by staff. Staff has determined that the minimum standards of Section 11-9-040 of the Tualatin Municipal Code have been met. A Resolution Recognizing the Formation of Citizen Involvement Organization Four has been prepared for adoption by the City Council.

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**Attachments:**    A - Resolution Recognizing Formation of CIO 4  
                          B - CIO Boundary Map  
                          C - CIO 4 Approved Bylaws  
                          D - CIO 4 Officers



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

RESOLUTION RECOGNIZING THE FORMATION OF CITIZEN INVOLVEMENT ORGANIZATION FOUR

WHEREAS the Citizen Involvement Organization Program (CIOP) was established and created to provide an opportunity for members of the CIOP to meaningfully cooperate with each other and the City of Tualatin on matters affecting the neighborhoods and the City consistent with Tualatin's Principles of Citizen Involvement; and

WHEREAS the Citizen Involvement Organization Four (CIO 4) has determined that they would like to form to promote communication and a sense of community in their neighborhood.

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

Section 1. The City Manager has confirmed that:

- 1) CIO 4 has conducted an annual election of officers, and
- 2) The bylaws adopted by CIO 4 provide that meetings be publicized 7 days in advance of the meeting date, except in case of emergency, in which case at least 24 hours advance notice shall be given, and
- 3) A current list of the names and addresses of the officers has been provided to the City, and
- 4) The bylaws adopted by CIO 4 provide that a minimum of two general meetings each year with the time, place and purpose well publicized throughout the CIO prior to each meeting, and
- 5) CIO 4 has provided an executed copy of their bylaws.

By satisfying the standards of Chapter 11-9-40 of the Tualatin Municipal Code, CIO 4 is eligible to be recognized by the City Council.

INTRODUCED AND ADOPTED this 22nd day of October, 2012.

CITY OF TUALATIN, OREGON

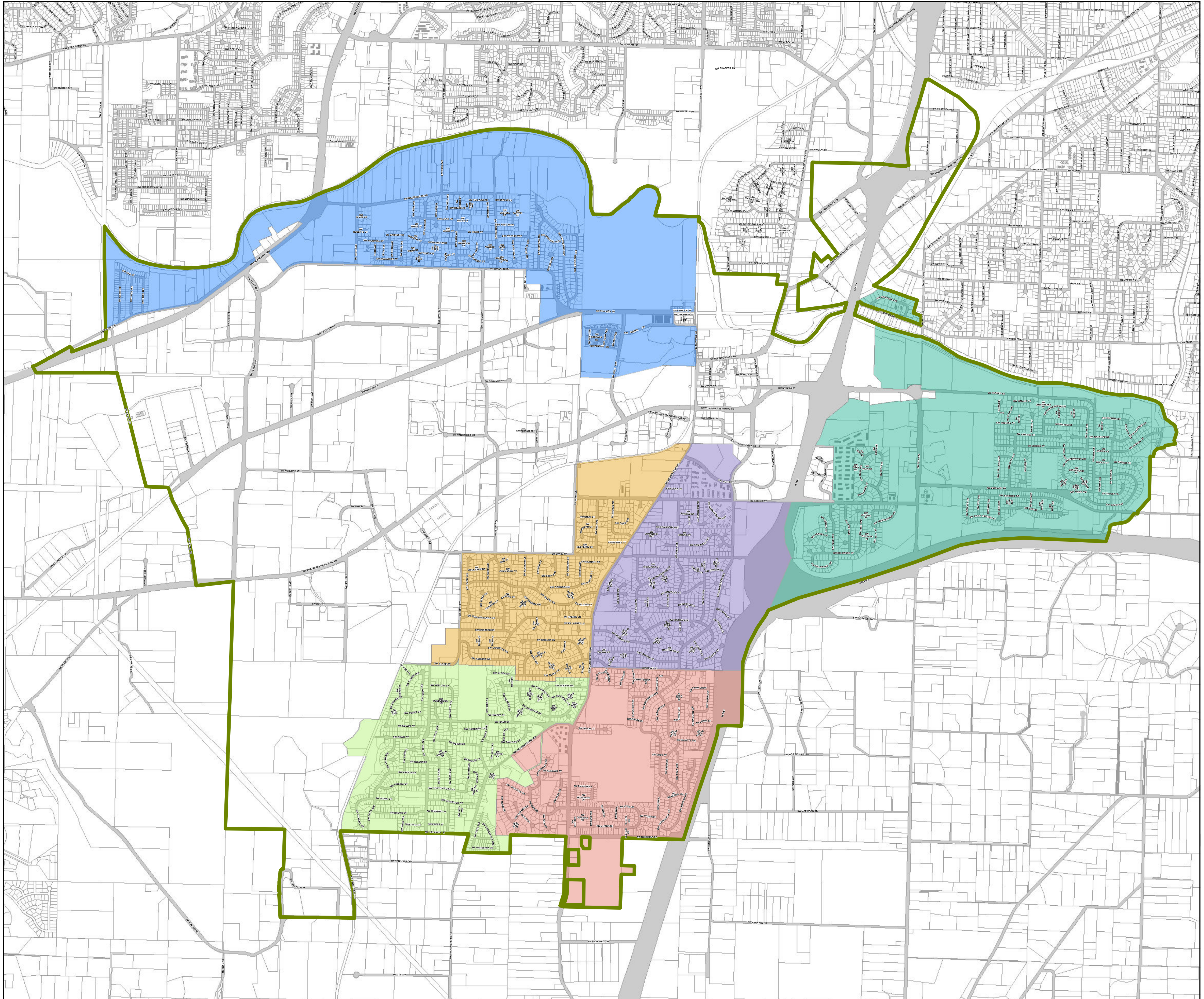
BY \_\_\_\_\_  
Mayor

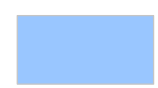







ATTEST:

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

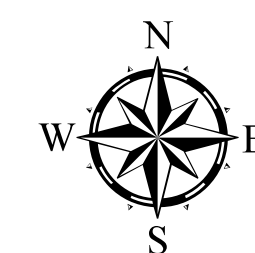


# Citizen Involvement Organizations



- |  |   |  |
|--|---|--|
|  CIO 1 |  CIO 4 |  Taxlots                |
|  CIO 2 |  CIO 5 |  Planning Area Boundary |
|  CIO 3 |  CIO 6 |  |

RF 1:14,400



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tual, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". - Engineering and Building Dept. Printed 7/7/2011



**TUALATIN  
CITIZEN INVOLVEMENT ORGANIZATION-4  
RECOMMENDED BYLAWS**

**June 10, 2012**

**ARTICLE 1  
ORGANIZATION**

**Section 1. Name.** The name of this Organization shall be Tualatin Citizen Involvement Organization Number Four (“CIO-4”) (hereinafter referred to as “the CIO”) .

**Section 2. Purpose.** The general purpose if the Citizen Involvement Organization (CIO), as organized and authorized by City of Tualatin Municipal Code Chapter 11-9, is (1) to provide an opportunity for members to meaningfully cooperate with each other and with the City of Tualatin on matters affecting the neighborhoods and the City, (2) to facilitate citizen participation in land use related matters, consistent with Oregon Statewide Land Use Goal 1, and (3) to promote a sense of community within our neighborhood. Using best efforts to ensure opportunities for involvement and engagement by all CIO members, the means of accomplishing this purpose shall include but not be limited to:

- A. Provide public forums for the review and evaluation of issues affecting the neighborhood, the CIO, and the City; provide for the education of citizens, groups and government bodies with respect to such issues; and provide for an exchange of views and opinions on such issues;
- B. Provide public forums for CIO members to present their views and provide input to private and public bodies such as City Council, its advisory boards and committees, and other governmental and community bodies on issues having an impact on either the CIO, the City, or the region;
- C. Provide a formalized channel of communication and dissemination of accurate and timely information between the City government, other governmental bodies, and the CIO and the CIO’s members;
- D. Provide input to City Council and other governmental bodies on land use and other matters which affect the neighborhoods.

**Section 3. Boundary.** The CIO boundary shall be as indicated on the attached map and the map is hereby incorporated by reference. The CIO, through the Executive Board, will petition the City Council to amend the CIO boundaries only upon consideration and vote in favor of such petition by the membership taken at an Annual Meeting pursuant to Article III, below. The Tualatin City Council may amend the boundaries of the CIO per Tualatin Municipal Code 11-9-060.



## **ARTICLE II MEMBERSHIP**

**Section 1. Eligibility.** Membership shall be open to any person, 16 years of age or older, who is a Tualatin resident and who either resides within the recognized CIO-4 boundaries, or is the owner (or authorized representative of the owner) of rental residential property located within the CIO-4 boundaries. The CIO shall not deny membership rights or access to the benefits of the CIO to any individual on the basis of race, color, gender, heritage, national origin, sex, age, disability, sexual orientation, religion, political affiliation, or marital status.

**Section 2. Membership Dues.** No dues or fees shall be required.

**Section 3. Voting Rights.** Each member of the CIO present at meetings shall have one vote, as specified in these Bylaws. Voting shall be done in person only. All rights, privileges, and responsibilities of membership, including the right to vote on CIO business, shall accrue to all members. Members who own or have interest in multiple properties within the CIO boundaries are nonetheless limited to one vote.

## **ARTICLE III**

### **MEMBER MEETINGS**

**Section 1. Meetings.** The CIO shall hold at least two general meetings each year. Meetings shall be called and held at a location determined by the Executive Board, but within or near the CIO boundaries.

- A. **Annual Meeting.** One of the general meetings shall be the Annual Meeting, at which election of officers and other business designated by these bylaws and by the CIO's Executive Board shall occur. Notice of the Annual Meeting will be provided to members at least 14 days in advance of the meeting, and shall include the date, time, location, and purpose of the Annual Meeting. The Annual Meeting shall be held in the month of April of each year, except for the first year.
- B. **General Meetings.** A general meeting or meetings in addition to the Annual Meeting shall be called by the Executive Board and held at least once yearly. Notice of a general meeting shall be given at least seven days in advance.
- C. **Special Meetings.** If a "special meeting" is found to be necessary by the Executive Board because of the urgent or time-sensitive nature of an issue, reasonable effort will be made to provide at least two days advance notice to members.

**Section 2. Notice.** The Executive Board shall provide notice of upcoming meetings, as specified above, by written or electronic means reasonably calculated to reach the membership. Posting notice of meetings on public City of Tualatin written or electronic newsletters and/or event calendars shall be considered sufficient notice.

**Section 3. Quorum.** A quorum for the first Annual Meeting shall be 15 members present. Before the next general meeting, the Executive Board shall determine the minimum number of members required to constitute a quorum at annual, general or special meetings. A quorum for general and annual meetings may not be less than 15 members and must include at least three Board members. Decisions requiring a vote at annual, general, and special meetings shall be made by a majority vote of those members present at such meeting, except for amendments or changes to the Bylaws or CIO boundaries, as per these Bylaws.

**Section 4. Process.** All meetings will be open to members and to the public, and generally follow Robert's Rules of Order. Members shall have the right to introduce agenda items. Proposed agenda items shall be given to the President or President's designee at least 14 days in advance of a meeting. Minutes will be taken and made available to the members. The minutes shall include a summary of the discussion, views expressed, majority view, including the approximate numbers in the majority and minority.

**Section 5. Decorum.** Members shall conduct themselves in all meetings in a manner exhibiting common courtesy and fairness. The President may exclude members who unreasonably disrupt a meeting, or who act in a hostile, threatening or coercive manner toward any fellow member. Any member excluded from a meeting under this section shall forfeit his or her right to speak, vote, or otherwise participate in the balance of that meeting.

#### **ARTICLE IV EXECUTIVE BOARD, ELECTION, AND MEETINGS**

**Section 1. Officers and Executive Board.** The officers of the CIO shall be a President, Vice President, Secretary, Treasurer, and Land Use Officer. No more than two offices shall be held by a single person at a time. The Executive Board shall consist of the officers and the chairs of standing committees. The Executive Board has the responsibility to act in the best interest of the CIO; and using best efforts that members are generally made aware of pertinent issues and matters which may affect them. A list of current Executive Board members and contact information shall be kept on file with the City of Tualatin and be available to the members. Regardless of the number of offices held by any one person, each Board member shall have one vote on any issue or matter.

**Section 2. Election and Term of Office.** The officers shall be elected at the Annual Meeting by the membership. Any member may be nominated to serve as an Officer or Executive Board member, including by self-nomination. All nominees shall be submitted to the members 14 days before an election or upon nomination, whichever occurs later, except in the first year. Every member present shall be entitled to one vote for each executive board office to be elected. The nominee receiving a majority of the votes cast for each office shall be deemed elected. Each Board member shall hold office for two years, except in the first year when the President, Secretary, and Land Use Officer will hold office for one year because of the staggered election process. In the event of a vacancy, the vacancy shall be filled by a majority vote of the remaining members of the Executive Board, and the member so elected fills the position until the next annual meeting. Two officers shall be selected by the Executive Board to serve on the Citizen Involvement Coordinating Committee.

**Section 3. Powers and Duties.** The duties of each office are:

- A. **President.** Shall set the agenda and preside at all meetings of the CIO and of the Executive Board; have the authority to speak on behalf of the CIO and the Executive Board; serve as a contact for all communications from the City regarding CIO matters; perform all the duties of supervision and management as pertains to the office of president; ensure that the organization complies with the requirements of the CIO's Bylaws; and perform those duties as may be designated by the Board. After formation, the President shall be elected in odd numbered years.
- B. **Vice President.** Shall serve in the absence of the President; shall assist the President; shall facilitate CIO 4 elections; and perform other duties as designated by the Board. After formation, the Vice President shall be elected in even numbered years.
- C. **Secretary.** Shall keep accurate attendance records and minutes of each meeting, including a summary of the discussion, views expressed, majority view, including the approximate numbers in the majority and minority.; ensure that meeting notices are made; maintain and make available names and contact information of officers and committee chairs ensure a copy of current bylaws are provided to the City and made available to the membership; maintain a copy of meeting minutes for no less than four years; make such minutes available to the members and the City within a reasonable time; and perform other duties as designated by the Board. After formation, the Secretary shall be elected in odd numbered years.
- D. **Treasurer.** Shall receive, deposit, disburse, and account for all CIO funds; prepare and present operating statements at each general meeting or as otherwise requested by the Executive Board; shall be a member of the Community Connections Standing Committee; shall serve as the liaison between the Executive Board and the Community Connections Standing Committee on the Grant Funding Program of the CIO; and perform other duties as designated by the Board. After formation, the Treasurer shall be elected in even numbered years.
- E. **Land Use Officer.** Shall keep current on land use issues pertinent to the CIO; shall have the authority to speak on behalf of the Executive Board and CIO pertaining to land use issues; shall be a member of the Land Use Committee; shall make available to membership pertinent land use information; and perform other duties as designated by the Board. After formation, the Land Use Officer shall be elected in odd numbered years.

**Section 4. Executive Board Meetings.** Executive Board meetings will be held periodically at such time and place as determined by the Board; however the Board shall hold at least two meetings each year, open to the public, with notice provided as with General Meetings, and at least seven days in advance. Robert's Rules of Order will generally be followed. Board decisions requiring a vote shall be decided by affirmative vote of a majority of those voting members present but no vote is valid unless a quorum is present. A quorum for the Executive Board shall be 51% of officers and board members, no fewer than two of which shall be officers, except in the initial year when a quorum may be two officers.

**Section 5. Notice.** The Executive Board shall provide notice of upcoming Executive Board meetings by written or electronic means reasonably calculated to reach the membership. Posting notice of meetings on public City of Tualatin written or electronic newsletters and/or event calendars shall be considered sufficient notice.

## **ARTICLE V COMMITTEES**

**Section 1. Standing Committees.** A standing committee is a permanent committee as designated in the Bylaws. Each committee shall develop a statement of organization and implementation methods to be approved by the Executive Board. Membership on a standing committee shall be from the CIO membership. Standing committees shall record attendance and keep minutes, including a summary of the discussion, views expressed, majority view, including the approximate numbers in the majority and minority. The chair of any standing committee shall serve on the Executive Board.

- A. **Community Connection.** This Committee's primary purpose shall be to engage members in events and issues which build and increase a sense of community. Such activities and events may include, but are not limited to, Neighborhood Night Out, emergency preparedness, events which care for and enhance public spaces in the neighborhood, and events which promote member interactions. The Committee shall be responsible for the management and implementation of the Grant Funding Program of the CIO, funded by the City or other sources. The Committee shall identify, select, and recommend to the Executive Board for its approval activities and events which are of significant community value to qualify as a Grant Funding Program. Activities and events approved by the Executive Board will be presented to the CICC for its review and comments and then submitted to the City Council for its consideration and funding. The Committee will be composed of no less than three members.
  
- B. **Land Use.** This Committee shall be a permanent committee with the primary purpose to engage members in the discussion of and provide timely information to members on land use matters of the City and the region. The Committee shall review such matters as, but not limited to, land use, traffic, development proposals, and zoning, providing a forum for member discussion of issues. The Committee will be composed of no less than three members, with the Land Use Officer as one of the committee's members.

**Section 2. Formation of Committees.** Other committees may be formed at the discretion of the Executive Board or by a majority of the members at a member meeting. Membership on a committee shall be from the CIO membership.

**Section 3. General.** Meetings shall be open to the public and notice requirements of a general meeting shall be followed. All decisions will be decided by a simple majority of those in attendance; the definition of a quorum shall be set before the first committee meeting by the Executive Board and may be amended from time to time by the Executive Board. Committees



shall make recommendations on major issues to the Executive Board for approval; however, with specific authorization from the Executive Board, the Committees may have the power to act on behalf of the CIO and its Executive Board. Each Committee should meet at least twice yearly. Members shall conduct themselves in all meetings in a manner exhibiting common courtesy and fairness.

## **ARTICLE VI STANDARDS OF RECOGNITION**

**Section 1. Recognition of CIO.** The CIO shall first submit an application for recognition to the City Manager or designee, and then to the City Council for final approval and recognition. The CIO shall meet and continue to maintain conformity with the following minimum recognition criteria:

- A. Members shall meet the member eligibility as detailed in Article II, Section 1 of these Bylaws; and,
- B. Members shall hold an initial annual meeting in the first year to adopt the bylaws and elect a minimum of 2 officers; and,
- C. After at least one initial organizational/annual meeting in the first year, the CIO shall thereafter hold at least two general meetings annually, one of which is the annual meeting with election of officers as per these Bylaws; the time, place, and purpose will be well publicized in accordance with these Bylaws throughout the CIO prior to each meeting; and,
- D. Comply with the Bylaws of the CIO and the City of Tualatin Ordinance #1328-11 as part of Tualatin Municipal Code 11-9. The CIO bylaws shall conform to the City of Tualatin Ordinance.

**Section 2. Inactive Organization.** If the CIO does not meet the above minimum criteria and comply with the Bylaws over a reasonable period of time as determined by the Citizen Involvement Coordinating Committee, the CIO shall be deemed to be inactive.

**Section 3. Recognition of Citizens Involvement Coordinating Committee (CICC).** Upon formation of a CICC as set out in Tualatin Municipal Code Chapter 11-9-100, the CIO will recognize and cooperate with the CICC in conjunction with other CIO's in Tualatin. The CIO Executive Board will make efforts to attend and participate in the CICC and to cooperate with efforts in furtherance of the CICC's stated goals.

**ARTICLE VII  
MISCELLANEOUS**

**Section 1. Grievances.** Any member objecting to or challenging any action of an officer, committee, or Executive Board shall provide written notice to the officer or members of the committee and to the Executive Board within 14 days of such action specifying the action objected to or challenged and the grounds for the objection or challenge. The Executive Board shall review the written objection or challenge and shall consider such action or refer the matter to the Citizen Involvement Coordinating Committee (CICC) if the objection or challenge involves a CIO officer or Executive Board member(s). The CICC may provide counsel and recommend resolution for such grievances to the Board. A grievance will only be considered if the grievance is an objection or challenge in which a representative of the CIO exceeded the authority granted by these Bylaws or an action was illegal.

**Section 2. Nonpartisan.** The CIO shall be nonpartisan and will not support or oppose candidates for public office.

**Section 3. Notice.** The requirements for notice to all members will be considered met when notice is provided and made available to members by written or electronic means, such as but not limited to posting on a CIO website.

**ARTICLE VIII  
AMENDMENTS**

**Section 1. Amendments.** These Bylaws may be amended at the Annual Meeting of the general membership at which a quorum is present, by a two-thirds majority favorable vote of all members present, provided that notice and substance of such an amendment shall have been given to all members of the Executive Board and to the CIO's membership at least 14 days prior to the date on which the amendment is to be considered.

**Section 2. Placement.** A current version of the Bylaws shall be kept by the Secretary, with a copy provided to the City, and shall be available to the membership.

**Approved this date of:** \_\_\_\_\_

**By:** \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

**Citizen Involvement Organization 4  
Officers**

**Debbie Maryanov - President**

Phone: (503) 885-8629

Email: [debmaryanov@gmail.com](mailto:debmaryanov@gmail.com)

Address: 8768 SW Iroquois Drive  
Tualatin, OR 97062

Elected: July 19, 2012

**Kay Dix- Vice President**

Phone: (503) 691-5974

Email: [kaydix@comcast.net](mailto:kaydix@comcast.net)

Address: 8777 SW Pamlico Court  
Tualatin, OR 97062

Elected: July 19, 2012

**Melinda Wittman - Secretary**

Phone: (503) 692-8515

Email: [flolyn@frontier.com](mailto:flolyn@frontier.com)

Address: 8794 SW Iroquois Drive  
Tualatin, OR 97062

Elected: July 19, 2012

**Vacant - Treasurer**

Phone:

Email:

Address:

Elected:

**Vacant - Land Use Officer**

Phone:

Email:

Address:

Elected:





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Linda Odermott, Paralegal  
Sean Brady, City Attorney

**DATE:** 10/22/2012

**SUBJECT:** An Ordinance Relating to Development; Amending the Manufacturing Business Park Planning District by Adding the Tonquin Light Manufacturing Overlay; Amending Tualatin Development Code 31.060 to Add a Definition of "Call Center or Customer Service Center;" Amending Tualatin Development Code Map 9-5; and Adding New Provisions (PTA-12-01)

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### ISSUE BEFORE THE COUNCIL:

The Council will consider an Ordinance that would amend the Manufacturing Business Park Planning District by adding the Tonquin Light Manufacturing Overlay; amend TDC 31.060 by adding the definition of "call center or customer service center;" amend TDC Map 9-5; and add a new provision to TDC Chapter 64.

### RECOMMENDATION:

Staff recommends that the City Council approve the Ordinance.

### EXECUTIVE SUMMARY:

On October 8, 2012, the Council held a public hearing on the Plan Text Amendment (PTA-12-01) to decide whether to approve the amendment to the Manufacturing Business Park Planning District by adding the Tonquin Light Manufacturing Overlay. At the conclusion of the public hearing, Council approved the amendment by a unanimous vote and directed staff to bring back the Ordinance for adoption at the next Council meeting.

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**Attachments:** [A - Ordinance](#)  
[B - Facts and Findings](#)  
[C - Map 9-5](#)

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

AN ORDINANCE RELATING TO DEVELOPMENT; AMENDING THE MANUFACTURING BUSINESS PARK PLANNING DISTRICT BY ADDING THE TONQUIN LIGHT MANUFACTURING OVERLAY; AMENDING TUALATIN DEVELOPMENT CODE 31.060 TO ADD A DEFINITION OF "CALL CENTER OR CUSTOMER SERVICE CENTER;" AMENDING TUALATIN DEVELOPMENT CODE MAP 9-5; AND ADDING NEW PROVISIONS (PTA-12-01)

WHEREAS the Community Development Department initiated a Plan Text Amendment by submitting PTA-12-01, seeking to amend the Manufacturing Business Park Planning District to add the Tonquin Light Manufacturing Overlay, amend Tualatin Development Code (TDC) 31.060 to add a definition of "call center or customer service center," and amend TDC Map 9-5 , and

WHEREAS the City provided notice of PTA-12-01 to the Oregon Department of Land Conservation and Development as provided under ORS 197.610; and

WHEREAS notice of public hearing was given as required by Tualatin Development Code 1.031; and

WHEREAS the Council conducted a public hearing on October 8, 2012, 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 voted unanimously to approve the application.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council adopts the "Facts and Findings," attached as Attachment A and incorporated herein.

Section 2. TDC 31.060 is amended to add the definition of "Call Center or Customer Service Center," to be placed in alphabetical order, and to read as follows:

Call Center or Customer Service Center. An operation that serves as a location to initiate or receive communications for others- via telephony, email, or internet- for the purposes of (1) promoting clients products or services; (2) taking orders for clients; (3) soliciting contributions for a client, and;(4) providing information or assistance regarding a client's products or services.

Section 3. A new section is added to TDC Chapter 64 to read as follows:

(1) Permitted Use. The following are permitted uses within the Tonquin Light Manufacturing Overlay shown on Map 9-5; and as restricted in TDC 64.021 and 73.160(4)(b):

(a) Uses allowed as permitted in the Manufacturing Business Park, TDC 64.020;

(b) Uses allowed as permitted in the Light Manufacturing Planning District, TDC 60.020;

(c) Contractor's Shop & Equipment Storage;

(d) Machine Shop, including automotive and truck machine shop, of 7,500 sq. ft. or larger;

(e) Cold Storage Warehouse;

(f) Motor Freight Facility including office, repair and maintenance, and transfer and storage for vehicles, equipment and materials; and

(g) Caretaker residence.

(2) Expanded or New Permitted Use. Expanded or new permitted uses, including expanded or new outdoor storage, shall be permitted as per TDC 64.036(1) and shall be reviewed according to TDC 31.074, Architectural Review Application Review Process, requiring both Architectural Features and Utility Facilities review per TDC Chapters 73 and 74.

(3) Nonconforming Use. All existing uses not listed as permitted uses in TDC 64.036 (1)-(2) are allowed as non-conforming uses. Expansion of these uses shall occur only to the extent and as provided in TDC 35.030.

(4) Conditional Use. The following uses are allowed when authorized in accordance with TDC Chapter 32:

(a) Restaurant, without drive-up or drive through facilities, with a maximum floor area of 3,000 square feet.

(b) Industrial card lock fueling facility with 3,000 feet separation from another facility.

(5) Prohibited Use. Prohibited uses shall be as per the underlying Manufacturing Business Park Planning District in TDC 64.040, except as permitted in TDC 64.036(1)-(4).



(6) Annexation Agreement. An Annexation Agreement shall be prepared when one (1) or more property owners within the Tonquin Light Manufacturing Overlay submits a petition for annexation to the City.

Section 4. TDC Map 9-5 is deleted and replaced with Amended TDC Map 9-5, which is attached as Attachment B and incorporated herein.

Section 5. Severability. If any section, subsection, clause, phrase, or part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance shall remain in full force and effect.

INTRODUCED AND ADOPTED this 22nd Day of October, 2012.

CITY OF TUALATIN, OREGON

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

ATTEST:

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



## PTA-12-01: ANALYSIS AND FINDINGS

The proposed amendment to the Tualatin Development Code (TDC) Chapter 64- Manufacturing Business Park-, is an application by the Community Development Department to add provisions for a “Tonquin Light Manufacturing Overlay” that would apply to certain properties in the Southwest Concept Plan (SWCP) area known as the Tonquin Industrial Group (TIG). The proposed amendment language is shown in Attachment A.

The Tonquin Industrial Group (TIG) includes six (6) business owners located on approximately 50 acres of land in the southeast part of the Southwest Concept Plan area north of SW Tonquin Road and west of the Portland & Western Railroad tracks. (See Attachment B). The TIG and proposed Tonquin Light Manufacturing Overlay properties are identified as Tax Lots:

2S134B 0500 & 0600;  
2S124C 0100, 0200 & 0300;  
2S134C 0900;  
2S134D 3100; 2S134DC 0300

None of the TIG properties are currently annexed to the City and are primarily classified as non-conforming in Washington County. The TIG members participated in the SWCP process and the implementing Plan Map and Plan Text Amendment process to advocate for their concerns about planning and development issues that affect their portions of the SWCP area and the SWRSIA designated by Metro.

Notice of public hearing was given as required under the TDC 1.031 by publication in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked “Exhibit F,” 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 G,” attached and incorporated by this reference; and by mailing a copy of notice to affected property owners, which is evidenced by the Affidavit of Mailing marked “Exhibit H,” attached and incorporated by this reference.

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below:

### **1. Granting the amendment is in the public interest.**

As identified by staff, the public interest is:

- 1) To be consistent with the Southwest Concept Plan (SWCP) and comply with the Metro requirements for the Southwest Concept Plan area including the Southwest Tualatin Regionally Significant Industrial Area (SWRSIA). This includes meeting large parcel development minimums, allowing a range of

industrial uses while limiting commercial activities and ensuring provision of infrastructure such as transportation, sewer, water and stormwater to the manufacturing uses in undeveloped portions of the SWCP area.

- 2) Be consistent with the policies and standards of the SWCP that were implemented in the Tualatin Development Code (TDC) including the Manufacturing Business Park (MBP) Planning District, Community Design Standards and Public Improvement Standards.
- 3) Consideration of the concerns of property owners in residential areas located in the vicinity of the SWCP area. The concerns include noise, dust, odor, screening of outdoor activities and traffic impacts associated with development in the SWCP area.
- 4) Responding to the direction of the City Council to address the concerns of the business and property owners in the TIG relating to allowed uses both in respect to the MBP standards as well as the existing uses on the TIG properties, non-conforming uses, annexation and availability of public facilities in the south portions of the SWCP area.

#### Public Interest #1.

In the adoption process of the SWCP and approval of Ordinances 1320-11 & 1321-11, the SWCP and its implementing TDC provisions including the Manufacturing Business Park standards in TDC Chapter 64 (PTA-10-04) and the MBP designation (PMA-10-02) were found to be consistent with Metro's Urban Growth Boundary expansion, the SWRSIA designation and the conditions related to the Urban Growth Management Functional Plan (UGMFPlan).

In addition to the standards of the MBP of TDC Chapter 64 and subject to the SWCP and the SWRSIA, the proposed Tonquin Light Manufacturing Overlay in PTA-12-01 applies to the Tonquin Industrial Group (TIG) properties located on the southern portion of the SWCP area. With the proposed PTA-12-01:

- The UGMFPlan/Metro Ordinance and SWCP requirements for one 50 acre and one 100 acre parcels in the SWCPlan area are still in effect. The proposed Overlay has provisions that reinforce the TDC Chapter 64- Manufacturing Business Park- requirement for approval of an Industrial Master Plan when development occurs and adds a requirement for properties in the Overlay to complete an Annexation Agreement with the City of Tualatin when TIG properties are considered for annexation.
- The proposed Overlay adds to the allowed uses of the Manufacturing Business Park in TDC 64.020 and 64.030 the permitted uses in the current Light Manufacturing Planning District (TDC 60.020) and a list of five other uses derived from the ML Planning District as permitted uses and two

conditional uses. The proposed Overlay uses in TDC 64.036 are consistent with the uses called for in the SWCP and SWRSIA.

- The proposed restaurant as a conditional use in TDC 64.036 will be limited to maximum floor area of 3,000 square feet, consistent with UGMFPlan Title 11 provisions for commercial service uses in Industrial Areas and the limited industrial-serving commercial activities allowed in the MBP within the designated Commercial Services Overlay (North of SW Blake Street, approximately 2,500 ft. and more from the Tonquin Light Manufacturing Overlay) in TDC 64.035.

The SWCP in accordance with UGMFPlan Title 11, the SWRSIA and the conditions of the Urban Growth Boundary expansion Ordinances addresses infrastructure provision in the MBP standards of TDC Chapter 64 with a requirement for an Industrial Master Plan for development in the SWCP area. The proposed Overlay amendment adds a requirement for properties in the Overlay to complete an Annexation Agreement with the City of Tualatin when TIG properties are considered for annexation. Both the Annexation Agreement and an Industrial Master Plan must address infrastructure planning in terms of needs, design, timing and funding options.

The proposed TDC amendment is consistent with the SWCP, Metro UGMFPlan Titles 4 and 11 and the Metro Urban Growth Boundary decision for the SWCP area. Public Interest #1 is satisfied.

Public Interest #2. The standards and requirements for the Manufacturing Business Park Planning District in Tualatin Development Code (TDC) Chapter 64 apply to the SWCP Area. The proposed PTA-12-01 adds the Tonquin Light Manufacturing Overlay to the MBP provisions in Chapter 64 to allow an expanded list of uses and certain standards for annexation and development on the Overlay properties. TDC Chapter 73 Community Design Standards and Chapter 74-Public Improvement Requirements will apply to development in the SWCP area, including the properties identified as part of the proposed Overlay.

The proposed Overlay adds to the MBP list of light industrial and high-tech uses allowed in TDC 64.020 the permitted uses from the existing ML Planning District (TDC Chapter 60.020) and a list of five permitted uses and two conditional uses that are existing businesses and uses within the TIG properties. The Overlay uses proposed in TDC 64.036 are similar to the MBP industrial uses in terms of the kind of activity and their off-site impacts or have been found to be appropriate in ML Planning Districts for a considerable period of time. For the TIG owners, the Overlay identifies the existing businesses as allowed uses, and avoids the limitations of a non-conforming use status for their financing and growth plans. For the SWCP area,



the Overlay uses are consistent with the SWCP policy allowing for light-medium manufacturing uses.

The application and requirements of the existing Community Design Standards in TDC Chapter 73 for on-site building and site development improvements and the Public Facilities Requirements in TDC Chapter 74 are unchanged by the proposed Overlay provisions and will continue to apply to development in the SWCP area, within the MBP district and for TIG properties in the Overlay. The requirement for an Annexation Agreement for annexation of Overlay properties and the requirement for an Industrial Master Plan in the MBPark will reinforce TDC requirements when they are adopted and when development in the Overlay is considered in the Architectural Review process.

The proposed amendment PTA-12-01 creating the Overlay with its allowed uses and standards will be consistent with the policies and standards of the SWCP, the MBP Planning District, Community Design Standards and Public Improvement Standards. This satisfies Public Interest #2.

Public Interest #3. The SWCP and the implementing standards and requirements of the MBP in TDC Chapter 64 considered the impacts of industrial development on existing and future residential areas that border the SWCP area on the east. The MBP accomplished this with a list of allowed uses was limited to activities that have little or manageable noise, odor, dust, and traffic impacts that may conflict with residential uses, the MBP requirements for large lots and campus-style development and setting standards for controlling outdoor activities with screening and separation distances.

The proposed Tonquin Light Manufacturing Overlay adds the ML Planning District list of uses and five other Light and General Manufacturing uses from TDC Chapters 60 and 61 to the existing MBP uses in 64.020 and 64.030. As mentioned in Public Interest #2 above, the added ML and Overlay uses are similar to the MBP uses allowed in TDC Chapter 64 and do not represent increased conflicts with residential areas that would be nearby to the Overlay designated TIG properties. All other existing TDC standards for development that can consider residential issues including building design, parking, screening, landscaping access, and public facilities traffic improvements will continue to apply in the Architectural Review process.

The proposed Overlay addresses the concerns for industrial development impacts on residential areas in the vicinity of the SWCP area.

Public Interest #4. The Tonquin Industrial Group business and property owners were active participants during the development and adoption of the SWCP and implementing TDC amendments for the Manufacturing Business Park. The City

Council heard and addressed the issues and concerns of the TIG during the public process for the SWCP while recognizing that the final adopted plan may not have resolved the TIG concern about non-conforming uses. When Council adopted the SWCP, they directed staff to continue working with TIG to find a way to allow the existing businesses in the TIG properties to annex to the City as conforming uses.

Prior to and following the adoption of the SWCP and the Manufacturing Business Park Planning District provisions in PTA-10-04, the Staff has continued to meet with the TIG group and their consultants to find a solution to their concerns while ultimately achieving the vision and goals of the Southwest Tualatin Concept Plan for the SWRSIA. As a product of the meetings, staff proposed the overlay approach that could address questions of allowed uses and development standards that the TIG agreed would be satisfactory.

The overlay will apply to the TIG properties, recognize the existing uses on the properties and allow for continuance and expansion consistent with existing Light Manufacturing (ML) Planning District standards. It includes means for annexation plans and Master Plans and standards of development that are intended to ensure adequate infrastructure and compliance with Tualatin's development standards. This satisfies Public Interest #4.

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

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

As addressed in Criterion A, granting the amendment is in the public interest. Following adoption of SWCP and implementing amendments in 2011, the City Council directed staff to work with the Tonquin Industrial Group to find a way to allow the existing businesses in the TIG properties to annex to the City as conforming uses. This step allowed the adoption SWCP to occur in a timely manner while committing to further discussions with TIG about their concerns.

The proposed PTA-12-01 creating a Tonquin Light Manufacturing Overlay in the Manufacturing Business Park Planning District follows the Council's direction while accommodating the TIG interests in a way consistent with the SWCP, Metro requirements and the TDC. This will allow TIG business and property owners to move forward with their annexation and development plans in a way that will be satisfactory to them. At the same time, the standards and requirements will ensure that the intent of the SWCP will be retained and TDC requirements will apply and not be left unresolved due to the timing and circumstances of development.

Granting the proposed PTA-12-01 Tualatin Development Code amendment at this time will follow the Council's direction to accommodate the needs and timing of TIG development while retaining all SWCP and TDC policies and requirements that are in the public interest.

Granting the amendment at this time best protects the public interest.

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

The applicable objectives of the Tualatin Community Plan relating to the SWCP, as contained in the Tualatin Development Code (TDC), were considered in PTA-10-04 and PMA-10-02 and adoption of the SWCP and found to have been met. The proposed amendment PTA-12-01 is consistent with the extensive discussion of the objectives relevant to PTA-10-04/PMA-10-02. Specific Objectives relevant to PTA-12-01 are discussed below:

#### **Chapter 4. Community Growth**

##### **Section 4.050. General Growth Objectives**

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

PTA-12-01 proposes the additional uses and standards for the Tonquin Light Manufacturing Overlay within the SWCP area and Manufacturing Business Park (MBP) Planning District that are intended to minimize conflicts between industrial uses and to residential areas that border the east side of the SWCP area. Overlay is consistent with the MBP district and will limit uses to those that are of a nature that will not conflict with other industrial uses or adjacent residential areas of the City. Coordinated design and development allows for maximized use of public facilities in the area. The objective is met

#### **Chapter 7. Manufacturing Planning Districts**

##### **Section 7.030. Objectives**

###### **(12) Protect residential, commercial, and sensitive industrial uses from the adverse environmental impacts of industrial use.**

PTA-12-01 proposes additional light manufacturing uses and standards of development for the portion of the SWCP area proposed for an Overlay. The existing MBP designation and development regulations minimize land use conflicts by providing an aesthetically attractive working environment with campus-like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee-oriented activity. The district also is intended to protect existing and future sites for such uses by maintaining large lot configurations, a cohesive planned-development design and limiting uses to those that are of a nature that will not conflict with other industrial uses or adjacent residential areas of the City. The proposed Overlay will maintain the MBP requirements that protect other uses including residential from adverse environmental impacts. The objective is met

Criterion “C” is met.

**4. The following factors were consciously considered:**

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

The 431 acre SWCP area and the SWRSIA is bounded on the north and partially on the east by the City of Tualatin. The balance of the area on the east, south and west is bounded by unincorporated Washington County. The area touches SW Tualatin-Sherwood Road and SW Blake Street on the north and SW Tonquin Road on the south. Adjacent land uses include the following: agricultural and newly developing light industrial to the north; rural, forestland, and aggregate extraction to the west; rural, industrial, and aggregate extraction to the south; and rural and residential to the east.

The TIG properties and proposed Tonquin Light Manufacturing Overlay are located at the southern portion of the SWCP area (Attachment D). The TIG properties are partially developed, have limited structural and site improvements, have a mix of vacant and developed parcels, a mix of cleared ground and of undisturbed areas with trees and occupied by a mix of existing various light industrial businesses. This area is bordered by the large gravel extraction facilities and has been outside the Urban Growth Boundary until 2004.

**Trends in land improvement and development.**

The proposed amendment responds to the desire of TIG owners to expand their businesses in light of the business growth and opportunity to be eligible for urban development and obtain urban services in an area currently restricted to Washington County zoning. The designation of the SWCP area and TIG properties as a SWRSIA represents a changing trend in the improvement and development of this area. The constraints of the availability and relatively unimproved condition of public facilities in the SWCP area remain a significant factor in development of the area.

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

The proposed amendment considers the needs of business and future development of the SWCP area. The Overlay is intended to provide TIG owners with a way to continue and enlarge their facilities in the promising SWCP area without the constraint of a non-conforming use designation that exists under the current TDC provisions .

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



The proposed amendment will not affect needed rights-of-way or access in the downtown area.

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

The proposed amendment will not affect natural resources in the City.

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

The proposed amendment has no relation to development of natural resources.

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

The proposed Overlay is consistent with the environmental and land use provisions that are in the MBP Planning District standards of TDC Chapter 64 and other TDC Chapters such as 63-Environmental Regulations, Chapter 73 Community Design Standards. The standards are intended to protect the public need for healthful, safe and aesthetic surroundings and conditions.

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

Staff does not assert proof of change in a neighborhood or area.

**Mistake in the Plan Text or Plan Map.**

Staff does not assert a mistake in the Plan Text or Plan Map.

**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.**

Because the amendment does not result in a change to plans or development regulations that would impact school facility capacity, the criterion is not applicable.

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

The Statewide Planning Goals were considered in preparation of the Southwest Tualatin Concept Plan and reviewed as part of PTA-10-04 and PMA-10-02. 12 of the Goals were considered and found to be met.

In regard to PTA-12-01 as an amendment to the MBPark provisions of TDC Chapter 64, staff determined that it does not affect the Goals in a way different from the findings and conclusions with the amendments of PTA-10-04.

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

The Metro Urban Growth Management Functional Plan (MUGMFP) was approved November 21, 1996, by the Metro Council, and became effective February 19, 1997. The purpose of the plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. The Functional Plan must be addressed when Community Plan Text and Map Amendments are proposed through the quasi-judicial or legislative processes. Specifically, Metro Code, Title III, Planning, Chapter 3.07 Urban Growth Management Functional Plan must be addressed, including the applicable Titles.

The UGMFPlan was adequately addressed in the findings and conclusions of PTA-10-04 and PMA-10-02 approving the SWCP and the implementing of the MBP Planning District. The proposed allowed uses (Permitted and Conditional) in PTA-12-01 conform to Title 4 Industrial and Other Employment Areas.

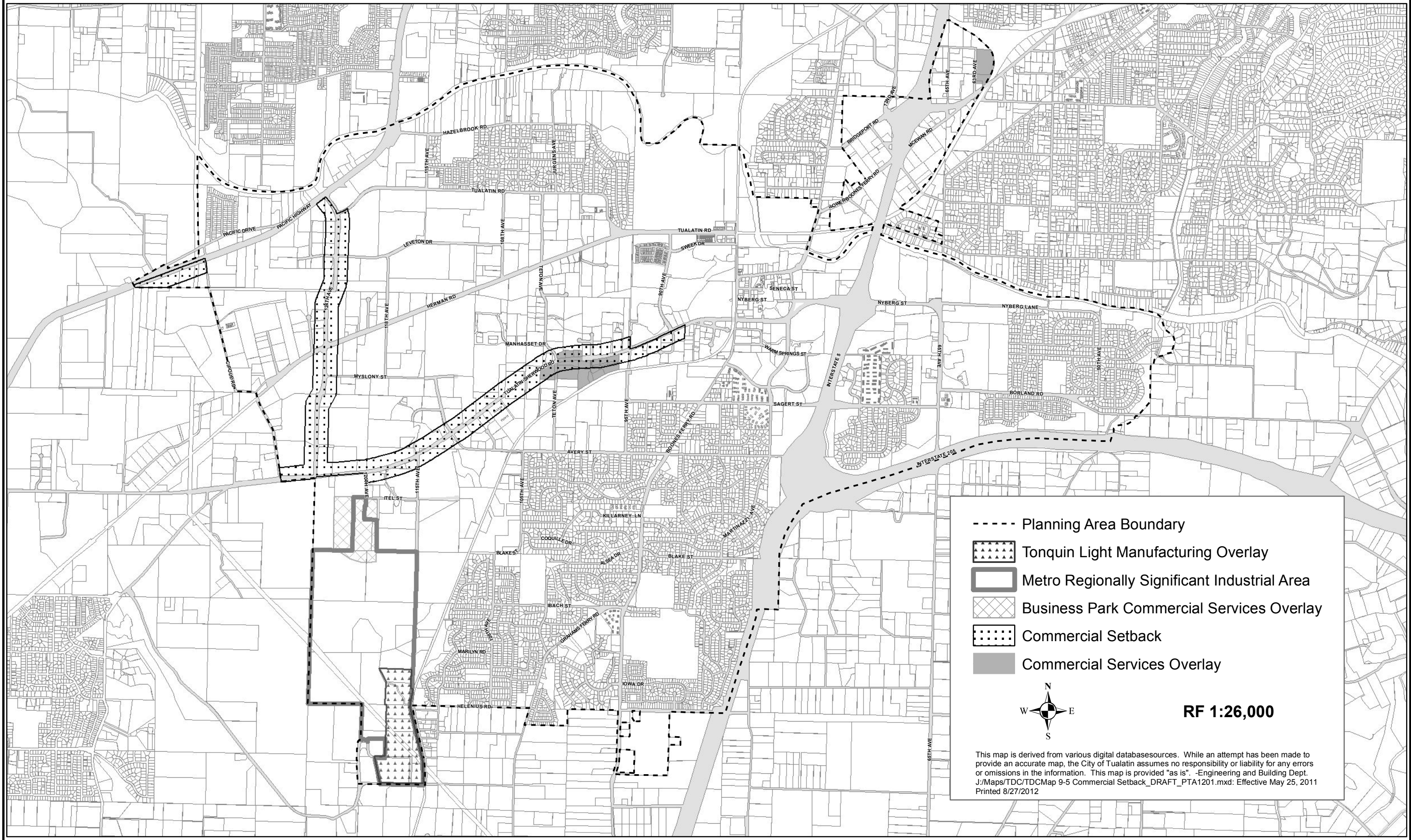
The proposed PTA-12-01 creating the Tonquin Light Manufacturing Overlay in TDC Chapter 64 is consistent with the findings and conclusions for the UGMFPlan in the adoption of PTA-10-04 and PMA-10-02.

The criterion 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.**

Because the amendment does not relate to vehicle trip generation, the criterion is not applicable.





- Planning Area Boundary
-  Tonquin Light Manufacturing Overlay
-  Metro Regionally Significant Industrial Area
-  Business Park Commercial Services Overlay
-  Commercial Setback
-  Commercial Services Overlay



**RF 1:26,000**

This map is derived from various digital databasesources. While an attempt has been made to provide an accurate map, the City of Tualatin assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. J:/Maps/TDC/TDCMap 9-5 Commercial Setback\_DRAFT\_PTA1201.mxd Effective May 25, 2011 Printed 8/27/2012