



MEMORANDUM

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

FROM: Sherilyn Lombos, City Manager

DATE: February 23, 2015

SUBJECT: Work Session for February 23, 2015

5:30 p.m. (30 min) – Marijuana Facilities. Staff is requesting Council consideration and discussion of code language to establish reasonable time, place and manner regulations for marijuana facilities.

6:00 p.m. (30 min) – Basalt Creek Project Update. Council will receive an update on the Basalt Creek Concept Plan project including progress made since the December 2nd joint City Council meeting with Wilsonville, and will be asked to provide direction to staff.

6:30 p.m. (20 min) – Council Advance Debrief. Council and staff will conduct a short debrief of the January 9 and 10, 2015 City Council Advance, including agreements, priorities and next steps.

6:50 p.m. (5 min) – Council Meeting Agenda Review, Communications & Roundtable. Council will review the agenda for the February 23rd City Council meeting and brief the Council on issues of mutual interest.



MEMORANDUM

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Cindy Hahn, Associate Planner
Aquilla Hurd-Ravich, Planning Manager and Alice Cannon, Assistant City Manager

DATE: 02/23/2015

SUBJECT: Discussion of proposed amendments to the Tualatin Development Code (TDC) Chapters 31, 60, 61, 64 and a new Chapter 80 to establish reasonable time, place and manner regulations for marijuana facilities. Plan Text Amendment 15-01 is a legislative matter.

ISSUE BEFORE THE COUNCIL:

City Council consideration and discussion of proposed code to establish reasonable time, place and manner regulations for marijuana facilities by adding a new **Chapter 80 Marijuana Facilities and Related Regulations**, adding definitions to **Chapter 31 General Provisions**, and adding marijuana facilities as allowed uses to **Chapter 60 Light Manufacturing**, **Chapter 61 General Manufacturing**, and **Chapter 64 Manufacturing Business Park** of the Tualatin Development Code. Staff is seeking direction from the City Council on the draft code language for the proposed amendment.

EXECUTIVE SUMMARY:

Regulation of marijuana facilities in the State of Oregon has a legislative history:

- November 1998 - Ballot Measure 67, the Oregon Medical Marijuana Act, was approved by Oregon voters.
- August 2013 - The Oregon Health Authority developed a process to register medical marijuana dispensaries under HB 3460.
- March 2014 - Senate Bill 1531 authorized local governments to adopt reasonable regulations regarding the hours of operation, location, and manner in which medical marijuana dispensaries are operated. Additionally, jurisdictions were allowed to enact a moratorium on dispensaries set to expire May 1, 2015.
- April 2014 - The City of Tualatin adopted Ordinance No. 1373-14 which placed a moratorium on medical marijuana facilities until May 1, 2015.
- November 2014 - Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. Measure 91 creates four types of licenses: producers, processors, wholesalers and retailers. The measure also recognizes

that local governments can adopt reasonable time, place and manner regulations of the nuisance aspects of businesses that sell marijuana to consumers.

Given that the City's moratorium is set to expire on May 1, 2015, the City must take action now to adopt an ordinance that establishes regulations of marijuana facilities in a timely manner.

The City Council has discussed this topic at several meetings over the past year expressing an interest in regulating marijuana uses. In February 2014 and April 2014 the discussion centered around moratoriums on marijuana uses. In August 2014 the City Council received an update on other Oregon cities' marijuana regulations. On October 27, 2014, the City Council received a briefing on the results from the Public Opinion Survey conducted by Riley Research Associates. On January 15, 2015, the Planning Commission received a briefing about regulating both medical and recreational marijuana facilities within the City, ballot Measure 91, and other Oregon city and county regulations for both types of facilities. The City Council was briefed on the same information on January 26, 2015. Based on these recent discussions staff has drafted code language summarized below.

PROPOSED CODE LANGUAGE

Definitions:

- Edible Marijuana - edible product that contains marijuana
- Homegrown Marijuana - marijuana grown or made by a person 21 years of age or older for noncommercial purposes
- Marijuana - all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.
- Marijuana Extracts - a product obtained by separating resins from the marijuana plant by solvent extraction.
- Marijuana Facilities - a commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC)

Planning Districts Where Marijuana Facilities are Permitted:

- Light Manufacturing (ML)
- General Manufacturing (MG)
- Manufacturing Business Park (MBP)

Standards for Marijuana Facilities:

- Must comply with all applicable State requirements
- Cannot be located within 3,000 feet, measured from the closest property lines, from any of the following:
 - Residential Planning District or residential uses

- Schools
- Library
- City Parks listed below:
 - Atfalati Park
 - Brown's Ferry Park
 - Ibach Park
 - Jurgens Park
 - Lafky Park
 - Little Woodrose Nature Park
 - Saarien Wayside Park
 - Stoneridge Park
 - Sweek Pond Natural Area Park
 - Tualatin Commons
 - Tualatin Commons Park
 - Tualatin Community Park
- Cannot be located within 2,000 feet, measured from the closest property line, of any other marijuana facility
- Cannot exceed 3,000 square feet in size
- Must be located in a permanent building and may not be located in a trailer, shipping container, cargo container, tent, motor vehicle, or other non-permanent structure
- Retail and dispensaries are prohibited from co-locating with other marijuana facilities
- Drive-through marijuana facilities are prohibited

Marijuana Facility Operating Restrictions:

- Hours of operation are limited to the hours between 10:00 a.m. and 8:00 p.m.
- Comply with the restrictions on edible marijuana
- Odors and other objectionable odors must be confined to levels undetectable at the property line
- Primary entrances must be located on street-facing facades and clearly visible from a public or private street
- Outdoor storage of merchandise, plants or other materials is prohibited

Edible Marijuana:

- All edible marijuana must be individually wrapped at the original point of preparation
- Labeling must be distinctly and clearly legible on the front of the package and must include:
 - a warning that the contents contain marijuana
 - a statement that the contents are not a food product; and
 - a statement emphasizing that the product is to be kept away from children
- Packaging of edibles must be in child-resistant packaging
- Packaging that makes the product attractive to children or imitates candy is prohibited
- Retail sale of edible marijuana products must be behind a commercial counter or in an

enclosed display case.

Butane Extraction:

- The production of marijuana extracts through the use of butane is prohibited

Homegrown Marijuana:

- Persons growing homegrown marijuana must comply with all applicable state law requirements
- Homegrown marijuana cannot be grown in the front yard of any property in a residential planning district and must comply with the following:
 - Fully screened from view on all sides
 - Located at least 10 feet away from all property lines and 25 feet away from all adjacent residences on neighboring properties
- No person may produce, process, keep, or store homemade marijuana extracts

Medical marijuana facilities are only allowed by state law in commercial, industrial or mixed use or agricultural land (ORS 475.314). Based on input from the Tualatin Planning Commission and the City Council, the downtown area was not recommended as an appropriate location for marijuana facilities. After applying a 3,000 foot buffer to residential areas and excluding commercial planning districts that are found in or near the downtown area, manufacturing planning districts were left as viable opportunities excluding Manufacturing Park (Tualatin Development Code Chapter 62). Attachment 101 shows the part of the City where marijuana facilities would be allowed based on the above buffer restrictions. Attachment 102 includes the draft proposed code language, and Attachment 103 contains the analysis and findings for the proposed amendments.

PUBLIC COMMENT

The City sought input from the public in the form of a public opinion survey the results of which were presented to the City Council during a work session on October 27, 2014. The February 19, 2015, meeting of the Planning Commission gave citizens and members of the public an additional opportunity to comment on the proposed text amendments and for the Planning Commission to consider these comments when making a recommendation to the City Council. A public hearing is scheduled for March 9, 2015, during which the public will have another opportunity to give input on the proposed amendment.

NEXT STEPS

A public hearing on the proposed amendments is scheduled for March 9, with adoption of an ordinance occurring on March 23, 2015. It is critical that an ordinance be adopted by March 31, 2015, so that it will become effective before the City-wide moratorium on medical marijuana dispensaries expires on May 1, 2015.

DISCUSSION:

At the work session on January 26, 2015, staff provided a presentation and heard discussion from Council regarding the regulation of marijuana facilities. The draft code reflects the Council's discussion and direction to staff. We are here to tonight to verify that the proposed code language captures your policy direction or to make changes deemed necessary by the Council.

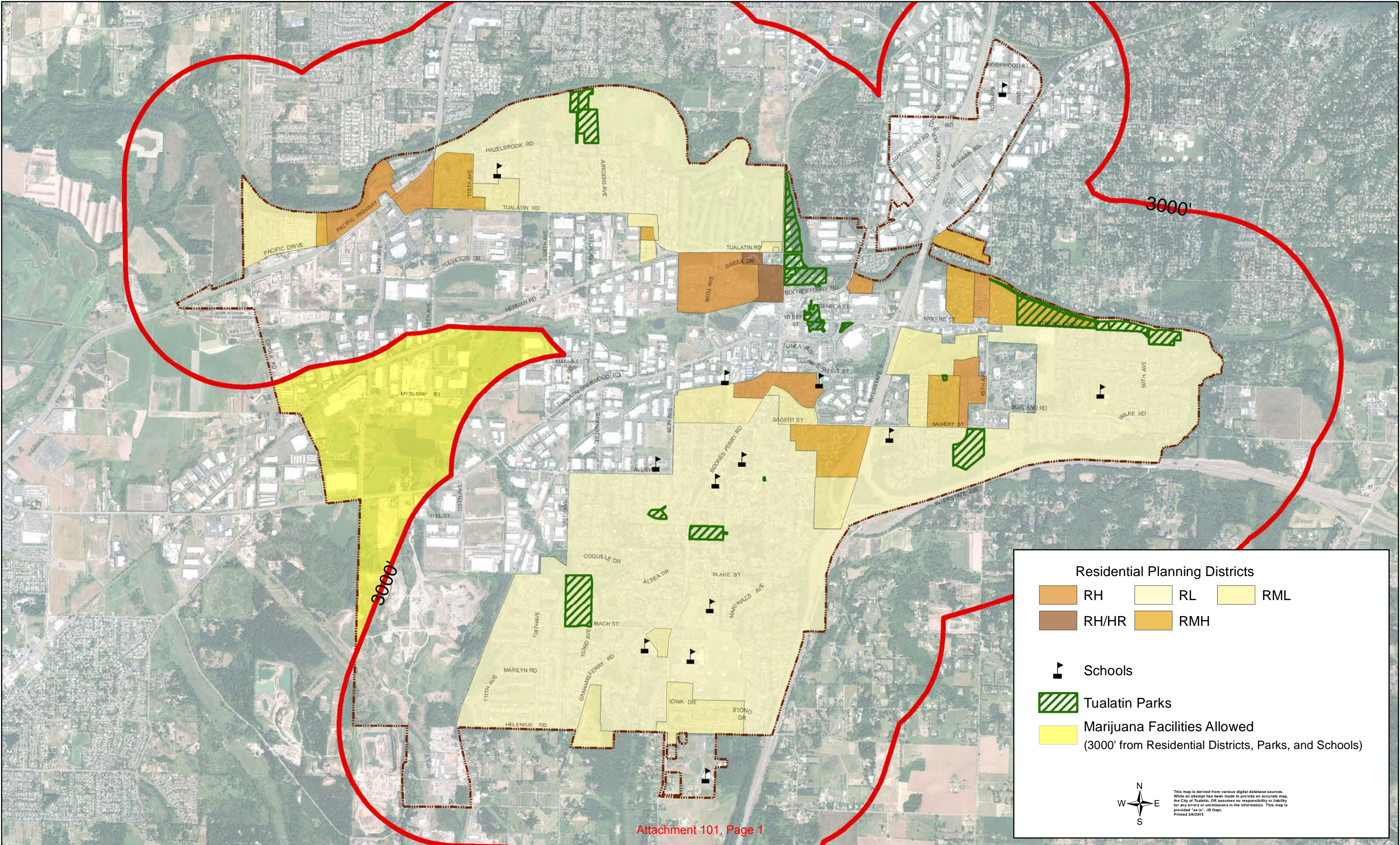
FINANCIAL IMPLICATIONS

The FY 2014/2015 budget accounts for the costs of City initiated code amendments.

RECOMMENDATION:

Staff recommends City Council consideration of an ordinance regulating marijuana facilities.

Attachments: 101. Marijuana Facilities Map
 102. Draft Proposed Code Language
 103. Draft Analysis and Findings
 104. Presentation



Residential Planning Districts

RH	RL	RML
RH/HR	RMH	

Schools

Tualatin Parks

Marijuana Facilities Allowed
(3000' from Residential Districts, Parks, and Schools)

N

W

S

E

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is" - JS Dept. Printed 2/4/2015

City of Tualatin

Marijuana Facilities Draft Code Language

Key for the document:

Existing Code Language

~~Revised Existing Code Language~~

New Code Language

Section 31.060 Definitions.

Manufacturing. As used in the Manufacturing Planning districts, manufacturing means the creation of basic parts of a manufactured product from raw materials. See also Assembly.

Marijuana. All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

Marijuana, edible. Edible product that contains marijuana.

Marijuana extract. A product obtained by separating resins from the marijuana plant by solvent extraction.

Marijuana facilities. A commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

Marijuana, homegrown. Marijuana grown or made by a person 21 years of age or older for noncommercial purposes.

Marquee. A projecting, permanent, roofed structure attached to and supported only by a building.

Section 60.020 Permitted Uses.

No building, structure or land shall be used in this district, except for the following uses as restricted in

TDC 60.021:

(1) Assembly, packaging, processing and other treatment of products, such as dairy products, and soft drinks.

(2)(15) Assembly and packaging of small electrical and electronic appliances, such as radios, televisions, phonographs, audio, video and computer equipment, and office machines.

(3)(2) Assembly of the following types of products:

(a) Bicycles.

(b) Small electric generators.

(c) Small electric motors.

(d) Marine pleasure craft.

(e) Sashes and doors.

(f) Vending machines

(4)(25) Child day care center, provided it is in a building with manufacturing, processing, assembling, warehousing or wholesaling uses and provided all exterior walls and outdoor play areas shall be at least 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(5)(3) Contractor's office.

(6)(29) Electrical substation.

(7)(4) Electroplating.

(8)(26) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

(9)(11) Laboratories: testing, medical, dental, photo, or motion picture, except structural-mechanical testing laboratories.

(10)(5) Laundry, dry cleaning, dyeing or rug cleaning plant (non-retail).

(11)(6) Machine shop, including automotive machine shop, of less than 7,500 gross square feet.

(12)(17) Manufacture of musical instruments, toys and novelties.

(13)(16) Manufacture of pottery and ceramics, using only previously pulverized clay.

(14)(7) Manufacture of the following types of products:

(a) Cabinets.

(b) Furniture.

(c) Mattresses.

(d) Scientific, medical or dental laboratory measuring, analyzing and controlling equipment, and related tools and supplies.

(15) Marijuana Facility, subject to the provisions of TDC Chapter 80.

(16)(18) Molding of small products from plastic.

(17)(30) Natural gas pumping station.

(18)(10) Offices for executive, administrative, and professional uses related to the sale or service of industrial products.

(19)(33) Other uses of similar character found by the Planning Director to meet the purpose of this district, as provided in TDC 31.070.

(20)(14) Processing, assembly, packaging, and other treatment of small products manufactured from the following previously prepared or semi-finished materials: bone, hair, fur, leather, feathers, textiles, plastics, glass, wood, paper, cork, wire up to 1/4 inch (0.25") in diameter, rubber, and rubber compounds, precious or semi-precious stones, and similar small products composed of previously prepared or semi-finished materials.

(21)(13) Processing, assembly, packaging, and other treatment of such products as small hand tools, optical goods, hearing aids, and scientific instruments or equipment.

(22)(12) Processing, assembly, packaging, or other treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries.

(23)(24) Production of agricultural crops.

(24)(28) Public works shop and storage yard.

(25)(22) Publishing and printing (non-retail).

(26)(19) Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, that are products primarily sold wholesale to other industrial firms or industrial workers.

(27)(23) Sewer and water pump stations, pressure reading stations, water reservoir.

(28)(35) Shared service facilities.

(29)(8) Spinning or knitting of fibers.

(30)(9) Storage of automobiles, boats, buses, trailers, and recreational vehicles, except not allowed in the Special Commercial Setback, TDC 60.035(1-3).

(31)(27) Telephone exchange or switching facility.

(32)(21) Trade or industrial schools.

(33)(34) Transportation facilities and improvements.

(34)(20) Warehousing related to the above uses; and warehousing for merchandise or goods normally sold or owned in commercial or residential planning districts, but excluding direct retail sales to customers from such warehouse structure, and excluding the storage of hazardous materials.

(35)(32) Wireless communication facility.

(36)(31) Wireless communication facility attached.

[Ord. 812-90 §3, 9/24/90; renumbered by Ord. 824-91 §11, 2/11/91; renumbered by Ord. 831-91 §1, 5/13/91; Ord. 849-91 §32, 11/25/91; Ord. 911-94 §2, 2/14/94; Ord. 913-94 §5, 2/28/94; Ord. 965-96 §68, 12/9/96; Ord. 979-97 §24, 7/14/97; Ord. 1003-98 §3, 4/27/98; Ord. 1026-99 §74, 8/9/99; Ord. 1046-00 §8, 2/14/00; Ord. 1050-00 §1, 3/13/00; Ord. 1122-02, 11/25/02; Ord. 1103-02, 3/25/02; Ord. 1133-03, 3/24/03; Ord. 1164-04 §2, 6/28/04]

Section 60.021 Restrictions on Permitted Uses in ML.

The following restrictions shall apply to those uses listed as permitted uses in **TDC 60.020**:

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use and outdoor play areas of child day care centers as required by state day care certification standards.

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

(3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on **Map 9-4** shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on **Map 9-4** shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following two exceptions, which shall not be subject to the size limitations stated in this subsection:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on **Map 9-5**, and as specified in **TDC 60.035**.

(ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in **TDC Chapter 69**.

(iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

(4) Marijuana facilities are subject to TDC chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

[Ord. 1212-06, 06/26/06; Ord. 1370-14 §3, 03/24/14]

Section 61.020 Permitted Uses.

No building, structure or land shall be used, except for the following uses as restricted in **TDC 61.021**.

- (1) All uses permitted by TDC 60.020 and 60.037 in the Light Manufacturing Planning District.
- (2) Assembly, packaging, processing, and other treatment of beer, coffee, and canned goods.
- (3) Assembly of electrical appliances, such as refrigerators, freezers, washing machines, and dryers.
- (4) Auto body and/or paint shop; auto machine shop; auto radiator repair shop; general auto and light truck repair, including but not limited to, repairing and rebuilding engines and repair of transmissions, drivelines and rearends except not allowed in the Special Commercial Setback, TDC 61.035(1-3).
- (5) Chemical warehouse and distribution.
- (6) Cold storage plant.
- (7) Concrete batch plant, except not allowed in the Leveton Tax Increment District.
- (8) Manufacture of the following types of products:
 - (a) Batteries.
 - (b) Boilers.
 - (c) Bottles.
 - (d) Brick, tiles, or terra cotta.
 - (e) Cans.
 - (f) Chainsaws.
 - (g) Electric generators.

- (h) Electric motors.
- (i) Electric transformers.
- (j) Engines, larger gasoline or diesel.
- (k) Heating and cooling equipment.
- (l) Industrial gases, excluding chlorine.
- (m) Ladders.
- (n) Lawnmowers.
- (o) Manufactured Dwellings.
- (p) Motor vehicles.
- (q) Paint.
- (r) Pet food.
- (s) Prefabricated building or structural members for buildings.
- (t) Rototillers.
- (u) Signs and display structures.
- (v) Windows.

(9) Marijuana Facility, subject to the provisions of TDC Chapter 80.

(10)(9) Metal casting (small to large size).

(11)(10) Metal fabrication (light to medium) (of unfinished or semi-finished metals).

(12)(11) Petroleum product distribution and storage.

(13)~~(12)~~ Planning mill.

(14)~~(13)~~ Processing, assembly, packaging, and other treatment of small products manufactured from sheet metal, wire larger than 1/4 inch (0.25") in diameter, or tobacco.

(15)~~(14)~~ Production of agricultural crops.

(16)~~(15)~~ Sale, service and rental of industrial machinery including machine tools, processing, and packaging machinery, forklifts, hoists and conveyors.

(17)~~(16)~~ Sandblasting.

(18)~~(17)~~ Storage and retail sale of rock, gravel, barkdust, sawdust, coal or topsoil except not allowed in the Special Commercial Setback, TDC 60.035(1-3).

(19)~~(18)~~ Structural-mechanical testing laboratories.

(20)~~(19)~~ Welding shop.

(21) Wireless communication facility.

(22)~~(20)~~ Wireless communication facility attached.

(23)~~(22)~~ Other uses of a similar character found by the Planning Director to meet the purpose of this district, as provided in TDC 31.070.

(24)~~(23)~~ Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.

[Ord. 592-83, 6/13/83; Ord. 621-84, 2/13/84; Ord. 812-90, 9/24/90; Ord. 819-91, 1/14/91; Ord. 911-94, 2/14/94; Ord. 913-94, 2/28/94; Ord. 965-96, 12/9/96; and Ord. 988-97, 12/8/97;. Ord. 1003-98, 4/27/98; Ord. 1026-99, 8/9/99; Ord. 2046-00, 2/14/00; Ord. 1133-03, 03/24/03; Ord. 1122-02, 11/25/02; Ord. 1212-06, 06/26/06]

Section 61.021 Restrictions on Permitted Uses.

The following restrictions shall apply to those uses listed as permitted uses in **TDC 61.020**:

- (1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use and outdoor play areas of child day care centers as required by state day care certification standards.
- (2) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided that the retail sale area, including the showroom area, shall be no greater than 5% of the gross floor area of the building not to exceed 1,500 square feet.
- (3) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:
 - (a) Retail uses on land designated Employment Area or Corridor on **Map 9-4** shall not be greater than 60,000 square feet of gross floor area per building or business.
 - (b) Retail commercial, retail service and professional service uses on land designated Industrial Area on **Map 9-4** shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following two exceptions, which shall not be subject to the size limitations stated in this subsection:
 - (i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on **Map 9-5**, and as specified in **TDC 61.035**, except 61.035(4)(b).
 - (ii) Development approved through the application of the Industrial Business Park Overlay District to certain properties, as specified in **TDC Chapter 69**.
 - (iii) Development approved through the application of standards for additional small-scale mixed uses in ML as specified in TDC 60.037-60.038.

(4) Marijuana facilities are subject to TDC Chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

[Ord. 1212-06, 06/26/06; Ord. 1370-14 §10, 3/24/14]

Section 64.020 Permitted Uses.

No building, structure or land shall be used except for the following:

- (1)~~(18)~~ Accessory Uses, incidental and subordinate to a permitted or conditionally permitted primary use.
- (2)~~(9)~~ Corporate, regional, or district office headquarters for any use permitted in this Code, provided that the offices occupy at least 20,000 square feet and that no manufacturing is conducted where not otherwise permitted in this chapter.
- (3)~~(14)~~ Electrical substation.
- (4)~~(3)~~ Food and beverage product processing and packaging.
- (5)~~(11)~~ Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.
- (6)~~(2)~~ Manufacture, assembly and production uses except the uses and activities listed as prohibited in **TDC 64.040**:
- (7) Marijuana Facility, subject to the provisions in TDC Chapter 80.
- (8)~~(4)~~ Metal fabrication (light to medium) (of unfinished or semi-finished metals).
- (9)~~(5)~~ Molding of products from plastic and ceramic materials.
- (10)~~(15)~~ Natural gas pumping station.
- (11)~~(8)~~ Offices when part of a manufacturing use as listed in ~~(1) through (7) above~~ 4, 6, 8, 9, 13, 16 and 19 of this section.
- (12)~~(19)~~ Other uses of similar character, when found by the Community Development Director to meet the purpose of this district, as provided in **TDC 31.070**.
- (13)~~(6)~~ Printing and publishing.

(14)(10) Private parking lot improved and landscaped in accordance with **TDC Chapter 73**.

(15)(13) Public works shop and storage yard.

(16)(11) Research and development offices and laboratories for chemical, engineering, and physical sciences; medical and pharmaceutical products; alternative energy production from sources such as solar and wind; industrial products and consumer products.

(17)(12) Sewer and Water Pump Station, Pressure Reading Station. Water Reservoir.

(18)(17) Transportation Facilities and Improvements.

(19)(7) Warehousing related to ~~the above~~ uses 4, 6, 8, 9, 13 and 16 of this section.

(20)(16) Wireless communication facility attached.

[Ord. 13211-11 §56, 04/25/11]

Section 64.021 Restrictions on Permitted Uses.

The following restrictions shall apply to those uses listed as permitted uses in **TDC 64.020**.

(1) The use must be conducted wholly within a completely enclosed building, except off-street parking and loading, utility facilities, wireless communication facilities, outdoor storage of materials and products directly related to the permitted use

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

(3) Marijuana facilities are subject to TDC chapter 80. To the extent there is a conflict between the provisions in this Chapter and the provisions in TDC Chapter 80, the provisions in TDC Chapter 80 apply.

[Ord. 13211-11 §57, 04/25/11]

(Editor's Note: New Code Section)

TUALATIN DEVELOPMENT CODE CHAPTER 80

MARIJUANA FACILITIES AND RELATED REGULATIONS.

Sections:

80.010 Purpose.

80.020 Definitions.

80.030 Relationship to Other Standards.

80.050 Planning District Where Marijuana Facilities Permitted.

80.060 Standards for Marijuana Facilities.

80.070 Marijuana Facility Operating Restrictions.

80.100 Edible Marijuana.

80.200 Butane Extraction

80.300 Homegrown Marijuana.

80.400 Violations.

80.010 Purpose. The purpose of this chapter is to:

- (1) Protect the general health, safety, property, and welfare of the public;
- (2) Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
- (3) Prevent or reduce criminal activity that may result in harm to persons or property;
- (4) Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors;
and
- (5) Minimize impacts to the City's public safety services by reducing calls for service.

80.020 Definitions.

- (1) "Edible marijuana" means edible product that contains marijuana.
- (2) "Homegrown marijuana" means marijuana grown or made by a person 21 years of age or older for noncommercial purposes.
- (3) "Marijuana" means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

- (4) “Marijuana extract” means a product obtained by separating resins from the marijuana plant by solvent extraction.
- (5) “Marijuana facilities” means a commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

80.030 Relationship to Other Standards.

- (1) The provisions of this Chapter apply to all marijuana facilities requiring a state license or registration.
- (2) The regulations in this Chapter are in addition to other development code standards, including all base zone standards. Sites with overlay zones, plan districts, inventoried hazards, and/or sensitive lands are subject to additional regulations. Specific uses or development types may also be subject to regulations set forth elsewhere in this title.
- (3) To the extent there is a conflict between other provisions in the Tualatin Development Code and the provisions of this Chapter, the provisions in this Chapter apply.

80.050 Planning Districts Where Marijuana Facilities Permitted. Marijuana facilities are permitted in the following planning districts and subject to the other provisions of this Chapter:

- (1) Light Manufacturing (ML)
- (2) General Manufacturing (MG); and
- (3) Manufacturing Business Park (MBP).

80.060 Standards for Marijuana Facilities.

- (1) All Marijuana facilities must comply with all applicable State requirements.
- (2) Marijuana Facilities cannot be located within 3,000 feet, measured from the closest property lines, from any:
 - (a) Residential Planning District or residential uses;
 - (b) City Park listed below:
 - (i) Atfalati Park
 - (ii) Brown’s Ferry Park
 - (iii) Ibach Park
 - (iv) Jurgens Park
 - (v) Lafky Park
 - (vi) Little Woodrose Nature Park
 - (vii) Saarinen Wayside Park
 - (viii) Stoneridge Park
 - (ix) Sweek Pond Natural Area Park
 - (x) Tualatin Commons
 - (xi) Tualatin Commons Park
 - (xii) Tualatin Community Park
 - (c) School; as defined in Chapter 31 of the Tualatin Community Development Code; and

(d) Library.

(3) Marijuana Facilities cannot be located within 2,000 feet, measured from the closest property line, of any other marijuana facility.

(4) Marijuana facilities cannot exceed 3,000 square feet in size.

(5) Marijuana facilities must be located in a permanent building and may not be located in a trailer, shipping container, cargo container, tent, motor vehicle, or other non-permanent structure.

(6) Retail and dispensaries ~~marijuana facilities~~ are prohibited from co-locating with other marijuana facilities.

(7) Drive-through marijuana facilities are prohibited.

80.070 Marijuana Facility Operating Restrictions. Marijuana facilities must comply with the following operating restrictions:

(1) Hours of operation are limited to the hours between 10:00 a.m. and 8:00 p.m.

(2) Comply with the restrictions on edible marijuana as provided in TDC 80.100.

(3) All marijuana odors and other objectionable odors must be confined to levels undetectable at the property line.

(4) Primary entrances must be located on street-facing facades and clearly visible from a public or private street.

(5) Outdoor storage of merchandise, plants or other materials is prohibited.

80.100 Edible Marijuana. Marijuana facilities that produce, process, wholesale, distribute, transfer, or sell edible marijuana must comply with the following provisions:

(1) All edible marijuana must be individually wrapped at the original point of preparation.

(2) Labeling must be distinctly and clearly legible on the front of the package and must include:

(a) a warning that the contents contain marijuana;

(b) a statement that the contents are not a food product; and

(c) a statement emphasizing that the product is to be kept away from children.

(3) Packaging of edibles must be in child-resistant packaging.

(4) Packaging that makes the product attractive to children or imitates candy is prohibited.

- (5) Retail sale of edible marijuana products must be behind a commercial counter or in an enclosed display case.

80.200 Butane Extraction. The production of marijuana extracts through the use of butane is prohibited.

80.300 Homegrown Marijuana.

- (1) Persons growing homegrown marijuana must comply with all applicable state law requirements.
- (2) Homegrown marijuana cannot be grown in the front yard of any property in a residential planning district and must comply with the following:
 - (a) Be fully screened from view on all sides.
 - (b) Be located at least 10 feet away from all property lines and 25 feet away from all adjacent residences on neighboring properties.
- (3) No person may produce, process, keep, or store homemade marijuana extracts.

80.400 Violations.

- (1) Any person who violates any provision of this Chapter commits a civil infraction and is subject to a fine of up to \$1,000. Each violation, and each day that a violation continues, is a separate civil infraction.
- (2) The civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of this Chapter.

PTA-15-01: ANALYSIS AND FINDINGS DRAFT

MARIJUANA FACILITIES

Plan Text Amendment 15-01 (PTA-15-01) proposed definitions and reasonable time, place and manner restrictions of Marijuana Facilities by amending the Tualatin Development Code.

Amendments are proposed to the following chapters:

- Chapter 31 General Provisions;
- Chapter 60 Light Manufacturing;
- Chapter 61 General Manufacturing;
- Chapter 64 Manufacturing Business Park
- Chapter 80 Marijuana Facilities

Background

The City of Tualatin proposes legislative amendments to the Tualatin Development Code (TDC) to establish reasonable time, place and manner regulations for marijuana facilities. Proposed changes include new definitions added to Section 31.060 Definitions; Creating a new Chapter 80 Marijuana Facilities which regulates such aspects as hours of operation, buffer distances from Residential Planning Districts, residential uses, schools, park and libraries, buffers from other facilities and off site odor standards, edible marijuana, butane extraction and homegrown marijuana; adding Marijuana Facilities as an allowed use in Light and General Manufacturing and the Manufacturing Business Park Planning District (Chapters 60,61 and 64).

The Analysis and Findings presented here pertain only to the Plan Text Amendment proposed to amend language in the Tualatin Development Code.

Plan Amendment Criteria (TDC Section 1.032)

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.

The State of Oregon has a legislative history dating back to 1998 which has progressively allowed businesses and land uses to produce, process, wholesale and retail marijuana and marijuana products.

Legislative History

November 1998- Ballot Measure 67, the Oregon Medical Marijuana Act, was approved by Oregon voters.

August 2013- The Oregon Health Authority developed a process to register medical marijuana dispensaries under HB 3460.

March 2014- Senate Bill 1531 authorizes local governments to adopt reasonable regulations regarding the hours of operation, location, and manner in which medical marijuana dispensaries are operated. Additionally, jurisdictions were allowed to enact a moratorium on dispensaries set to expire May 1, 2015.

April 2014- The City of Tualatin adopted Ordinance No. 1373-14 which placed a moratorium on medical marijuana facilities until May 1, 2015.

November 2014- Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. Measure 91 creates four types of licenses: producers, processors, wholesalers and retailers. The measure also recognizes that local governments can adopt reasonable time, place and manner regulations of the nuisance aspects of businesses that sell marijuana to consumers.

FINDING: Through state legislation, local jurisdictions have the ability to regulate the time, place and manner of marijuana facilities. Absent local regulations marijuana facilities have the ability to locate in the City in accordance with State regulations.

The City hired Riley Research Associates to conduct a Public Opinion Survey among Tualatin residents to gauge their level of support for Marijuana Dispensaries (Exhibit A). While the poll found that a majority of those surveyed supported both medical and recreational dispensaries, the polling also revealed recommendations for time place and manner regulations.

The City Council has discussed this topic at several meetings over the past year expressing an interest in regulating marijuana uses. In February 2014 and April 2014 the discussion centered around moratoriums on marijuana uses. In August 2014 they received an update on other Oregon cities' marijuana regulations. Finally, on October 27, 2014 the Council received a briefing on the results from the Public Opinion Survey conducted by Riley Research Associates (Exhibit A).

Based on the laws changing at the State level regarding marijuana uses, the public opinions gathered through a City sponsored research and the discussions of the elected officials it is in the Public's interest to grant this amendment.

Granting the amendment is in the public interest.

Criterion “1” is met.

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

FINDING: Two pieces of legislations effectively placed a moratorium on marijuana facilities until May 1, 2015. The first piece was Senate Bill 1531 which authorized cities to enact a moratorium and the second piece is City of Tualatin Ordinance No. 1373-14 which created the city wide moratorium on marijuana facilities. According to Chapter VIII Section 36 of the City Charter, Ordinances take effect 30 days after Council adoption.

In order to implement reasonable time, place and manner regulations when the moratorium ends, the public interest is best protected by granting the amendment at this time.

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

Criterion “2” is met.

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 discussed below:

Chapter 7 Manufacturing Planning Districts

Section 7.040 Manufacturing Planning District Objectives

(2) Light Manufacturing Planning District

Suitable for warehousing, wholesaling and light manufacturing processes that are not hazardous and that do not create undue amounts of noise, dust, odor, vibration, or smoke. Also suitable, with appropriate restrictions, are the retail sale of products not allowed for sale in General Commercial areas, subject to the Special Commercial Setback from arterial streets and Commercial Services Overlay as generally illustrated in [Map 9-5](#) and specifically set forth in [TDC 60.035](#), and office commercial uses where any portion of a legally created lot is within 60 feet of a CO Planning District boundary.

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

(3) General Manufacturing Planning District

Suitable for light manufacturing uses and also for a wide range of heavier

manufacturing and processing activities. Such areas could be expected to be more unsightly and to have more adverse environmental effects.

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

(4) Manufacturing Business Park Planning District

The purpose of the MBP Planning District is to provide an environment for industrial development consistent with the Southwest Tualatin Concept Plan (accepted by the City in October 2010) and as a Metro-designated Regionally Significant Industrial Area (RSIA) consistent with Metro's Urban Growth Boundary expansion decisions of 2002 and 2004.

The MBP Planning District will be a mix of light industrial and high-tech uses in a corporate campus setting, consistent with MBP Planning District development standards.

FINDING: Marijuana Facilities as defined will include commercial or public use or structure where marijuana is sold, or consumed, produced, processed, distributed, transferred, sold, or consumed. The retail sale of marijuana is not proposed as a permitted use in General Commercial areas of the City and therefore are suitable for Light Manufacturing, General Manufacturing and Manufacturing Business Park with appropriate restrictions. All remaining types of facilities are appropriate for Light Manufacturing and General Manufacturing such as warehousing, wholesaling or manufacturing process.

The proposed development standards restrict all marijuana facilities to 3,000 square feet in size and therefore comply with objectives of this Chapter.

Facilities that receive a processor license from the OLCC are business that will transform raw marijuana into another product or extract. They are also responsible for packaging and labeling of recreational marijuana. This type of use is not expected to create undue amounts of noise, dust, vibration or smoke; however these facilities may produce an odor and there may be hazardous processes associated with extraction. Proposed development standards require that developments confine all marijuana odors and other objectionable odors to levels undetectable at the property line. Tualatin Valley Fire and Rescue reviews all proposed developments and building permits and therefore will regulate any hazardous processes associated with extraction.

Chapter 10. Community Design

Section 10.020 Design Objectives.

(4) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

(8) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment; and thus promote and protect the peace, health and welfare of the City.

FINDING: The proposed text amendments are intended to protect and enhance the City's appeal to tourists and visitors by providing for additional development standards beyond what is currently required by the Tualatin Development Code in Chapter 73 Design Standards.

These development standards include:

- hours of operations;
- location of primary entrances facing public or private streets;
- location in a permanent building;
- prohibiting outdoor storage;
- prohibiting drive-through facilities
- buffers from residential land
- buffers between facilities

Additionally, the proposed text amendment are intended to sustain the comfort, health, tranquility and contentment of residents by placing regulations on home grow uses that require plants to be grown 10 feet away from property lines, 25 feet away from residences on neighboring properties and limiting growing to back yards.

The proposed development standards allow the development of marijuana facilities within the City in a manner that is compatible with surrounding land uses and public facilities.

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

Criterion "3" is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

FINDING: The characteristics of manufacturing and commercial areas were considered in preparation of the text amendments. Medical marijuana facilities are only allowed by state law in commercial, industrial or mixed use or agricultural land (ORS 475.314). Based on input from the Tualatin Planning Commission and the Tualatin City Council, the downtown

area was not recommended as an appropriate location for marijuana facilities. After applying a 3,000 foot buffer to residential areas and excluding commercial planning districts that are found in or near the downtown area, manufacturing planning districts were left as viable opportunities excluding Manufacturing Park (Tualatin Development Code Chapter 62).

Infrastructure such as roads, water lines and sanitarily sewer lines in the Manufacturing Park Planning District were built with tax increment financing. The purpose for doing this was to open new lands for employment and industry and over the last 26 years it has accommodated 35 new employers and 2,200 jobs. Therefore, the City strives to maintain this area for high tech or other campus style industrial development.

Based on the above findings, the City finds that the characteristics of the various areas of the City that best suit proposed uses are in Light and General Manufacturing and the Manufacturing Business Park Planning Districts.

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

FINDING: Marijuana facilities are suitable to Light, General and Business Park Manufacturing districts because they are typically removed from places where minors congregate such as schools and libraries. These are industrial lands that are deemed appropriate for medical marijuana dispensaries according to ORS 475.314 and the City intends to equally apply regulations to marijuana retailers as defined in Measure 91.

Trends in land improvement and development.

FINDING: As described above in the background statement the State of Oregon has progressively moved toward a legalized status of marijuana possession and facilities. The proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

Property Values.

FINDING: The proposed text amendment is intended to create minimum compliance standards to prevent or mitigate potential negative impacts to property values that could result from marijuana related business activity.

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

FINDING: As described above, the proposed text amendment is intended to be adaptive to the new marijuana economy as business and property owners try new and unknown business models.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

FINDING: The proposed text amendments are intended to project the public need for healthful, safe, aesthetic surroundings and conditions by providing for appropriate distance buffers from residential areas and between facility locations in order to prevent or reduce hazards associated with a cash only business, a product with a strong black market value, and the exposure of a controlled product to minors.

Proof of change in a neighborhood or area.

FINDING: The City does not assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

FINDING: There is no mistake in the Plan Text or Plan Map.

The above factors were consciously considered.

Criterion “4” is met.

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

Because the PTA does not result in a change to plans or development regulations that would impact school facility capacity, Criterion “5” is not applicable.

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

Of the 19 statewide planning goals, staff determined three Goals are applicable.

Goal 1, “Citizen Involvement,” states, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

FINDING: This goal will be met by complying with Tualatin Development Code 1.031 Notice Requirements for Plan Amendments. At the time of this writing of draft Analysis and Findings notices have not been published yet. A notice will be published in the Tualatin Times for 10 City business days prior to the public hearing. Notices will be posted in two conspicuous places within the City and a notice will be sent to designated representatives of recognized Citizen Involvement Organizations.

The Tualatin Planning Commission will hold a public meeting prior to the City Council Public Hearing. This public meeting will give citizens and members of the public an opportunity to comment on the proposed text and the Planning Commission can consider these comments when making a recommendation to the City Council. A public hearing is scheduled for March 9, 2015 during which the public can give input on the proposed amendment. All work session agendas and minutes are available to the public through the City website.

The City sought input from the public in the form of a public opinion survey the results of which were presented to the City Council during a work session on October 27, 2014.

This Goal is satisfied.

Goal 2, “Land Use Planning”, states, “To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Community Plan and both pieces combine to make the Comprehensive Plan. The Community Plan establishes a process and standards to review changes to the Tualatin Development Code in compliance with the Community Plan and other applicable state requirements. As discussed above under Criteria “3”, the applicable Community Plan standards have been applied to the proposed amendment.

This Goal is satisfied

Goal 6, “Air, Water, and Land Resources Quality”, states, “To maintain and improve the quality of the air, water and land resources of the state.

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. The proposed text amendments create a development standard that will buffer land uses and prevent or mitigate off-site impacts that could lead to conflicting impacts upon air resources.

This Goal is satisfied

Article XI, Section 2 of the Oregon Constitution.

The City of Tualatin has “home rule” authority over the civil affairs of its City. The City’s regulations of marijuana business are consistent with this home rule authority, as well as state land use laws.

Applicable Provisions of the Oregon Medical Marijuana Act

Initially adopted by State ballot measure in 1998, the Oregon Medical Marijuana Act (ORS 475) governs the production, distribution, and use of medical marijuana within the State of Oregon. In March 2014, the Oregon Legislature amended ORS 475 under Senate Bill 1531 which restates the already existing ability of local governments to impose reasonable regulations on the operation of medical marijuana facilities under home rule authority.

SECTION 2. Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate potential offsite community impacts. Senate Bill 1531 does not define “reasonable” therefore the City has relied on existing regulations in the Tualatin Development Code and proposed regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Exhibit B and a map with 3,000 foot buffers from residential districts is included as Exhibit C.

Based on the findings above, staff finds that the proposed text amendment is consistent with the Oregon Medical Marijuana Act.

Applicable Provisions of the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act (Measure 91)

On November 4, 2014 Oregon voters approved ballot Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act) to legalize the use and possession of recreational marijuana on July 1, 2015. The law also directs the Oregon Liquor Control Commission to tax, license, and regulate recreational marijuana. Section 59 of the act specifically authorizes local governments seeking to impose reasonable time, place, and manner restrictions in order to address adverse community impacts.

SECTION 59. Authority of cities and counties over establishments that serve marijuana. (1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.

FINDING: The proposed amendments establish reasonable restrictions on hours of operation, allowed locations, and design and operational requirements to prevent or mitigate potential offsite community impacts. The City regulations are consistent with existing reasonable regulations in the Tualatin Development Code and reasonable regulations relating to marijuana, including regulations from other cities and counties in the state. The proposed amendments allow facilities in three manufacturing zones located in the western portion of the City. Proposed language is included as Exhibit B and a map with 3,000 foot buffers from residential districts is included as Exhibit C.

As described below and in the purpose statement of the proposed text, the intent of proposed amendments is to prevent or mitigate possible adverse community impacts associated with marijuana facilities. These include but are not limited to the following:

- (1) Protect the general health, safety, property, and welfare of the public;
- (2) Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
- (3) Prevent or reduce criminal activity that may result in harm to persons or property;
- (4) Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
- (5) Minimize impacts to the City's public safety services by reducing calls for service.

Based on the findings above, staff finds that the proposed code text amendment is consistent with Measure 91 (Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act).

Ballot Measure 56 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost. (ORS 227.186)

Section (3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

Section (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

- (9) For purposes of this section, property is rezoned when the city:**
(a) Changes the base zoning classification of the property; or
(b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

FINDING: Measure 56 requires local jurisdictions to notify property owners when a change to a comprehensive plan or zoning ordinance could result in a rezone to property. As stated above, ORS 227.186 (9) defines rezone as a change to the base zoning classification or a change that limits or prohibits previously allowed land uses. The proposed amendments in this application will not change the base zoning classification of any properties. The City of Tualatin does not have a zoning ordinance but instead relies on Planning Districts to implement land use. No Planning Districts are proposed to change as a result of these amendments. Additionally, the proposed amendments do not limit or prohibit currently allowed land uses. Marijuana facilities and marijuana uses are currently not permitted in any Planning District. See, e.g., Tualatin Municipal Code Chapter 9-08. The amendments will actually create new permitted uses in three existing Planning Districts: Light Manufacturing, General Manufacturing and Manufacturing Business Park.

Based on the findings above, the City finds that the proposed amendments will not change the base zoning or limit or prohibit currently or previously allowed land uses in the affected Planning Districts and therefore a Measure 56 notice is not required.

The PTA complies with Goals 1, 2 and 6, and it complies with the Oregon Medical Marijuana Act, Measure 91 and Measure 56. Criterion “6” is met.

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

Title 4: Industrial and Other Employment Areas

3.07.430 Protection of Industrial Areas

Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.**

FINDING: The Oregon Medical Marijuana Act, ORS 475.314, requires medical marijuana facilities locate in land zoned for commercial, industrial or mixed-use or agricultural land. The City's proposed amendments require a 3,000 foot buffer from residential Planning Districts. This buffer eliminates the ability for Marijuana Facilities to locate in commercial Planning Districts, and the City does not have agricultural land use designations. The remaining land that is eligible for Marijuana Facilities as shown on Metro's Employment and Industrial Areas Map as of January 8, 2014 is Industrial Area.

We believe it is acceptable to locate Marijuana Facilities on land identify by Metro as Industrial for the following reasons:

1. The proposed amendment limits the size of each facility to 3,000 square feet which is below the 5,000 square foot limitation in Metro Code 3.07.430. Additionally, the Oregon Medical Marijuana Act and the City's proposed amendments prohibit co-location of retail and grow sites which means that at no time could there be more than 3,000 square feet of any type of facility on a parcel of land identified as Industrial Area.
2. The proposed amendments also establish a minimum distance of 2,000 feet between Marijuana Facilities which also limits the possibility of too much industrial land being converted to a retail use.
3. The proposed amendments define Marijuana Facilities as "a commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed,

distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).” It is possible that not all Marijuana Facilities will be retail and some may be manufacturing uses that fit in a traditional industrial area.

Based on the above findings, the City finds that the proposed amendments continue to protect land identified as industrial by Metro for industrial and employment purposes, and therefore, the amendments comply with Title 4 Industrial and Other Employment Areas.

The PTA complies with Metro’s Urban Growth Management Functional Plan. Criterion “7” is met.

8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Because the PTA does not relate to vehicle trip generation, Criterion “8” is not applicable.



City of Tualatin

PTA 15-01 Marijuana Regulations

City Council Work Session
February 23, 2015

Background

- City Council provided direction to staff at a City Council Work Session on January 26, 2015
- Staff sent DLCD notice of the proposed code changes January 30, 2015
- Planning Commission recommendation to City Council on February 19, 2015



Regulations Overview

- ▶ Definitions - Chapter 31
- ▶ Permitted use in ML, MG and MBP - Chapters 60, 61 and 64
- ▶ New Marijuana Facility Regulations - New Chapter 80
 - ▶ Marijuana Facilities
 - ▶ Edible Marijuana
 - ▶ Butane Extraction
 - ▶ Homegrown Marijuana



Draft Code Definitions

- ▶ Marijuana
- ▶ Marijuana, edible
- ▶ Marijuana extract
- ▶ Marijuana facilities
- ▶ Marijuana, homegrown



Draft Code- Development Standards

- ▶ Comply with all applicable State requirements
- ▶ Limited hours to 10:00 am and 8:00pm
- ▶ Primary entrances located on street-facing facades and clearly visible from a public or private street.
- ▶ Located inside a permanent building
- ▶ Prohibit location within a trailer, shipping container, cargo container, tent, motor vehicle or drive-through marijuana facilities
- ▶ Prohibit outdoor storage of merchandise, plants or other materials
- ▶ Confine all marijuana odors and other objectionable odors to levels undetectable at the property line.



Draft Code- Development Standards

- ▶ Facilities allowed in:
 - ▶ Light Manufacturing
 - ▶ General Manufacturing
 - ▶ Manufacturing Business Park

- ▶ 3,000' buffer from the following:
 - ▶ Residential Planning District and residential uses
 - ▶ Schools- as defined in Chapter 31
 - ▶ City Parks - identified in the City Charter
 - ▶ Libraries

- ▶ Retail and dispensaries shall not co-locate with other marijuana facilities

- ▶ 2,000' buffer between all facilities

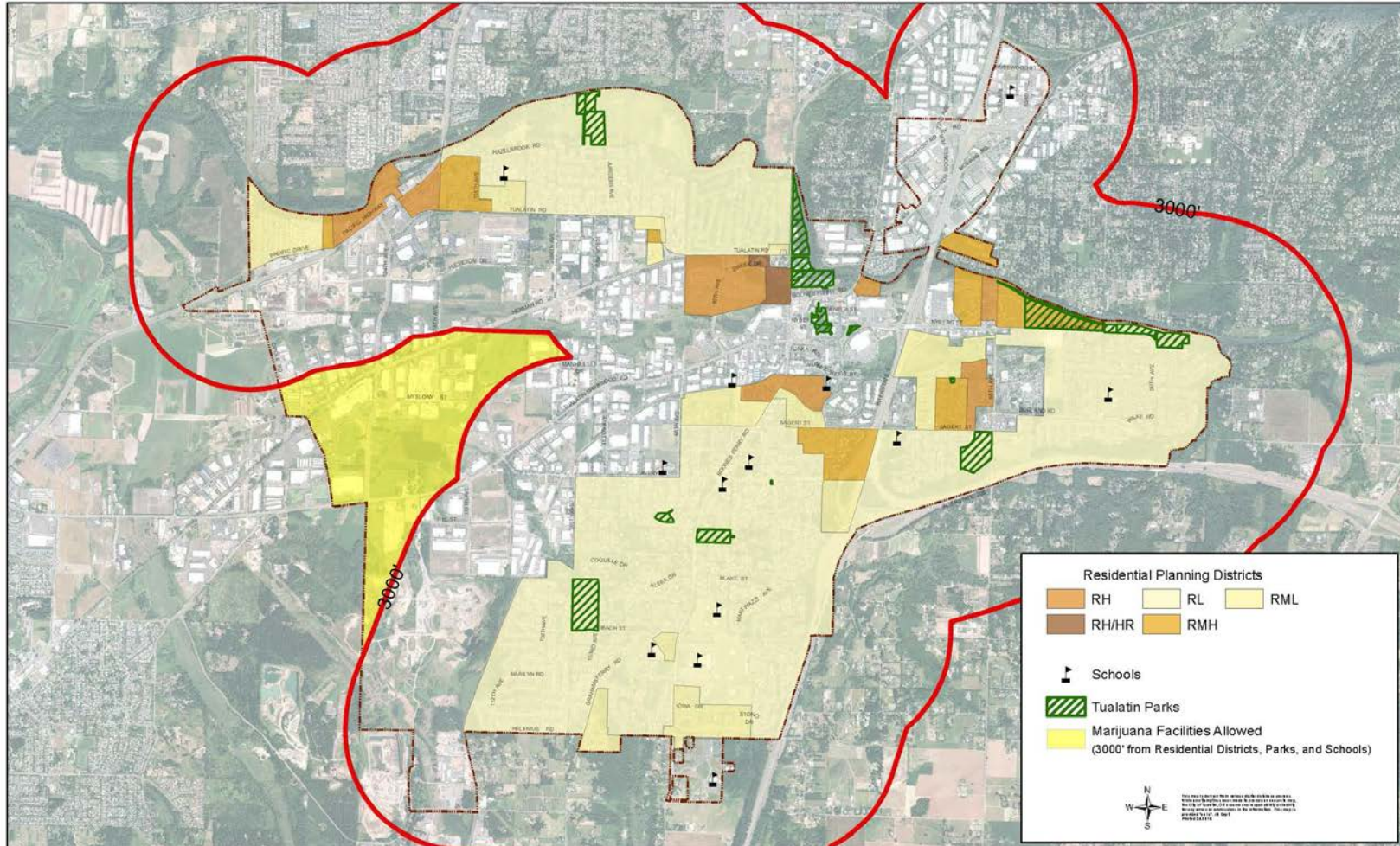
- ▶ Facilities limited to 3,000 square feet in size



Buffer from Residential and Schools

Potential Medical Marijuana Zoning - 3000' from Residential Districts, Parks, & Schools

TUALGIS



Draft Code – Development Standards

▶ Edible Marijuana standards

- ▶ Individually wrapped when produced
- ▶ Child-resistant packaging
- ▶ Prohibit packaging attractive to children or imitates candy
- ▶ Clear warning label must note:
 - ▶ Contents contain marijuana
 - ▶ Contents are not a food product
 - ▶ Emphasize that the product is to be kept away from children
- ▶ The sale of edibles must be behind a commercial counter or in an enclosed case.



Draft Code – Development Standards

- ▶ Butane extraction is prohibited

- ▶ Homegrown Marijuana Standards
 - ▶ Comply with state law.
 - ▶ Homemade extracts are prohibited
 - ▶ Homegrown plants;
 - ▶ Prohibited in the front yard
 - ▶ Must be fully screened from view
 - ▶ Must be 10 feet away from all property lines and 25 feet away from adjacent residences



Next Steps



February:
Draft Code
Language

March:
Public Hearing
+ Ordinance
Adoption

May:
Ordinance in
Effect



Discussion and Questions





MEMORANDUM

CITY OF TUALATIN

TO: Honorable Mayor and Members of the City Council

THROUGH: Sherilyn Lombos

FROM: Cindy Hahn, Associate Planner
Aquilla Hurd-Ravich, Planning Manager and Alice Cannon, Assistant City Manager

DATE: 02/23/2015

SUBJECT: Basalt Creek Concept Plan Project Update

ISSUE BEFORE THE COUNCIL:

City Council will receive an update on the Basalt Creek Concept Plan project, including progress made since the December 2 Joint City Council meeting with Wilsonville, and will be asked to provide direction to staff.

EXECUTIVE SUMMARY:

At the last City Council briefing in November and at the subsequent Joint City Council meeting with Wilsonville on December 2, 2014, staff and the consultant team presented the Base Case land use scenario and how it affects transportation and utility systems. At the joint meeting, several questions were raised about Tualatin's "end goal" for planning in Basalt Creek including whether additional residential land is needed to provide local housing for employees, whether the City as a whole has enough residential land available for development, how development in Basalt Creek could improve the City's jobs/housing balance, and whether Tualatin needs more industrial land or has an adequate supply.

In addition, the Councils expressed a desire to more thoroughly understand the options for providing sewer service to the planning area, as well as the effects of various options on improvements that might be required to existing systems in both cities, the location of the jurisdictional boundary, and costs of service provision.

DISCUSSION:

In response to questions raised at the December 2 Joint City Council meeting, staff is providing City Council with information about available residential and industrial land within current City boundaries and posing some topics for tonight's discussion to help inform creation of a land use alternative scenario for the planning area.

According to the City's 2014/2015 FY Budget, of 1,893 acres of land zoned for residential use, 1,855 acres are developed and 38 remain vacant. Of 2,023 acres of land zoned for industrial

use, 1,419 acres are developed and 604 remain vacant. The recently prepared City Profile shows that the land breakdown and tax base (assessed value; 2011-12) in Tualatin is evenly split between residential land and commercial/industrial land.

Taking this information into consideration, and framing the discussion with Guiding Principles for the Basalt Creek project, following are key questions for City Council discussion:

- *Guiding Principle: Maintain our unique identity of a balanced City*
 - What does Tualatin need for the future:
 - Housing?
 - Jobs?
- *Guiding Principle: Ensure appropriate transitions between land uses*
 - How does Tualatin accomplish transitions between housing and employment areas:
 - Roads (like Tualatin Road)?
 - Uses and density?
 - Public and private open space and trails?
- *Guiding Principle: Maximize assessed property value*
 - What should Tualatin consider about revenue vs. cost?
- *Guiding Principle: Design cohesive and efficient transportation and utility systems*
 - How many transportation connections does Tualatin want to existing neighborhoods?

Related to concerns raised about sewer service at the December 2 Joint City Council meeting, staff and the consultant team, in collaboration with Clean Water Services, have developed two additional scoped tasks. Sanitary Sewer Alternatives will investigate impacts on existing sewer systems and improvements that may be needed to provide sewer service to the planning area. Three concepts including minimizing the use of pump stations, minimizing existing system impacts, and developing a cost-effective, balanced concept are being reviewed. One final revised sanitary sewer design for use in the Concept Plan will be developed based on these three concepts. Once this design is finalized, staff and the consultant team will proceed with developing and evaluating an alternative land use scenario, including infrastructure service areas and a jurisdictional boundary location. At this point we can combine the most efficient sewer system with an alternative land use scenario to produce cost and revenues that can be compared to the Base Case scenario.

Geotechnical Investigation will identify boring locations and drilling work to explore the depth of bedrock basalt in certain places in the planning area. The depth of bedrock will influence where sewer pipes locate, at what depth below the ground surface they will need to be, and how much blasting may be required for trenching. This is a constraint that can influence sewer system design and cost. Findings of this investigation will help in developing sewer service concepts.

These additional tasks will affect the overall project schedule. The project team believes that this investment in time is necessary to provide good data for decision makers. Filling this data gap now will lead to a much more predictable and affordable project in the long run.

NEXT STEPS

The additional sewer work is in process, with the geotechnical investigation expected to occur in late February followed by the sanitary sewer analysis. A Joint City Council meeting will be scheduled for early June and a public Open House will follow to discuss alternative land use scenarios.

Attachments: 101. February 23, 2015 Presentation
102. Nov 24 Work Session Presentation (for Background)

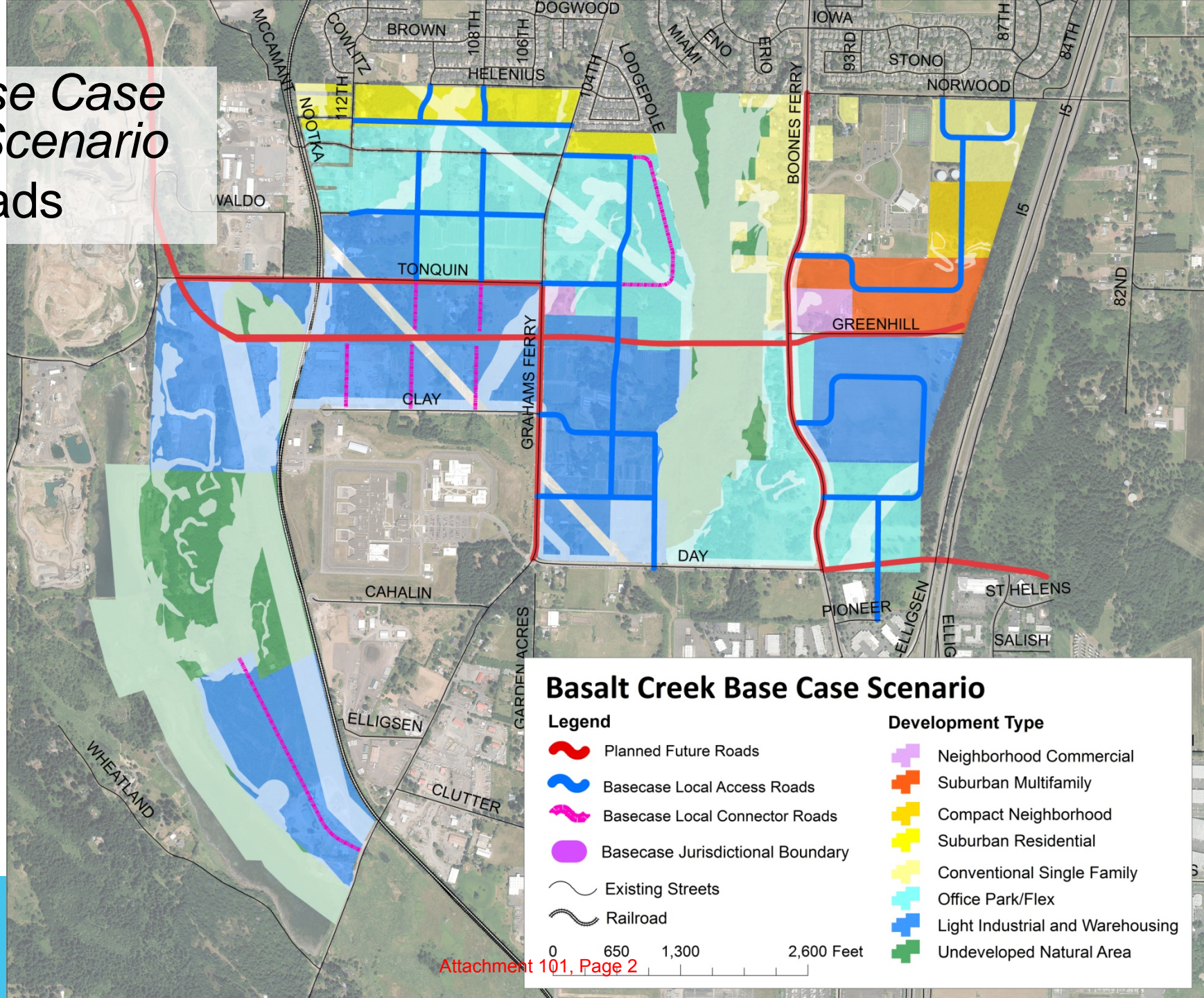


Progress Report + Joint Council Meeting Preview

Tualatin City Council
Work Session
February 23, 2015









Base Case Scenario Roads



Basalt Creek Base Case Scenario

Legend

-  Planned Future Roads
-  Basecase Local Access Roads
-  Basecase Local Connector Roads
-  Basecase Jurisdictional Boundary
-  Existing Streets
-  Railroad

Development Type

-  Neighborhood Commercial
-  Suburban Multifamily
-  Compact Neighborhood
-  Suburban Residential
-  Conventional Single Family
-  Office Park/Flex
-  Light Industrial and Warehousing
-  Undeveloped Natural Area

Next Steps

- **Sewer Analysis & Geotechnical Investigation**
 - February - March
- **Alternative Land Use Scenario**
 - March - May
- **Joint City Council Meeting**
 - June
- **Public Open House on All Scenarios**
 - June - July

Discussion

- ***Maintain our unique identity of a balanced City***
 - What does Tualatin need for the future:
 - Housing?
 - Jobs?
- ***Ensure appropriate transitions between land uses***
 - How does Tualatin accomplish transitions between housing and employment areas:
 - Roads (like Tualatin Road)?
 - Uses and density?
 - Public and private open space and trails?

Discussion

- ***Maximize assessed property value***
 - What should Tualatin consider about revenue vs. cost?
- ***Design cohesive and efficient transportation and utility systems***
 - How many transportation connections does Tualatin want to existing neighborhoods?

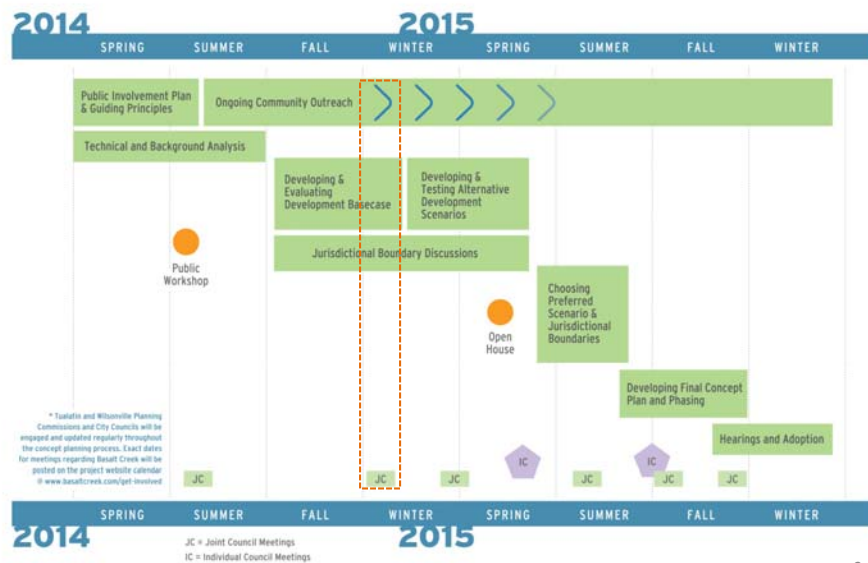


Progress Report + Joint Council Meeting Preview

Tualatin City Council
Work Session
November 24, 2014

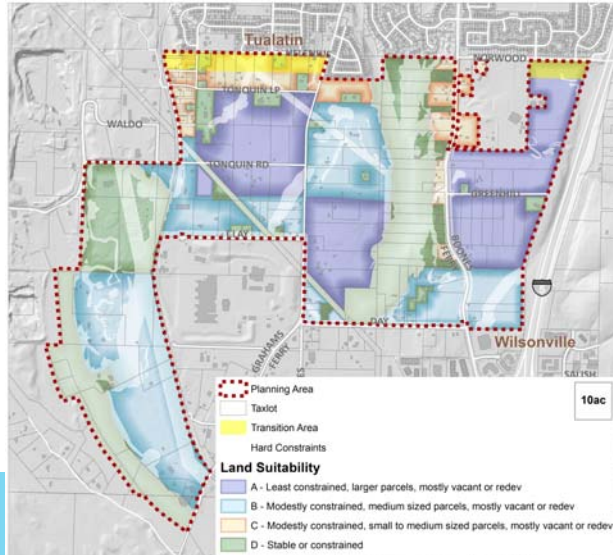


I. Project Update

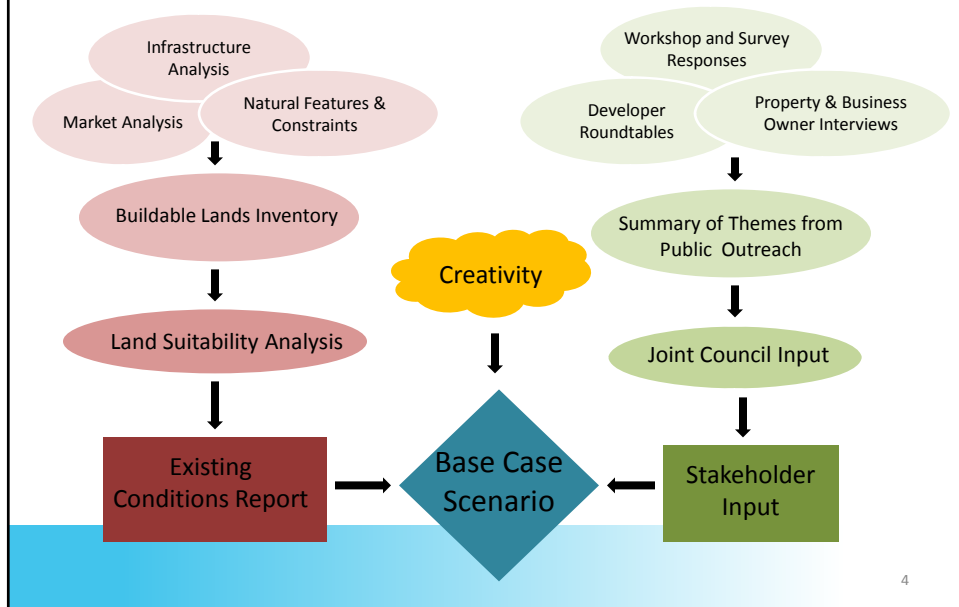


Land Suitability Analysis

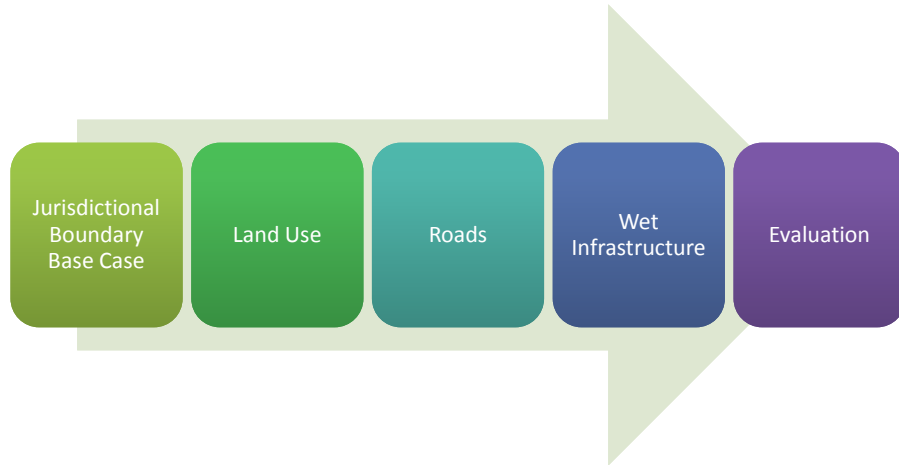
Suitability Category	Vacant Acres
A	197
B	144
C	38
D	12



II. Building the Base Case

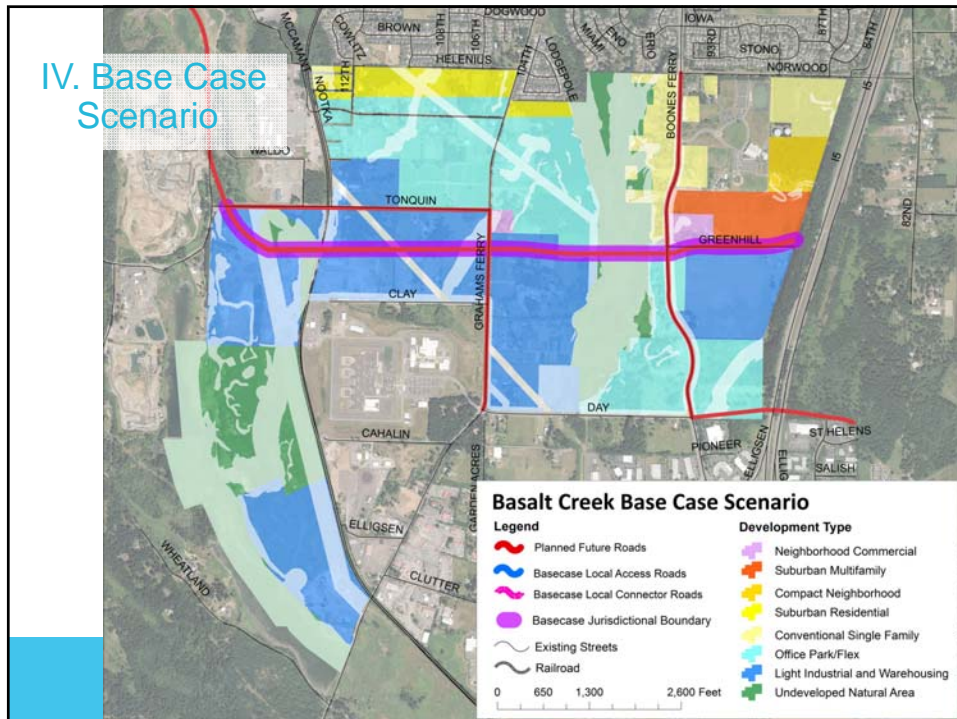


III. Scenario Development



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IV. Base Case Scenario

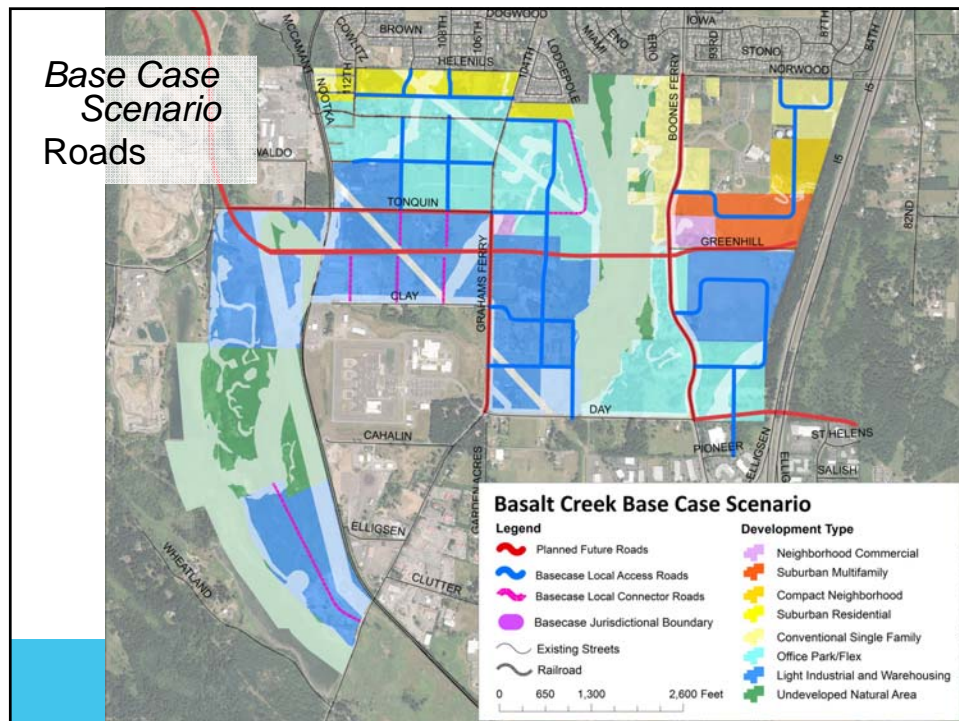


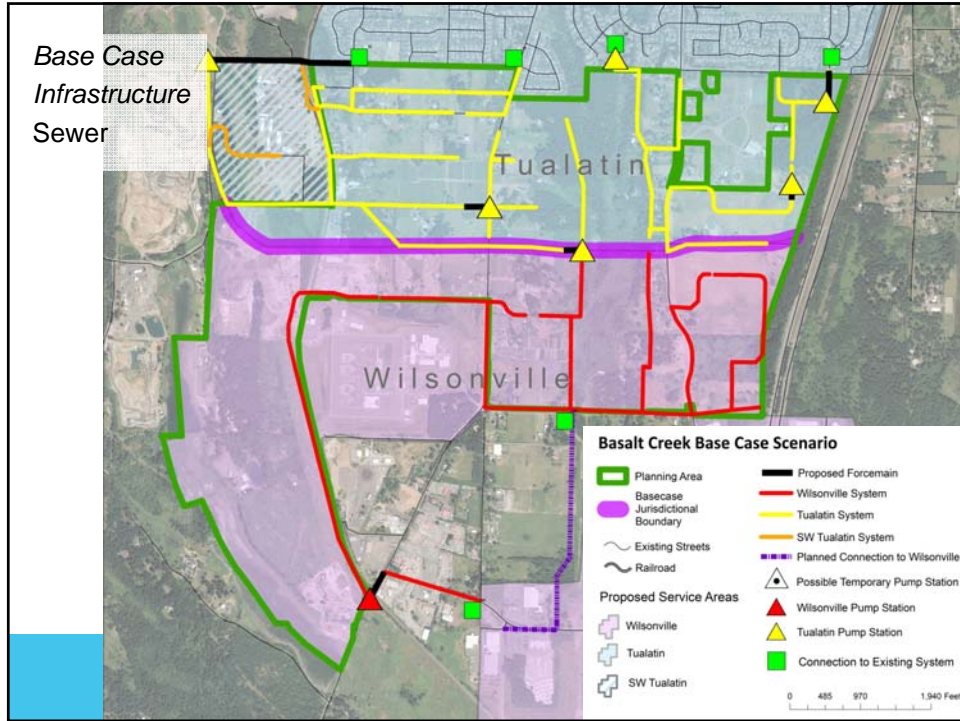
Comparison to Forecast

	New Households	New jobs	New trips generated*
Transportation Refinement Plan Forecast	1,386	2,562	1,989
Urban Growth Report Forecast	1,214	2,316	1,638
Base Case	653	4,058	1,968

*PM Peak Hour trips. Trip rates: Households = 0.63, Retail jobs = 0.73, non-retail jobs = 0.37

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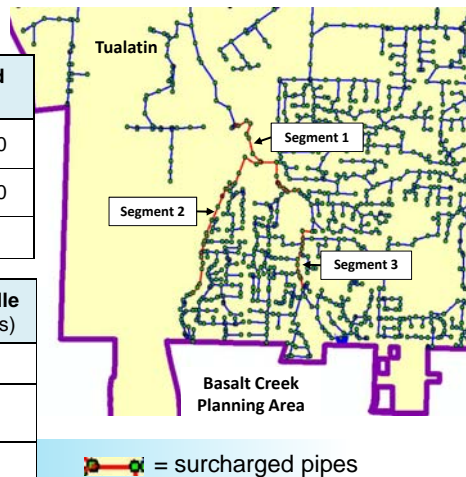


Base Case Infrastructure Sanitary Sewer System

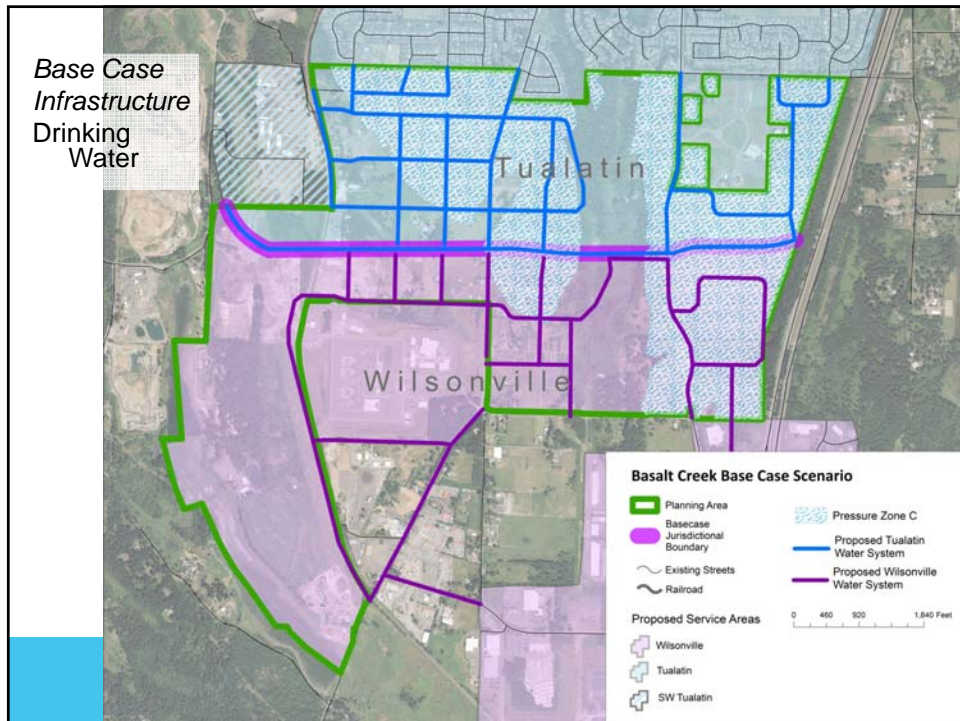
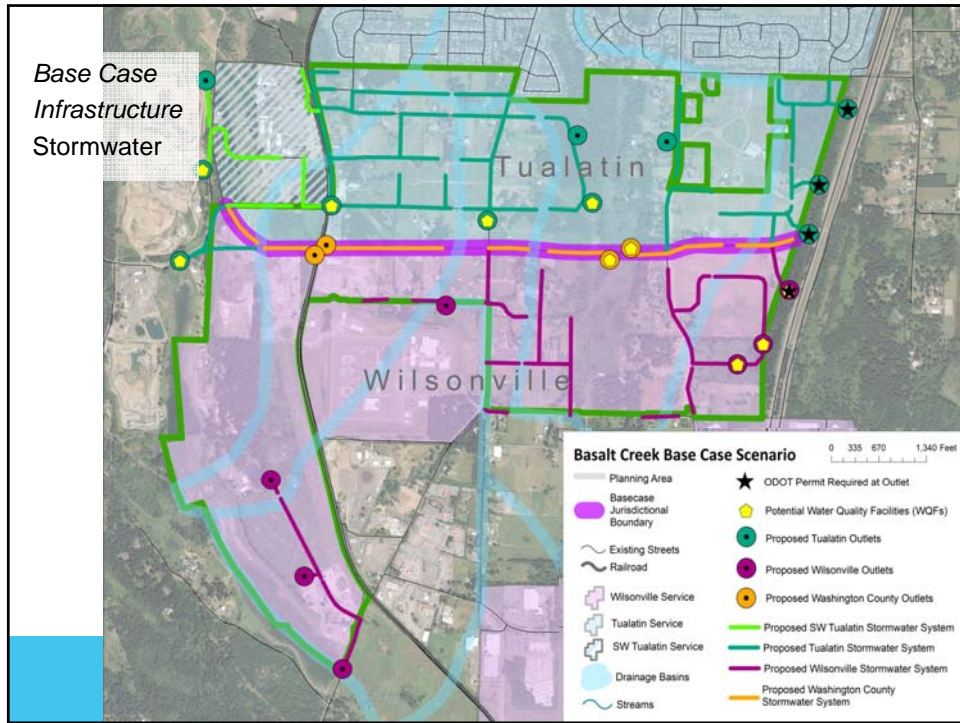
Expected upgrades:

No.	Original Pipe Size	Upgrade To	Estimated Cost
1	10-15 inches	12-18 inches	\$1,000,000
2	10-15 inches	18 inches	\$1,600,000
3	8 inches	12 inches	\$800,000

Jurisdiction	Tualatin (\$ Millions)	Wilsonville (\$ Millions)
Basalt Creek Cost	21.7	14.2
Existing System Upgrade Cost	3.4	4.5
Total Cost	25.1	18.7



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Base Case Infrastructure Cost Estimate

Utility	Tualatin (\$ Million)	Wilsonville (\$ Million)
Sanitary Sewer	25.1	18.7
Stormwater	9.1	4.6
Drinking Water	10.4	9.1
TOTAL	44.6	32.4

NOTE:

- Drinking water and stormwater costs do not include existing system upgrades
- Cost estimate is at a concept level, +100%/-50% accuracy.

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V. Next Steps

- **Base Case Scenario**
 - December 2, 2014 – Joint City Council Meeting
 - 6:00-8:00 pm, Wilsonville City Hall
- **Alternative Scenarios**
 - February 24, 2015 – Joint City Council Meeting
- **Public Open House on All Scenarios**
 - March 31, 2015

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Discussion

- Feedback or questions on the Base Case Scenario?
- Input on changes in the Base Case to evaluate in the alternative scenarios?

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STAFF REPORT

CITY OF TUALATIN

City Council Work Session

Meeting Date: 02/23/2015

Subject: Council Advance Debrief

Through: Sherilyn Lombos, Administration

PowerPoint

Council Advance 2015

- January 9 & 10
- Opportunity to:
 - Reaffirm vision
 - Set priorities for coming years
 - Think about how to maximize effectiveness (Council and staff)

Priorities for Next 2 Years

- Basalt Creek
- Development Code Review
- Local Transit
- Marijuana
- Transit
- Water Supply
- Parks Master Plan
- Town Hall

Framing Process

- SCOPE of the project
- SCHEDULE, deadlines, date certain
- KEY CONSIDERATIONS, constraints
- PRE-MORTUM
- Community INVOLVEMENT considerations

Decision-Making Process

1. Start with project FRAMING (in a work session)
2. Conduct public INVOLVEMENT activities
3. Review POLICY ALTERNATIVES (in a work session)
4. Public TESTIMONY (in a Council meeting)
5. Council DECISION (separate Council meeting)

Began formation of a CREDIMUS

- In seeking additional public input, or sending an issue back for more research, we will ask ourselves if the additional information or feedback will influence the decision
- We will strive to honor the steps of the Decision-Making process
- We will honor and respect our City staff's time, schedule, research and recommendations

What's Next

- Working on incorporating the framing process
- Working on the identified 8 priorities (plus more)
- Reminder placemat being developed:
 1. Priorities
 2. Framing Process
 3. Decision-Making Process
 4. Credimus