



City of Tualatin

# TUALATIN CITY COUNCIL

Monday, JUNE 12, 2017

**JUANITA POHL CENTER**

**8513 SW Tualatin Road**

**Tualatin, OR 97062**

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

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**Mayor Lou Ogden**

**Council President Joelle Davis**

**Councilor Robert Kellogg**

**Councilor Paul Morrison**

**Councilor Jeff DeHaan**

**Councilor Frank Bubenik**

**Councilor Nancy Grimes**

**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 your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be 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 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 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

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: 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) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



## OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR JUNE 12, 2017

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### A. CALL TO ORDER

Pledge of Allegiance

### B. ANNOUNCEMENTS

1. 2016-17 Annual Report for the Tualatin Youth Advisory Council
2. 2017 Tualatin Science & Technology Scholarship Winner

### C. CITIZEN COMMENTS

*This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent 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 ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Consideration of Approval of the Minutes for the Regular Meeting of May 8, 2017 and Work Session and Regular Meeting of May 22, 2017
2. Consideration of **Resolution No. 5321-17** Certifying City of Tualatin Municipal Services
3. Consideration of **Resolution No. 5328-17** authorizing the City Manager to execute an Intergovernmental Agreement to participate in the Emergency Management Cooperative with Washington County
4. Consideration of **Resolution No. 5317-17** Authorizing the City Manager to Execute an Amendment to an Intergovernmental Agreement (IGA) Between the City of Tualatin and Clean Water Services

### E. SPECIAL REPORTS

1. Update on Summer Programs and Activities Offered by the City of Tualatin and Partners
2. Family Justice Center Update

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

1. Consideration of **Resolution No. 5322-17** Declaring the City's Election to Receive State Revenue Sharing Funds During Fiscal Year 2017-18

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

1. Plan Map Amendment 16-0001 to Change the Designation of 0.64 acres from General Commercial to High Density Residential Located at 6645 SW Nyberg Lane (former RV Park of Portland)

**H. GENERAL BUSINESS**

*If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.*

1. Consideration of **Ordinance No. 1401-17** Establishing a Core Area Parking District (CAPD) Tax Rate of \$155.34 for Fiscal Year 2017-18

**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. ADJOURNMENT**



**City Council Meeting**

**Meeting Date:** 06/12/2017

**ANNOUNCEMENTS:** Tualatin Youth Advisory Council Annual Report-2016-17

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**ANNOUNCEMENTS**

2016-17 Annual Report for the Tualatin Youth Advisory Council

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A. YAC Annual Report

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# *Tualatin Youth Advisory Council*

**2016/2017 Annual Report**

# *YAC Seniors*



Evan Marx  
Member since 2012



Naomi White  
Member since 2014

# *YAC Goals:*

Advise the Tualatin City Council on issues that affect youth.

- ⦿ Serve as a communication link for youth to government, business, and the community.
- ⦿ Identify and advocate for the needs of youth in our community.
- ⦿ Identify and carry out events and activities for the community, which are important to youth.

*We strive to meet these goals in three main ways.....*

# How we meet our goals:

- Advocacy
- Activities
- Education





# Meeting our goals through advocacy.....

- Monthly council updates
- Began weekly discussions on local/national current events



# *Meeting our goals through activities....*

- Volunteer at many city events, including:
  - Movies on the Commons
  - Starry Nights and Holiday Lights
  - Snow Ball Daddy Daughter Dance
  - Tualatin Blender Dash
  - State of the City



# Meeting our goals through activities....

- Host activities for teens including:
  - > Haunted House
  - > Park After Dark





# Meeting our goals through education.....

- Project FRIENDS
- National League of Cities Congressional City Conference



# Project F.R.I.E.N.D.S



Tualatin YAC – Youth Participating in Governance



# National League of Cities 2017 Washington, DC



- Evan Marx, Morgan Darby, Naomi White, Morgan Anderson, and Lucas Parrish attended conference workshops and youth-oriented events.



# *Thank You!*



- Contributed 1,400 hours of service this year!
- Participating in YAC provides opportunities for leadership development, civic engagement, and community service.
- We're looking forward to the challenges and rewards of next year!

**City Council Meeting**

**Meeting Date:** 06/12/2017

**ANNOUNCEMENTS:** 2017 Science & Technology Scholarship Winner

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**ANNOUNCEMENTS**

2017 Tualatin Science & Technology Scholarship Winner

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SciTech

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# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Nicole Morris, Deputy City Recorder

**DATE:** 06/12/2017

**SUBJECT:** Consideration of Approval of the Minutes for the Regular Meeting of May 8, 2017 and Work Session and Regular Meeting of May 22, 2017

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

The issue before the Council is to approve the minutes for the Regular Meeting of May 8, 2017 and Work Session and Regular Meeting of May 22, 2017.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

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**Attachments:** [City Council Regular Meeting Minutes of May 8, 2017](#)  
[City Council Work Session Minutes of May 22, 2017](#)  
[City Council Regular Meeting Minutes of May 22, 2017](#)



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR MAY 8, 2017

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Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Community Services Director Paul Hennon; Finance Director Don Hudson; Deputy City Recorder Nicole Morris; Teen Program Specialist Julie Ludemann; Police Captain Mark Gardner; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Parks and Recreation Manager Rich Mueller; Economic Development Manager Melinda Anderson; Human Resources Director Stacy Ruthrauff

### A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:02 p.m.

### B. ANNOUNCEMENTS

#### 1. Tualatin Youth Advisory Council's Activities for May

Members of the Youth Advisory Committee (YAC) presented a PowerPoint on their latest activities and upcoming events. The YAC is currently working on Project FRIENDS to be held on May 19. Fifth grade students from Byrom, Bridgeport, Deer Creek, and Tualatin Elementary School will be in attendance. YAC will be hosting the Blender Dash on June 3 at Tualatin Community Park. The event is a fun run for kids ages 6-15. The YAC will be participating in the Movies on the Commons events this summer. Movies are shown every Saturday starting on July 1 through the end of the summer.

#### 2. Proclamation Declaring the Week of May 7-13, 2017 as Public Service Recognition Week in the City of Tualatin

Councilor Bubenik read the proclamation declaring the Week of May 7-13, 2017 as Public Service Recognition Week in the City of Tualatin.

#### 3. Proclamation Declaring the Week of May 14 - 20, 2017 as "National Police Week" in the City of Tualatin



Council President Davis read the proclamation declaring the week of May 14 - 20, 2017 as "National Police Week" in the City of Tualatin.

4. New Employee Introduction- Sou Souvanny, Community Services Management Analyst

Community Services Director Paul Hennon introduced Community Services Management Analyst Sou Souvanny. The Council welcomed her.

**C. CITIZEN COMMENTS**

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Arthur Breir invited the Council to attend the Tualatin Symphony Orchestra performance on May 21, 7:00 p.m., at the Living Savior Lutheran Church. He has prepared a piece that is dedicated to Tualatin.

Caroline Hay, Tualatin High School MEChA Club Advisor, proposed a resolution declaring the City of Tualatin a Sanctuary City. She stated she has witnessed many students living with fear and anxiety regarding their immigration status. She would like the Council to adopt the resolution to provide some form of comfort to those students.

Katerina Toms, Student Councilor at Tualatin High School, spoke in support of the Sanctuary City resolution.

Nancy Munos, Vice-President of the Tualatin High School MEChA Club, spoke in support of the Sanctuary City resolution. She shared stories from her classmates.

Angel Ramirez, Tualatin High School student, spoke in support of the Sanctuary City resolution. He shared stories from his classmates.

Mayor Ogden stated the Council is committed to the concerns expressed regarding the sanctuary cities proposal. He stated the Council has already issued a Unity Statement, the Police Department issued a statement, the Library issued a statement, and he referenced state law. He asked how the resolution presented is different than what had already been done. He requested the group spend time thinking about what the City could do to make sure this has a meaningful impact.

Council President Davis stated she would support bringing the resolution to a work session for further discussion.

Councilor DeHaan stated he didn't feel there was a need to discuss the item further as he is fully in support of the resolution. He asked if it was appropriate for a motion to be made tonight.

Mayor Ogden stated he would like to have more deliberative conversation around the resolution before adoption.



Councilor Morrison stated he too would like to have a work session on the item and talk about getting other community partners involved.

Councilor Bubenik stated he is supportive of the resolution but would like to see it noticed properly before adoption so adequate public feedback from both sides can be heard.

Councilor Grimes spoke in favor of further discussion at a work session.

Councilor Kellogg agreed with Councilor Bubenik on proper noticing of the resolution.

MOTION by Councilor Jeff DeHaan, to adopt the resolution declaring the City of Tualatin a Sanctuary City.

MOTION FAILED for lack of a second.

Consensus was reached to place the item on the next work session and on the council agenda for further discussion and consideration.

#### **D. GENERAL BUSINESS**

1. Consideration of **Resolution No. 5318-17** Authorizing the City Manager to Sign an Intergovernmental Agreement between Clackamas County, Metro, Lake Oswego, Tualatin and West Linn regarding Stafford Urban Reserve Area

Jeff Condit, Partner at Miller Nash Graham and Dunn LLP, presented a proposed IGA regarding the Stafford Urban Reserve Area. Mr. Condit presented background on the Stafford Urban Reserve area. Concerns presented by Tualatin, Wilsonville, and Lake Oswego were reviewed.

Councilor Bubenik asked how outside parties concerns are being addressed. Mr. Condit stated concerns are being incorporated and addressed when presented.

Councilor Grimes asked what the recourse is for upset land owners. Mr. Condit stated anyone can submit comments to LCDS. Mr. Condit outlined the public planning process that has taken place.

Mayor Ogden explained the Metro Code and provided a brief background on the process for the new Councilors. He noted the Council had previously asked for an IGA to be drafted so cities have something in writing to reference.

Councilor Bubenik asked about the I-205 expansion plans in relation to the Stafford Area. Mr. Condit stated there is not anything binding at this point.

Councilor Morrison asked who would be in control of the final plan for the area. Mr. Condit stated there would be coordination amongst the cities for development of the concept plan.

MOTION by Council President Joelle Davis, SECONDED by Councilor Frank Bubenik to adopt ?Resolution No. 5318-17 authorizing the City Manager to sign an Intergovernmental Agreement between Clackamas County, Metro, Lake Oswego, Tualatin and West Linn regarding the Stafford Urban Reserve Area.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

## **E. CONSENT AGENDA**

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MOTION by Council President Joelle Davis, SECONDED by Councilor Nancy Grimes to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

1. Consideration of Approval of the Minutes for the Special Council Work Session of April 11, 2017 and the Regular Meeting of April 24, 2017
2. Consideration of **Resolution No. 5315-17** to Purchase Wetland Credits for the Myslony Bridge Project
3. Consideration of **Resolution No. 5316-17** Adopting the City of Tualatin Financial Policies Manual

## **F. SPECIAL REPORTS**

1. Tualatin Chamber of Commerce Special Report

Tualatin Chamber of Commerce Director Linda Moholt presented an update on their latest activities. The Chamber currently has 430 members. Ms. Moholt stated the Chamber relocated this year to a new building. She shared the Chambers core values and core competencies. They are focused on creating a strong local economy by welcoming new businesses, working on business retention and expansion, workforce development, and providing a visitor information center. The Chamber is promoting the community by partnering with the Historical Society and City Recreation department as participants in the Ice Age Tourism Plan, providing access to Tualatin amenities, honoring businesses and volunteers, and providing networking opportunities for members to build relationships. They are representing the interest of local business with government through the Business Advocacy

Council by advocating for a business friendly environment.

**G. COMMUNICATIONS FROM COUNCILORS**

Councilor Bubenik stated he attended the Neighbors Nourishing Communities plant start hand out. It was well attended and only a few starter plants remain.

Council President Davis thanked everyone who attended the Lunch with the Chief event. The Tualatin Community Police Foundation has sold lots of the stuffed Tony Dogs and some still remain for purchase off their website.

**H. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 8:54 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Community Services Director Paul Hennon; Deputy City Recorder Nicole Morris; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson; Management Analyst II Zoe Monahan; City Engineer Jeff Fuchs

## CALL TO ORDER

Mayor Ogden called the meeting to order at 5:33 p.m.

### 1. ***Garden Corner Curves Concept Study Update.***

Public Works Director Jeff Fuchs provided an update on the Garden Corner Curves Concept Study. The point of the study is to provide a safe route for pedestrians and cyclists while creating a connection between Ibach and Midwest neighborhoods. The study will also address speed and safety concerns while minimizing impacts to the neighbors.

Mary Stewart, Alta Planning and Design, spoke to public outreach conducted to date. She stated the majority of efforts have focused on stakeholders along the corridor and neighborhoods in the Midwest and Ibach CIO's. There have been many interactive activities conducted, including the closing of the corridor for a site tour for neighbors. Kitchen table meetings in a more intimate setting have been held for community members. There have been additional stakeholder meetings and an online survey. Ms. Stewart briefly recapped outreach results noting top concerns included no current bike lanes or sidewalks, no neighborhood connection, speeding, and blind corners with limited visibility.

Dave Brokaw, Wallis Engineering, addressed solutions for top concerns. He provided solutions adding maintaining existing character of the area is a top priority. Mr. Brokaw stated four alternatives with interchangeable elements have been developed. Each alternative evaluated impacts to the right of way, environment, and costs. Alternative A includes two 10' vehicle lanes, a 12' shared use path on the east side, and several safety improvements. Alternative B provides two 10' vehicle lanes, a 12' shared use path on the west side, and several safety improvements. Alternative C provides two 10' vehicle lanes, a 6' sidewalk on the east side, bike lanes on both sides, and safety improvements. Alternative D provides a more traditional design including two 10' vehicle lanes, sidewalks on both sides, buffered bike lanes on both sides, and safety improvements. Mr. Brokaw spoke to approximate costs for each alternative. He noted part of the study

intent is to address near term concerns with low cost methods. Low cost methods could include better signage, speed humps, revised pavement markings, driver speed feedback signs, and visibility improvements.

Ms. Stewart spoke to next steps for the study. She stated any design issues and concerns presented by Council will be addressed followed by an open house, online surveys, and continued communications with neighbors. A completed detailed design evaluation and updated cost estimates will be provided at the conclusion of the public outreach.

Councilor Grimes asked if the cost difference between Alternative A and B are due to the rights of ways. Mr. Brokaw stated both options include rights of way purchases. He stated Alternative B is more because it requires the extension of the shared use path.

Councilor Kellogg stated one of the options included a stop sign at 108<sup>th</sup> and Blake. He asked if there had been any feedback of the potential traffic noise it may cause. Director Fuchs stated options have not been presented to the public yet and will be open to public comment on June 13. He noted the stop sign would not have significant noise impact in the area.

Councilor Bubenik asked if the environmental impacts for addressing the wetlands had been incorporated into the costs. Mr. Brokaw stated they have been incorporated into the rough estimates.

Council President Davis stated the presentation is missing an analysis of the safety aspects in the area. She will need to know how each option impacts safety before making any decision.

Councilor DeHaan asked about the use of the greenway between the two CIO's. Ms. Stewart stated the greenway is not included in this study as a connection but is shown on the maps so it can be included in future planning.

Councilor DeHaan asked how much traffic in the area is caused by the Garden Corner. Ms. Stewart stated most of the traffic in the area is driven during rush hour and is not in direct correlation to the business.

Mayor Ogden asked about separating the bike and pedestrian paths. Mr. Brokaw stated there would need to be more width in the area and it is just not available due to the environmental impacts.

Councilor DeHaan asked what the rough cost break down between design and construction is for this project. Mr. Brokaw stated roughly 25% is design and the remaining 75% is construction.

### **3. Sanctuary City / Welcoming Community Status.**

Assistant City Manager Tanya Williams presented information on the Sanctuary City and Inclusive Community information. She recapped information from the Council Advance including the priorities in diversity, inclusion, and equity. An update on the activities of the Diversity and Inclusion Working Group was presented. Manager Williams stated staff received direction at the May 8 Council meeting to begin reviewing the proposed resolution naming Tualatin a Sanctuary City. The Sanctuary City proposal as well as an alternative resolution identifying Tualatin as an Inclusive Community was presented.

Councilor DeHaan asked if the police had issued a statement regarding the subject. Manager Williams responded both the Police and Library had issued statements.

Mayor Ogden stated there is a need for better communication and accessibility throughout the community. He believes listening sessions are the right first step.

Councilor Bubenik stated the City needs to build trust in certain segments of the community.

Councilor Davis stated the working group needs to meet again about next steps for moving forward.

Mayor Ogden stated this is not just about minority community members but the entire community.

Councilor Davis stated the Inclusive City resolution is similar to the Unity Statement read in December. She believes the Inclusive City resolution will sit better with the community and has been vetted by the MeCHA group who presented the original resolution.

Mayor Ogden agreed the Inclusive City resolution states what the City has already committed to do and what it is capable of doing.

Councilor Kellogg asked why the reference to the Oregon Revised Statue was removed. He would like to see a element of that included in the resolution.

Mayor Ogden concurred the piece regarding Oregon State Law should be incorporated.

#### **4. *Council Meeting Agenda Review, Communications & Roundtable.***

Council President Davis thanked everyone who attended the Lunch with the Chief event or has purchased a Tony Dog. She added the Tualatin Community Police Foundation has raised just under \$20,000.

## **ADJOURNMENT**

The work session adjourned at 6:38 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR MAY 22, 2017

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Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison; Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Bill Steele; Deputy City Recorder Nicole Morris; Teen Program Specialist Julie Ludemann; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson; Project Engineer Dominique Huffman; Community Services Director Paul Hennon

### A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:00 p.m.

### B. ANNOUNCEMENTS

1. Proclamation Declaring the week of May 21-27, 2017 as Emergency Medical Services Week in the City of Tualatin

Mayor Ogden read the proclamation declaring the week of May 21-27, 2017 as Emergency Medical Services Week in the City of Tualatin.

2. New Employee Introduction- Engineering Associate Shawn Strasser

Public Works Director Jeff Fuchs introduced Engineering Associate Shawn Strasser. The Council welcomed him.

### C. CITIZEN COMMENTS

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Herb Koss asked how the Council plans on reaching a resolution with the City of Wilsonville regarding the Basalt Creek Area. He stated the study Wilsonville conducted is not feasible and he does not want to see the study hold up the process any further.

Dale Potts invited everyone to attend the Memorial Day Observance and Free



Picnic to be held on May 29, 10:45 a.m., at the Winona Cemetery.

**D. CONSENT AGENDA**

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MOTION by Council President Joelle Davis, SECONDED by Councilor Nancy Grimes to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

1. Adoption of **Resolution No. 5320-17** authorizing the City Manager to sign the contracts for the 2016/17 Pavement Maintenance Program.

**E. GENERAL BUSINESS**

*If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. 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.*

1. Consideration of **Resolution No. 5319-17** Declaring the City of Tualatin a Sanctuary City

Mayor Ogden introduced the resolution and provided a brief background on the proposal provided at the last meeting.

Caroline Hay spoke in support of the Inclusive City resolution.

Mackenzie Hampel spoke in support of the Inclusive City resolution.

Cassie Cohen, of Unite Oregon, spoke in support of the Inclusive City resolution. She added she looks forward to working with the City to help bridge the divides in the community.

Mae Heidi stated she felt encouraged the Council updated the resolution to an Inclusive City instead of a Sanctuary City. She added she feels there are already statements in place that do the same thing as the resolution, so she doesn't feel it is necessary.

Bailey Langley spoke in support of the Inclusive City resolution.

Nancy Munoz Garcia shared a story from her classmate. She spoke in support of the Inclusive City resolution.

Caroline Blackledge spoke in support of the Inclusive City resolution.

Cristina Marquez spoke in support of the Inclusive City resolution.

Yanelly Rivas, of Unite Oregon, shared stories and spoke in support of the Inclusive City resolution.

Mark Taft spoke in opposition of the Inclusive City resolution.

Walt Drysdale reminded the Council they are a nonpartisan body and encouraged them to operate in that manner. He spoke in opposition to the Inclusive City resolution.

Roger Law spoke in opposition of the Inclusive City resolution.

Ricardo Olguin shared a story from his classmate and spoke in support of the Inclusive City resolution.

Samantha Ramos shared a story and spoke in support of the Inclusive City resolution.

Mary Petrides spoke in support of the Inclusive City resolution.

Nayeli Narino-Rooles spoke in support of the Inclusive City resolution.

Naomi Bonner spoke in support of the Inclusive City resolution.

Don Carl spoke in support of the Inclusive City resolution.

Councilor Morrison thanked all the students for attending and speaking at tonight's meeting.

Council President Davis stated the Inclusive City resolution does not include references to sexual orientation and disability status and by no means trumps the Unity Statement the Council has issued.

Councilor Kellogg stated the resolution does not condone illegal immigration and is not in violation of federal law.

MOTION by Councilor Robert Kellogg, SECONDED by Council President Joelle Davis to adopt Resolution No. 5319-17 declaring the City of Tualatin an Inclusive City.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

2. Consideration of **Ordinance No. 1399-17** Relating To Utility Facilities In The Rights-Of-Way; Adding New Tualatin Municipal Code Chapter 3-6 And Repealing Tualatin Municipal Code Chapter 10-1 (Telecommunications)

Public Works Director Jeff Fuchs introduced the proposed rights of way ordinance. Management Analyst Carrie Severson stated the draft ordinance was prepared using the current telecommunications ordinance, existing franchise agreements, regionally adopted ordinance, and Council direction. She noted the draft ordinance was provided to franchises for comment and consideration. Feedback based changes included eliminating the registration component, a longer remittance period, and a delayed construction coordination schedule. Major draft ordinance components were reviewed. Analyst Severson stated next steps included developing forms, setting up databases, policy decision from Council, and stakeholder involvement.

**COUNCIL DISCUSSION**

Councilor Bubenik asked about the decision to eliminate the registration component. Analyst Severson stated the ordinance would refer to the business license process which allows the City to maintain current contact information through that avenue.

Mayor Ogden stated he would like to see the ordinance be inclusive of all providers and handle individual provider fees in the fee schedule.

Councilor Kellogg asked how this would be enforced or if it would be voluntary compliance. Analyst Severson stated there are several different avenues the City can take for enforcement.

MOTION by Council President Joelle Davis, SECONDED by Councilor Frank Bubenik for first reading by title only.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

MOTION by Council President Joelle Davis, SECONDED by Councilor Frank Bubenik for second reading by title only.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison, Councilor Robert Kellogg

MOTION CARRIED

MOTION by Council President Joelle Davis, SECONDED by Councilor Frank Bubenik to adopt Ordinance No. 1399-17 relating to utility facilities in the rights-of-way; adding new Tualatin Municipal Code Chapter 3-6 and repealing Tualatin Municipal Code Chapter 10-1 (Telecommunications).

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis,  
Councilor Nancy Grimes, Councilor Jeff DeHaan, Councilor Paul Morrison,  
Councilor Robert Kellogg

MOTION CARRIED

**F. 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.*

**G. COMMUNICATIONS FROM COUNCILORS**

Councilor Kellogg stated he attended the CERT Team drill on Saturday, he noted it was a success.

Councilor Davis thanked the citizens for attending the meeting tonight and voicing their concerns. She stated she looks forward to more community unification in the future.

**H. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 8:44 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 06/12/2017

**SUBJECT:** Consideration of Resolution No. 5321-17 Certifying City of Tualatin Municipal Services

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

To be eligible to receive state shared revenues (cigarette, liquor and highway taxes), the City must certify it provides four or more of certain municipal services.

### **RECOMMENDATION:**

Staff recommends that the Council adopt the attached Resolution certifying City of Tualatin municipal services.

### **EXECUTIVE SUMMARY:**

The State of Oregon requires that cities located in a county having more than 100,000 inhabitants according to the most recent decennial census, must provide four or more of certain municipal services in order to receive state shared revenues. Those services are: Police Protection; Fire Protection; Street Construction, Maintenance and Lighting; Sanitary Sewers; Storm Sewers; Planning, Zoning and Subdivision Control; and Water Utility Services. The City provides six of the seven listed municipal services (Fire Protection is provided by Tualatin Valley Fire & Rescue).

### **OUTCOMES OF DECISION:**

If the Council approves the Resolution, the City will be eligible to receive state shared revenues. If the Council does not approve the Resolution, the City will not receive state shared revenues and we will need to reduce expenditures or contingencies.

### **FINANCIAL IMPLICATIONS:**

It is estimated, and budgeted, that the City will receive \$32,210 in Cigarette Taxes and \$460,310 in Liquor Taxes in the General Fund and \$1,546,250 in State Gas Taxes in the Road Operating Fund.

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**Attachments:** Resolution No. 5321-17



RESOLUTION NO. 5321-17

A RESOLUTION CERTIFYING CITY OF TUALATIN MUNICIPAL SERVICES

WHEREAS, ORS 221.760 provides that the officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820 and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants, disburse such funds only if the city provides four or more of the following services:

1. Police Protection
2. Fire Protection
3. Street Construction, Maintenance, and Lighting
4. Sanitary Sewers
5. Storm Sewers
6. Planning, Zoning, and Subdivision Control
7. Water Utility Services; and

WHEREAS, the Council desires to comply with ORS 221.760 by certifying the provision of municipal services.

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

**Section 1.** The City of Tualatin certifies that it provides the following four or more municipal services, as provided in ORS 221.760:

1. Police Protection
2. Street Construction, Maintenance, and Lighting
3. Sanitary Sewers
4. Storm Sewers
5. Planning, Zoning, and Subdivision Control
6. Water Utility Services

**Section 2.** This resolution is effective upon adoption.

Adopted by the City Council this 12<sup>th</sup> day of June, 2017.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

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



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Kathy Kaatz, Program Coordinator  
Bates Russell

**DATE:** 06/12/2017

**SUBJECT:** Consideration of **Resolution No. 5328-17** authorizing the City Manager to execute an Intergovernmental Agreement to participate in the Emergency Management Cooperative with Washington County

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

Consider Resolution No. 5328-17 authorizing the City Manager to execute an Intergovernmental Agreement to participate with the Emergency Management Cooperative with Washington County.

### **RECOMMENDATION:**

Staff recommends that the Council authorize the City Manager to execute the IGA to participate in the Emergency Management Cooperative with Washington County.

### **EXECUTIVE SUMMARY:**

According to ORS 401.305(3), local governing bodies of counties and cities that have both city and county emergency management programs are required to jointly establish emergency management policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, and specify the responsibilities of the emergency program managers and staff and establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions.

The purpose of the Emergency Management Cooperative (EMC) is to enhance the level of disaster and emergency preparedness and coordination within and across the boundaries of the participating jurisdictions by focusing on improvements to emergency management structures, systems, facilities, plans, procedures training and exercising. Membership in the Cooperative (EMC), includes the cities of Tigard, Tualatin, Beaverton, Hillsboro and Tualatin Valley Fire & Rescue as well as Washington County. Washington County funds 51% of the annually approved EMC expenditures with other participating jurisdictions collectively funding the remaining 49%. The jurisdictions that participate financially are allowed privileges on the Executive Committee.



This Agreement will be effective upon signing for the fiscal year 2017/18.

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**Attachments:**    1- Resolution No. 5328-17  
                          2 - EMC IGA with Washington County

RESOLUTION NO. 5328-17

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT TO PARTICIPATE IN THE EMERGENCY MANAGEMENT COOPERATIVE OF WASHINGTON COUNTY.

WHEREAS, ORS 401.305(3) requires the local governing bodies of counties and cities that have both city and county emergency management programs to jointly establish emergency management; and

WHEREAS, the City wishes to participate with other jurisdictions to collaborate beyond statutory requirements to enhance the level of disaster and emergency preparedness; and

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

**Section 1.** The City Manager is authorized to sign an Intergovernmental Agreement to participate in the Emergency Management Cooperative (EMC) with Washington County, which is set forth in Exhibit A and incorporated by reference.

**Section 2.** This resolution is effective upon adoption.

Adopted by the City Council this 12<sup>th</sup> Day of June, 2017.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

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

# **INTERGOVERNMENTAL AGREEMENT**

## **EMERGENCY MANAGEMENT COOPERATIVE OF WASHINGTON COUNTY**

This Agreement is entered into, pursuant to ORS 190.010, by and among Washington County (the County) and other public sector jurisdictions within Washington County (herein collectively "Participating Jurisdictions") and supersedes previous, similar agreements for the coordination of emergency management programs in Washington County.

### **WITNESSETH**

WHEREAS ORS 401.305 (3) requires the local governing bodies of counties and cities that have both city and county emergency management programs to jointly establish policies which provide direction and identify and define the purpose and roles of the individual emergency management programs, specify the responsibilities of the emergency program managers and staff and establish lines of communication, succession and authority of elected officials for an effective and efficient response to emergency conditions; and

WHEREAS the Participating Jurisdictions desire to collaborate beyond statutory requirements and cooperatively identify, design, implement, and test the structure, systems, facilities, plans, and procedures of a comprehensive, countywide emergency management system; and

WHEREAS the goal of such collaboration is to enhance the level of disaster and emergency preparedness within and across the boundaries of the Participating Jurisdictions and to develop and maintain an effective multi-agency coordination system; and

WHEREAS improved preparedness will be achieved through coordination among the Participating Jurisdictions, the various emergency service functions provided within those jurisdictions, the private sector, and non-governmental organizations; and

WHEREAS Washington County and many public sector jurisdictions within the county entered into a July 2013 intergovernmental agreement creating the Emergency Management Cooperative of Washington County to improve the level of disaster and emergency coordination and preparedness within the boundaries of those jurisdictions; and

WHEREAS the Participating Jurisdictions desire to update the prior agreement to reflect changes in participation, membership, organizational funding, and member contributions;

NOW, THEREFORE, the parties agree as follows:

## TERMS AND CONDITIONS

### I. EMERGENCY MANAGEMENT COOPERATIVE

The Participating Jurisdictions hereby create an emergency management cooperative responsible for the development, enhancement, maintenance, and coordination of emergency management structures, systems, facilities, plans, procedures, training, and exercising within (and between) the Participating Jurisdictions and agree that the organization shall be known as the Emergency Management Cooperative (EMC).

### II. PURPOSE OF AGREEMENT

- A. The purpose of the EMC is to enhance the level of disaster and emergency preparedness and coordination within and across the boundaries of the Participating Jurisdictions by focusing on improvements to emergency management structures, systems, facilities, plans, procedures, training, and exercising.
- B. This Agreement supersedes the July 2013 Emergency Management Cooperative of Washington County Intergovernmental Agreement.

### III. DEFINITIONS

- A. Affiliate Member: A private sector or non-governmental organization with emergency management responsibilities in Washington County that participates in the EMC.
- B. Fiscal Year (FY): The twelve-month period beginning on July 1 and ending on June 30.
- C. Participating Jurisdiction: A Washington County public sector jurisdiction that signs and becomes a party to this Agreement.
- D. Project Fund: A fund created pursuant to this Agreement to support the work of the EMC.
- E. Public Sector Member: A Washington County public sector jurisdiction with an emergency management program that participates in the EMC.

### IV. MEMBERSHIP

- A. Public Sector Membership: Washington County and all Washington County public sector jurisdictions with an emergency management program are eligible to participate. All public sector jurisdictions

signatory to this Agreement (i.e., Participating Jurisdictions) may vote on matters under consideration by the Executive Committee. However, only those jurisdictions financially contributing to the “Project Fund,” as defined in Section VII.C are eligible to vote on expenditures from the fund.

- B. Affiliate Membership: Private and non-governmental organizations with emergency management responsibilities may participate in the EMC as Affiliate Members. Such membership allows non-voting participation on the Executive Committee.

## V. ORGANIZATION

- A. Director: The work of the EMC will be managed and coordinated by the EMC Director. The Washington County Emergency Management Manager will act as the Director and serve at the pleasure of the County, with input from the Executive Committee. The Director's primary duties will be to: 1) develop and maintain comprehensive, integrated, and effective emergency management and multi-agency coordination systems in concert with the Public Sector and Affiliate Members; 2) oversee implementation of the annual EMC work plan and management of the Project Fund; 3) coordinate emergency management activities between the Public Sector and Affiliate Members; and 4) coordinate emergency management activities with other local, regional, and state agencies and organizations.
- B. Staff: The Participating Jurisdictions will identify staff to work with the EMC. Staff assigned to work with the EMC will be housed at their respective jurisdictions. The County will provide work space for the identified emergency management staff of the Participating Jurisdictions to temporarily or periodically colocate in order to enhance coordination and coproduction efforts.
- C. Work Teams:
  - 1. Emergency Management Team (EMT):
    - a. The EMT consists of the EMC Director and the emergency management staff identified by the Participating Jurisdictions. The team is tasked to 1) collaboratively identify, design, implement, and test the structure, systems, facilities, plans, and procedures of a comprehensive, integrated, countywide emergency management system; 2) participate in development of the Fiscal Year work plan and budget; and 3) assist in the planning and conduct of training and exercises.
    - b. The team will receive administrative support from the County.
  - 2. Multi-Agency Coordination System (MACS) Planning Team:

- a. The MACS Planning Team consists of law enforcement, fire, public works, public health, communications, and emergency management representatives of the Participating Jurisdictions. The team will only meet with the support of the Participating Jurisdictions' first responder departments. The team will be responsible for developing the countywide plan for multi-agency incident coordination.
- b. The team will receive administrative support from the County.

## VI. GOVERNANCE

### A. Executive Committee:

1. The EMC will be governed by an Executive Committee consisting of the chief executive officer of each Public Sector and Affiliate Member. Each of these primary representatives may designate an alternative representative who may attend Executive Committee meetings and act in the absence of the Public Sector or Affiliate Member's primary representative.
2. The representative of each Participating Jurisdiction has the right to vote on all matters before the Committee, with the exception that only those Participating Jurisdictions financially contributing to the Project Fund can vote on fund expenditures.
3. A majority of the Executive Committee members eligible to vote constitutes a quorum. Unless otherwise stated in this Agreement, an affirmative act of the Executive Committee requires that a ~~majority of the member representatives eligible to vote on the matter are quorum~~ is present and the decision is supported by a two-thirds majority.
43. The Executive Committee will be chaired by a Participating Jurisdiction representative selected by the Committee. Chair of the Executive Committee may be rotated among the Participating Jurisdiction representatives on an annual basis.
54. The Executive Committee will be responsible for:
  - a. Providing strategic guidance and direction to the collaborative and the EMT;
  - b. Approving the Fiscal Year EMC work plan and contributions to and expenditures from the Project Fund, subject to the voting limitations noted in Section VI.A.2 above;
  - c. Approving policies related to EMC functions;
  - d. Coordinating EMC actions and activities with Public Sector Member elected officials, Affiliate Member executives, and other key decision makers; and
  - e. Reviewing the efficacy of the EMC and this Agreement on an annual basis.

- ### B. Disputes: Any disputes as to the interpretation of this Agreement between two or more of the Participating Jurisdictions will be resolved by a

unanimous decision of the Participating Jurisdiction representatives on the Executive Committee eligible to vote on the matter.

- C. Administrative Support: Administrative support for Executive Committee meetings will be provided by the County.

## VII. OPERATING GUIDELINES

- A. National Standards: The Participating Jurisdictions agree to adopt and implement the National Incident Management System (NIMS) and Incident Command System (ICS) as the incident management organization required by ORS 401.305(6)(b).
- B. Local Standards: The Participating Jurisdictions agree to work toward attaining and maintaining minimum emergency management performance standards, which include, but are not limited to:
  - 1. Developing and maintaining a functional Emergency Operations Center (EOC), including written position descriptions, trained emergency management staff, displays, communication equipment, etc.
  - 2. Developing and maintaining a multi-hazard functional Emergency Operations Plan (EOP) that is consistent with Federal Emergency Management Agency (FEMA) and state guidance.
  - 3. Developing and maintaining a Natural Hazards Mitigation Plan (NHMP) that is consistent with FEMA and state guidance.
  - 4. Developing and maintaining a Continuity of Operations (COOP) Plan that is consistent with FEMA and state guidance.
  - 5. Conducting at least an annual exercise of the EOC and emergency management plans at a functional or full scale level.
  - 6. Providing educational materials and programs on disaster preparedness for individuals, families, and businesses.
- C. EMC Project Fund: The Participating Jurisdictions agree to establish a Project Fund to support the work of the EMC.
  - 1. The Project Fund will be established and maintained by the County as a revolving fund account.
  - 2. All contributions made to the EMC consistent with Section VIII below will be deposited into the Project Fund.
  - 3. Expenditures from the Project Fund will be at the discretion of the Executive Committee representatives from the Participating Jurisdictions making financial contributions to the EMC.
  - 4. Project funds in the account at the end of a Fiscal Year will be carried forward to the next Fiscal Year.
- D. EMC Work Plan:

1. The EMT will develop, for Executive Committee consideration and approval, a Fiscal Year work plan detailing the purposeful actions to be pursued on behalf of the collaborative. The work plan will identify specific tasks to enhance the systems, facilities, plans, procedures, training, and exercising of the countywide emergency management and multi-agency coordination systems and include an implementation plan with timelines, descriptions of required resources and operational implications, and lead agency contact information.
2. The work plan will be finalized and presented to the Executive Committee no later than the end of the calendar year preceding the beginning of the Fiscal Year work plan.

E. EMC Budget:

1. The EMT will develop, for Executive Committee consideration and approval, a Fiscal Year budget detailing the costs associated with implementing the Fiscal Year work plan.
2. The Fiscal Year budget will be finalized and presented to the Executive Committee no later than the month of February of the calendar year preceding the beginning of the Fiscal Year covered by the budget.
3. The costs of implementing the annual work plan may be paid for from the Project Fund subject to the voting limitations noted in Section VI.A.2 above, or by other means agreed to by the Executive Committee.

VIII. EMC FUNDING

- A. Purpose: All funds contributed to the EMC will be applied to execution of the Fiscal Year work plan. The costs of the Director and all EMC administrative costs will be borne by the County.
- B. Method: Participating Jurisdiction contributions, if any, will be determined annually as part of the work plan and budget processes as described in Sections VII.D and E above.
- C. Payments: The County will invoice all financially contributing members based on the amount agreed upon by each member. The invoices will be distributed during the month of July of the Fiscal Year for which the funds were obligated. Payments are due within 45 days of receipt of invoice unless other arrangements have been made with the County.

IX. DURATION, WITHDRAWAL, TERMINATION, AND DISSOLUTION

- A. Effective Date: This Agreement will go into effect on July 1, 2017, following its authorization by the governing bodies of Washington County and at least one of the public sector jurisdictions participating in the July



2013 Emergency Management Cooperative Intergovernmental Agreement (i.e., cities of Beaverton, Cornelius, Forest Grove, Sherwood, Tigard, and Tualatin, Tualatin Valley Fire & Rescue, and Clean Water Services).

- B. Termination: This Agreement will remain in effect until June 30, 2022, unless the Participating Jurisdictions unanimously agree in writing to an earlier termination, extension, or modification of its terms.
- C. Withdrawal: A Participating Jurisdiction may withdraw by providing 30 days written notice of its intent to withdraw to the Executive Committee. Any funds contributed by the jurisdiction to the Project Fund prior to the notice of withdrawal will remain in the Project Fund and be used for approved expenditures.
- D. Disposition of Assets: Upon dissolution of the EMC, any unobligated funds remaining in the Project Fund for the work of the organization shall, within a reasonable time, be divided among the members that contributed to the fund based on the proportional contributions of those members.

X. AMENDMENTS

Proposed amendments to this Agreement shall be approved by unanimous consent of the Participating Jurisdiction representatives on the Executive Committee and must be subsequently approved by each of the Participating Jurisdiction's governing bodies.

XI. ADDITIONAL JURISDICTIONS

Any public sector jurisdiction not a party to this Agreement may become a party by first obtaining the unanimous approval of the Participating Jurisdiction representatives on the Executive Committee and then securing approval of the terms in this Agreement and any accompanying amendments from its governing body.

XII. RESPONSIBILITY FOR ACTS

Each of the Participating Jurisdictions shall be solely responsible for its own acts and the acts of its employees and officers under this Agreement. No Participating Jurisdiction shall be responsible or liable for consequential damages to any other Participating Jurisdiction arising out of the performance of the terms and conditions of this Agreement.

XIII. INSURANCE

Each of the Participating Jurisdictions shall maintain an ~~appropriate~~ insurance policy or maintain a self-insurance program at limits prescribed by the Oregon Tort Claims Act that covers activities ~~that~~ it may undertake by virtue of participation in the EMC.

XIV. SEVERABILITY

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results in the invalidity of any part shall not affect the remainder of the Agreement.

XV. INTERPRETATION

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of the Agreement.

SUBSCRIBED TO AND ENTERED INTO by the appropriate officer(s) who are duly authorized to execute this Agreement on behalf of the governing body of the below-named public sector jurisdiction~~unit of local government~~.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
[Agency Name]

APPROVED AS TO FORM  
  
\_\_\_\_\_



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 06/12/2017

**SUBJECT:** Consideration of **Resolution No. 5317-17** Authorizing the City Manager to Execute an Amendment to an Intergovernmental Agreement (IGA) Between the City of Tualatin and Clean Water Services

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

The Council will consider whether or not to amend the IGA between the City of Tualatin and Clean Water Services

### **RECOMMENDATION:**

Staff recommends approval of Resolution No. 5317-17, authorizing the City Manager to execute an amendment to the IGA between the City of Tualatin and Clean Water Services

### **EXECUTIVE SUMMARY:**

Since 1970, Clean Water Services (CWS) has been responsible for conveying and treating wastewater throughout its service territory, which includes all of urban Washington County and each of the cities. To accomplish this, CWS and its member cities entered into Intergovernmental Agreements (IGAs) to cooperatively manage the sanitary system. In 1989, stormwater management requirements were added to CWS's responsibilities and the cities consented to the expansion of CWS's authority. The last IGA was entered into between the City and CWS on January 4, 2005 and amended on June 9, 2008.

The IGAs set forth the rules of CWS and the larger cities of Washington County (Beaverton, Cornelius, Hillsboro, Forest Grove, Sherwood, Tigard and Tualatin, collectively "Cities") necessary to operate the sanitary sewer and stormwater programs.

During the last year, as cities were discussing rights of way (ROW) ordinances, the Cities and CWS began to work collaboratively together to honor the Cities home rule authority to establish ROW fees applicable to their jurisdiction while addressing the concerns of a Special District that provides regional wastewater and stormwater services County-wide to multiple jurisdictions with varying ROW ordinances. Issues included determining the intent and nature of the fee, how the fee would be calculated and what the collection process would entail. The result of these discussions is contained in the proposed form of Amendment to the IGA.

The proposed IGA Amendment emphasizes the shared goal of adequate funding to CWS and the City's local sanitary sewer and surface water programs, provides for customer notification of the fee, and sets out a procedure to collect and remit the fee. The proposed IGA does not set a fee, rather, it provides a process by which a fee can be set and it is flexible in that it allows each city to choose whether or not to charge a fee and how much if so.

The Clean Water Services Board of Directors approved the form of the amendment to the IGA and authorized the CWS General Manager to finalize and sign the final amendment upon City Council approval, on March 17, 2017. Many of the other larger cities have also approved the amended IGA. The amendment is attached for City Council approval this evening.

**OUTCOMES OF DECISION:**

Passage of the attached resolution approves the amendment to the IGA with Clean Water Services, finalizing discussions and the agreement between the Cities and CWS.

**FINANCIAL IMPLICATIONS:**

There is no financial impact to approving the IGA Amendment. Any impact will be dependent on future Council discussions regarding passage of a rate resolution.

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**Attachments:**     Resolution No. 5317-17

RESOLUTION NO. 5317-17

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN CITY OF TUALATIN AND CLEAN WATER SERVICES.

WHEREAS, the City of Tualatin and Clean Water Services (CWS) entered into an Intergovernmental Agreement (IGA) on January 4, 2005 (and subsequently amended on June 9, 2008) for the operation of sanitary sewer and surface water facilities; and

WHEREAS, the IGA allows the agreement to be amended upon approval of the governing bodies of both parties; and

WHEREAS, the form of the attached amendment to the IGA was approved by the Clean Water Services Board of Directors on March 17, 2017; and

WHEREAS, the Clean Water Services Board of Directors authorized the CWS General Manager to finalize and sign the final amendment upon City Council approval;

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

**Section 1.** The City Manager is authorized to execute the Amendment to Intergovernmental Agreement Between City of Tualatin and Clean Water Services, which is set forth in Exhibit A and is incorporated by reference.

**Section 2.** This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 12<sup>th</sup> day of June, 2017.

CITY OF TUALATIN OREGON

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

APPROVED AS TO LEGAL FORM

ATTEST

BY \_\_\_\_\_  
City Attorney

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

AMENDMENT TO INTERGOVERNMENTAL  
AGREEMENT BETWEEN CITY OF CITY OF TUALATIN  
AND CLEAN WATER SERVICES

THIS AMENDMENT is made and entered into as of the 12th day of June, 2017 between the City of Tualatin, a municipal corporation of the State of Oregon, hereinafter referred to as “City,” and Clean Water Services, a municipal corporation and county service district, hereinafter referred to as “District”.

WHEREAS City and District entered into an Intergovernmental agreement (IGA) on January 4, 2005 (and subsequently amended on June 9, 2008) for the operation of sanitary sewer and surface water facilities; and

WHEREAS the IGA allows the agreement to be amended upon approval of the governing bodies of both parties; and

WHEREAS Oregon cities have home rule authority to assess Rights of Way (ROW) Fees on utilities. Rights of way fees are assessed to account for the use of the City’s ROW for the delivery and conveyance of utility services, including sanitary sewer and surface water services; and

WHEREAS the City and the District agree that is in the best interest of both parties to strive for adequate funding for both the District and Local sanitary sewer and surface water programs; and

WHEREAS this agreement resolves issues related to the procedures for collection and payment of City ROW Fees on District established sanitary sewer and stormwater charges; and

WHEREAS District bills certain industrial customers directly and City has the responsibility for billing all other customers; and

WHEREAS District uses a resolution and order to establish rates (“Resolution”) as provided in the IGA; and

WHEREAS the City has or may enact ROW Fee ordinances, and the District has requested the City for this Amendment to the IGA to provide for administrative and procedural governance surrounding the implementation, collection, and payment of a City ROW fee; and

WHEREAS in order to avoid any disputes regarding the administration of ROW Fees, the City and District have agreed to this IGA Amendment to reflect the parties’ agreement regarding administrative matters related to ROW Fees.

NOW, THEREFORE, the parties agree, effective as of June 12, 2017, as follows:

1. Definition of Terms. Wherever the following terms are used in this amendment they shall have the following meaning unless otherwise specifically indicated by the context in which they appear.
  - a. ROW Fee is defined to include the following: Franchise Fees, Right of Way Fees, Right of Way Usage fees, Privilege Tax, or any other interchangeable term for a City imposed charge for the use of the Rights of Way in the City.
2. City's Home Rule Authority. The District recognizes the City's home rule authority to impose fees for use of City Rights of Way (ROW), separate from permit fees, to enable the conveyance and provision of services. Nothing in this Amendment shall be construed as a limitation on the District's or City's authority relative to matters outside the subject matter of this amendment. The Parties will administer ROW fees in the manner specified herein.
3. Amendment Intent. Notwithstanding any provision to the contrary in the IGA, City ROW Fee ordinance, or District Resolution, this amendment is intended to represent the City and District's agreement regarding the rate setting, implementation and remittance of ROW Fees. Nothing in this Amendment shall modify any provisions of the existing IGA except to the extent necessary to provide for the rate setting, implementation, and remittance of ROW Fees as provided herein.
4. Rate Setting.
  - a. The existing Resolution provides for District-wide rate and a Local rate for base and use charges. The Resolution will be amended to include a new rate category called City ROW Fee as set forth in Exhibit C.
  - b. The City ROW Fee is calculated on the District-Wide rate for monthly residential and commercial service charges.
  - c. The City ROW Fee is calculated on the District-Wide rate of the industrial monthly volume services charges.
  - d. The City ROW Fee will be implemented upon notice by the City and the fee is between 0 and 5% on the District-wide rate
  - e. For purposes of calculating the ROW Fees due to the City, ROW Fees are applied to gross District-wide service charge revenue collected, exclusive of the ROW Fees, for residential and commercial customers located in the City.
  - f. For purposes of calculating the ROW Fees to be remitted to the City, ROW Fees are applied to gross District-wide volume service charge revenue, exclusive of the ROW Fees, collected for industrial customers located in the City.
  - g. These provisions are to ensure that the District receives its full allocation of District-wide monthly service charges and that the City receives the ROW Fee calculated on the District rates.

- h. Upon future annual rate adjustments, the ROW Fee will be applied after the District annual rate adjustment to the service charges.
- 5. Notice of Intent to Implement ROW Fees. The City will provide CWS with at least 30 days' notice of its election to institute ROW Fees.
  - a. The notice will include a copy of the City's ordinance or other legal authority establishing the ROW Fee, and the effective date of the fee.
  - b. The notice will indicate whether the ROW Fee will be applied to the industrial revenue from volume monthly service charges in addition to being applied to the District-wide monthly service revenue for residential and commercial, which determinations will be within the City's sole discretion.
  - c. The notice will also include a proposed City rate schedule establishing rates to be applied to City billed customers.
  - d. The City and District will within the 30-day notice period, calculate rates that will be used to determine the City's remittance to the District based on the new rate schedule.
- 6. Remittance. The City will use the new rate on the District remittance form. The District will prepare a monthly industrial remittance form to be submitted to the City.
  - a. The remittance forms will include the report of all revenue billed, revenue collected, and the calculation of the ROW Fee.
  - b. The City will retain the amount of the ROW Fee derived from revenues from the monthly service rate collected from all customers billed by the City.
  - c. For industrial customers billed by the District, the District will remit to the City on a monthly basis the ROW Fee derived from the monthly District-wide volume service charges collected by the District.
  - d. Forms showing the methodology for implementing Remittance are attached as Exhibit A and B.
- 7. City Surcharge Not Limited. Nothing in this Amendment shall limit the City's authority to determine the Monthly Service Charge Rates for the Local Program.
- 8. Notice to Customers. City shall notify residential and commercial customers and District shall notify industrial customers in substantially the manner as set forth in the attached Exhibit D. Messaging may be directly on the bill or in some other similar, effective manner.
- 9. Indemnity. The City shall indemnify and defend the District in the event of third party lawsuits challenging the City's authority to impose the ROW Fee.
- 10. Licensing. If there is a licensing requirement or license fee for use of the rights of way in the City ROW Fee ordinance, that requirement and fee are considered satisfied



by the IGA. District is not required to furnish a certificate of insurance, if that is a requirement of the City ROW fee ordinance.

CITY OF TUALATIN

CLEAN WATER SERVICES

By:

By:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
General Manager

Attest:

APPROVED AS TO FORM

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

\_\_\_\_\_  
District Counsel

\_\_\_\_\_  
City Attorney

**CLEAN WATER SERVICES  
MONTHLY REPORT OF CITY SEWER & STORM RECEIPTS & REMITTANCES  
FY 2016-17**

CITY: \_\_\_\_\_

MONTH: \_\_\_\_\_

BILLING PERIOD: \_\_\_\_\_

**SEWER SVCS ALLOCATION:**

District Rate (\$22.94 + \$1.52)	24.46	83.567%
City Rate (\$4.51 + \$0.30)	4.81	16.433%
ROW Fee	0.00	0.000%
	<u>\$29.27</u>	<u>100.000%</u>

**Sewer Service Fees Collected (100%)**

		<u>1,000,000.00</u>
Local Portion (City Retains)	16.433%	\$ 164,332.08
District-wide Portion (To CWS)	83.567%	

**Remittance to  
CWS**

**A \$ 835,667.92**

CWS Use

#101.000.0000.40120.0000.0000

**STORM SVCS ALLOCATION:**

District Allocation (25%)	1.94	25.032%
Local Allocation (75%)	5.81	74.968%
ROW Fee	0.00	0.000%
	<u>\$ 7.75</u>	<u>100.000%</u>

**Surface Water Management (\$7.75 per ESU)**

Service Fees Collected (100%)		<u>100,000.00</u>
Local Portion (City Retains)	74.968%	\$ 74,967.74
District-wide Portion (To CWS)	25.032%	

**B \$ 25,032.26**

#201.000.0000.40120.0000.0000

**Sanitary Sewer SDC Charges (\$5,300 per EDU):**

**Reimbursement Portion of Sanitary SDCs (\$3,242.96 per EDU)**

District-wide Portion (To CWS)	61.187%	
--------------------------------	---------	--

**C \$ -**

#107.000.0000.41020.0000.0000

**Improvement Portion of Sanitary SDCs (\$2,057.04 per EDU)**

Local Portion (City Retains)	3.983%	\$ -
District-wide Portion (To CWS)	34.830%	

**D \$ -**

#107.000.0000.41210.0000.0000

**Adjustments or Corrections**

(please provide explanation)

**E**

**Erosion Control Fees Collected**

**F**

#201.000.0000.40290.0000.0000

**Total Remittance to CWS (Sum of A through G)**

**\$ 860,700.18**

Sewer Permit Numbers Issued # \_\_\_\_\_ thru # \_\_\_\_\_

Number of Connection Permits Issued (in EDU's) \_\_\_\_\_

Total number of EDU's Served (period end) \_\_\_\_\_

SWM Permit Numbers Issued # \_\_\_\_\_ thru # \_\_\_\_\_

Number of SWM Connection Permits Issued (in ESU's) \_\_\_\_\_

Total number of ESU's Served (period end) \_\_\_\_\_

**CLEAN WATER SERVICES  
MONTHLY REPORT OF DISTRICT INDUSTRIAL SEWER RECEIPTS & REMITTANCES  
FY 2016-17**

**CITY:** \_\_\_\_\_  
**MONTH:** \_\_\_\_\_  
**BILLING PERIOD:** \_\_\_\_\_

**SEWER SVCS ALLOCATION:**

District Rate (\$22.94 + \$1.52)	24.46	83.567%
Local - Unincorporated Wash Co. Rate (\$4.51 + \$0.30)	4.81	16.433%
City Rate	0.00	0.000%
City ROW Fee	0.00	0.000%
	<b>\$29.27</b>	<b>100.000%</b>

**Sewer Service Fees Collected (100%)**

		1,000,000.00	
District-wide Portion (CWS Retains)	83.567%	\$ 835,667.92	
City Portion (To City)	16.433%	\$ 164,332.08	
City ROW Fee (To City)	0.000%	\$ -	
			<b>A \$ 164,332.08</b>

Remittance to  
CITY

<u>CWS Use</u>
#101.000.0000.40140.0000.0000

**APPENDIX B**

**DISTRICT RATES AND CHARGES TO CITIES**

**For the Cities of Forest Grove, Cornelius, Hillsboro, Beaverton, Tigard, Tualatin, Sherwood  
Sanitary Sewer Fee & Charge**

**Service Charge**

Monthly Sanitary Sewer Charges per DU

	District Rate		City Right of Way Fee (0 to 5%)		Total \$
	Variable	Fixed	Variable	Fixed	
Base	N/A	\$22.94	N/A	\$0.00 to 1.15	\$22.94 to 24.09
Use	\$1.52/ccf avg winter water usage	N/A	\$0.00 to 0.08/ccf avg winter water usage	N/A	\$1.52 to 1.60/ccf avg winter water usage

**Storm and Surface Water Fee and Charge**

**Service Charge**

Monthly Storm and Surface Water Service Charges per DU

	District Rate	City Right of Way Fee (0 to 5%)	Total \$
Base	\$1.94	\$0.00 to 0.10	\$1.94 to 2.04

**Rates and charges for the cities of Banks, Durham, Gaston, King City and North Plains will be collected and allocated according to the individual Intergovernmental Agreements.**

EXHIBIT D

BILLING NOTIFICATION LANGUAGE—RESIDENTIAL AND COMMERCIAL CUSTOMERS:

Effective \_\_\_\_\_, 2017, the Sanitary Sewer and Stormwater bill includes a new rate calculated to include a \_\_% City of \_\_\_\_\_ Rights of Way Fee.

BILLING NOTIFICATION LANGUAGE—INDUSTRIAL CUSTOMERS:

Effective \_\_\_\_\_, 2017 the Sanitary Sewer and Stormwater bill includes a new rate calculated to include a \_\_% City of \_\_\_\_\_ Rights of Way Fee. The fee is calculated as \_ percent of Sanitary Sewer volume charge and Stormwater fee and is identified on your bill as “City of \_\_\_\_\_ Rights of Way Fee”. CWS will collect and remit the money to \_\_\_\_\_ [name of City].

**City Council Meeting**

**Meeting Date:** 06/12/2017

**SPECIAL** Summer Programs Preview  
**REPORTS:**

**Submitted For:** Sherilyn Lombos, City Manager

---

**SPECIAL REPORTS**

Update on Summer Programs and Activities Offered by the City of Tualatin and Partners

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Summer Programs Preview

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# *City of Tualatin*

Summer Programs 2017



# Tualatin Public Library



New online options to track your reading!

Free books for kids and teens

Summer lunch site for July

Weekly outreach visits to Atfalati Park including hands-on science fun





# Summer Reading at the Commons

Summer Reading fosters human development through promoting literacy & education, increases cultural unity, and creates a sense of place.



Tuesdays, June - August



Washington County  
Cooperative Library Services





# Summer Camp 2017



Six 1-week sessions  
277 kids registered  
Ages 4yrs-5<sup>th</sup> grade





# Teen Adventure Camp



9 weeks  
18 sessions  
24 teens per day, 648 total  
100% of spots filled, with waitlists







# CONCERTS ON THE COMMONS

Every Friday night in July and August  
6:30-8:30pm







# MOVIES ON THE COMMONS



Free family-friendly movies  
Saturdays in July & August







# ART splash

3 days, 56 artists  
Live music  
Kids' art tent  
Chalk it Up





# Teen Volunteers



**TEAM Tualatin** 70 youth, 8 weeks

**Library** 40 summer Teen volunteer

**Tualatin Youth Advisory Council** 20 youth, meet weekly, help out with summer events



# Police

## National Night Out

Tuesday, August 1st

## GREAT Camp

Gang Resistance  
Education and Training

6<sup>th</sup>-8<sup>th</sup> grade students, four  
sessions

## Child Passenger Seat Safety Checks

Two more dates this  
summer





# Juanita Pohl Center

## Summer Programs for Active Older Adults

Hikes, day trips, and regional excursions

Health & fitness programs



# Recreation Partners

## **Tualatin Crawfish Festival**

Music, food, contests, and activities

## **Tualatin Heritage Center**

Ongoing programs and events

## **Browns Ferry Park**

Kayak & canoe rentals

## **Willowbrook Arts Camp**

36<sup>th</sup> summer

## **Tigard-Tualatin Summer Lunch Program**

Community Park, Atfalati Park, Tualatin Public Library

## **YMCA, Skyhawks, Code to the Future Camps**



**City Council Meeting**

**Meeting Date:** 06/12/2017

**SPECIAL** Family Justice Center

**REPORTS:**

**Submitted For:** Sherilyn Lombos, City Manager

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**SPECIAL REPORTS**

Family Justice Center Update

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Fact Sheet

Summary

PowerPoint

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# **Family Justice Center of Washington County**

## **Fact Sheet**

### **May 2017**

#### **Introduction: What Is a Family Justice Center?**

A Family Justice Center is a collaborative effort by multiple government, law enforcement, and nonprofit partners to provide comprehensive services for survivors of domestic violence in one location. In most communities, a survivor must traverse a confusing and disconnected path to receive all the services she or he might need – from counseling to protective orders to prosecution to housing assistance to shelter to civil legal service, just to name a few. Under the Family Justice Center model, not only are all of these services available “under one roof,” but they also collaborate to ensure that the survivor is in control of what options to select, in what order, and in what ways. The first Family Justice Center opened in San Diego in 2002, and there are currently more than 90 across the United States, with more than 100 in development. In addition, there are more than a dozen international Family Justice Centers.

#### **Why in Washington County? Why Now?**

Survivor advocates in Washington County has been considering the idea of a Family Justice Center for more than 10 years. Over the past three years, a Steering Committee of more than 25 agencies and committed citizens have been working to move this idea forward, joining Multnomah and Clackamas Counties, which have opened their own centers in the past few years. We have the commitment and momentum to finally make this dream a reality.

#### **Where Do Things Stand Now?**

We are confident that we will be able to open the doors of the Family Justice Center of Washington County in the very near future. We have made tremendous progress in recent months, and are excited to build on this progress.

- Washington County government has committed to ongoing funding to support the Center. This is a significant foundation of support upon which we will build.
- Cities throughout the county are currently considering what funding they will be able to contribute to the effort.
- Civic organizations and community partners have added their own financial support, including the Hillsboro Rotary, Hillsboro Elks, and the Sunrise Church. More partners are actively considering joining in the effort.
- Key agencies have agreed to join in the effort, including the Domestic Violence Resource Center (DVRC), Abuse Recovery Ministry and Services (ARMS), Survivors Collective Alliance Reaching Society (SCARS), the Washington County Sheriff's Office, the Washington County District Attorney, Immigrant and Refugee Community Organization, El Programa Hispano Catolico, several city police departments, Oregon Law Center, Oregon Crime Victims Law Center, Washington County Courts, and many others.
- We are actively seeking space to house the Center so that we can move in as soon as possible.

#### **If You'd Like to Get Involved**

Please contact Patrick Lemmon, Project Manager, at [patricklemmon@gmail.com](mailto:patricklemmon@gmail.com) or 971-202-8280.



## **Family Justice Center of Washington County**

One in four women have experienced domestic violence in their lifetime, that's 25% of our female population. There is also emotional abuse, financial abuse (controlling the money), restricting a partner's ability to work, and denying basic needs. Multiple providers in Washington County offer critical services, but an individual needing services must go from site to site, sometimes miles without a personal vehicle, and many times with young children in tow, retelling and reliving the abuse multiple times. Lack of easy access to enveloping support sends victims back to abuse. Delay may be dangerous. Since 2000 Washington County has had 53 homicides as a result of family violence, 31 of those died at the hands of their intimate partner. A team of county, city and business leaders, providers and survivors have been working together for a year and a half to find a solution to end this cycle of violence in Washington County. The end result of their work is the creation of a Family Justice Center.

A Family Justice Center is the co-location of a multi-disciplinary, multi-agency team of professionals, who work together, under one roof, to provide coordinated services to victims of family violence. The Family Justice Center model reduces Domestic Violence (DV) by providing wrap around support to victims of DV, their children and their communities. The Department of Justice considers the Family Justice Center model the best practice for allowing survivors to survive, heal, and break the cycle of domestic violence.

Co-located services will include: daycare, food, law enforcement, safety planning, counseling for adult and children, health care, legal assistance and court access via video. Additional services that can be included are housing support, employment services, Dress for Success, Goodwill Job Services, and transportation services. The services will be culturally appropriate for the clients. For more information, visit us at [www.fjcwashco.org](http://www.fjcwashco.org).



## Family Justice Center of Washington County

### The Path to Safety, Healing, and Hope

Hillsboro Police Chief Lee Dobrowolski – Board President  
Judy Willey – Board Member

# The Big Vision



- **A safe and welcoming place where...**
  - All the needs of victims are met
  - Trauma Informed Care
  - Aggressors are held accountable
  - Families and communities heal and thrive
  - Generational cycles of violence are broken
  - Hope is restored, and
  - We ALL work together

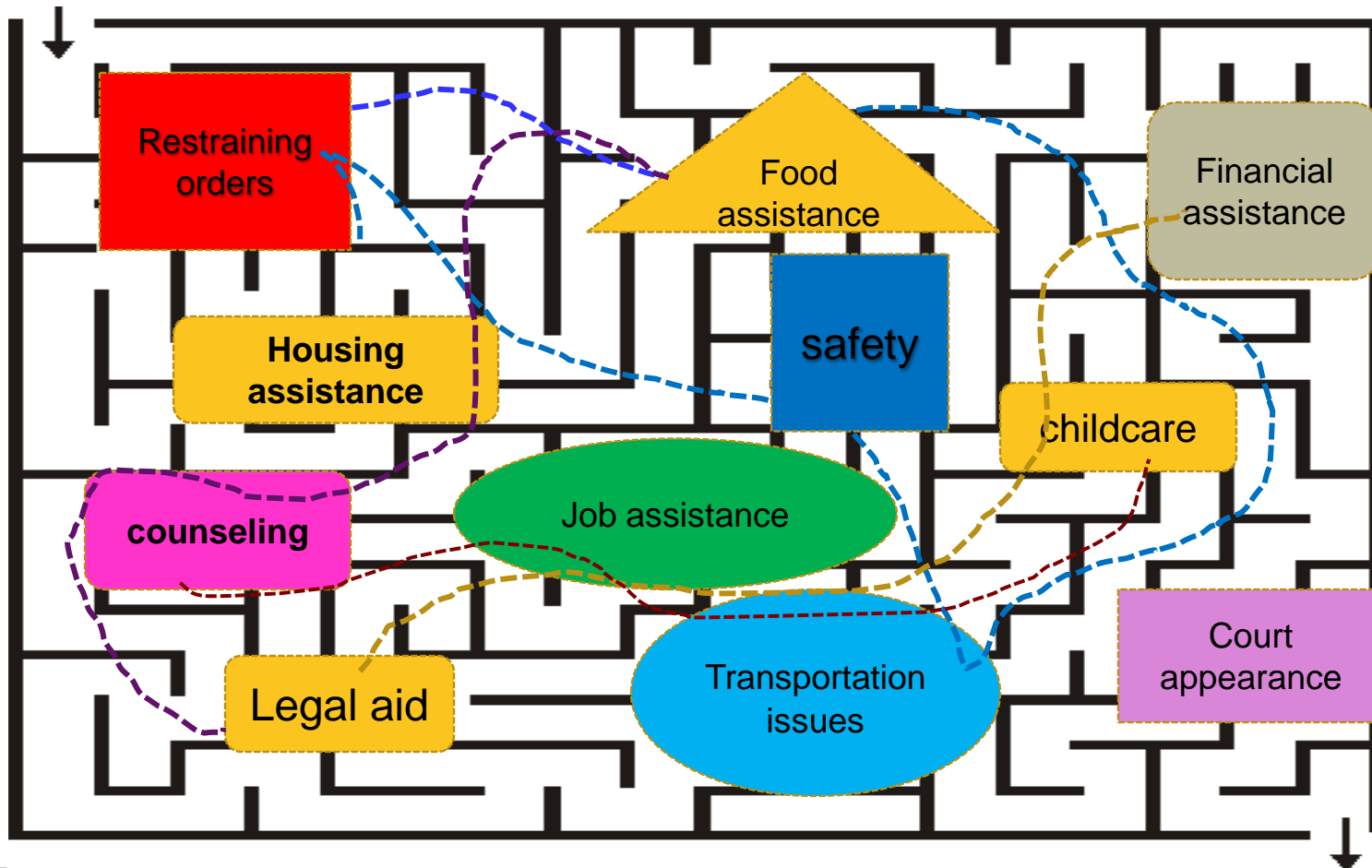
# Why Do This in Washington County?

## WCCCA DV Calls by Precinct

	<b>2014</b>	<b>2015</b>
Banks	24	20
Beaverton	1,175	1,233
Cornelius	161	141
Forest Grove	347	323
Gaston	15	14
Hillsboro	1,330	1,361
King City	26	29
North Plains	21	26
Sherwood	123	125
Tigard	627	626
Tualatin	342	362
WC Sheriff	1,807	1,870
	<b>5,998</b>	<b>6,130</b>



# Currently, the path to healing and hope is daunting....



# What Is a Family Justice Center?

(coming Summer 2017)

**FAMILY JUSTICE CENTER**  
WASHINGTON COUNTY

*Under one roof*

Legal services  
Victim advocates  
Adult and Child counseling  
Medical Care  
Shelter Services  
Protective Orders  
Child Care  
Food  
**Hope**  
Safety Planning  
Transportation  
Understanding  
Employment services  
**Safety**

**LOVE SHOULD NOT HURT**  
Please donate today  
[www.FJCWashCo.org](http://www.FJCWashCo.org)  
(503)-469-8620

Follow us on

f t i in

# Why Do This in Washington County?

- Domestic violence is at the root of many homicides in Washington County.
- Since 2000, the county has had 125 homicides. Of those, 31 people (25%) have died in slayings that involved a current or former intimate partner killing another, [according to data](#) kept by The Oregonian. Another 22 have died in family violence, including children who were killed by a parent.
- The cost of a murder prosecution is \$1-\$1.5 million, the lifetime cost of imprisonment is close to \$1 million.
- End generational effects of DV on children. Stop today's children from being tomorrow's victims and abusers.

**The ability to serve more domestic violence victims greatly reduces overall DV. The Clackamas County FJC (A Safe Place) reports a doubling of domestic violence clients since opening in late 2013. We are not even scratching the surface!**

# FJC Evidence-Based Data, and Washington County's Readiness

- With FJC - victims are more likely to remove themselves from abuse and stay away.
- Victims are more likely to appear for trial and defendants more likely to seek diversion.
- Lethality diminishes. DV homicides are reduced up to 50% in FJC communities.
- Washington County has a long history of working together through the Domestic Violence Intervention Council (DVIC) and other community collaborations. DVIC had previously considered a Family Justice Center here as early as 2003.
- Domestic Violence Resource Center (DVRC) has served DV victims here for 40 years and offers protective order services and the only Shelter in Washington County, but they need more connection and collaboration.
- The time is now for Washington County!

Support from Beaverton, Tigard, Forest Grove, Tualatin and Hillsboro Police Departments and Washington County Sheriff



Chiefs Spalding, Orr and Dobrowolski

First Lady of Beaverton, DA of Washington County, Chiefs of Police, providers, advocates and victim-survivors all working together during our two day strategic planning session...





# What We're Here to Ask for:

- Comprehensive Communications Effort to:
  - Engage all of Washington County's communities, especially those that are often underserved
  - Help us secure a wide variety of partners and volunteers to meet the needs of survivors
  - Assist us in educating survivors that there is hope for tomorrow and a better, healthier lifestyle for family

# FJC Communications Plan 2016-17



- Foundations
- Corporations
- Federal and State Funding Streams
- Community Organizations
- Individual Donors
- Local Businesses



- Nonprofit Organizations
- Government Agencies
- Attorneys
- Elected Officials



- Victims/ Survivors
- Community Members
- Volunteers





**Please join us...**



**to end the cycle of domestic violence**

# Thank You!

Patrick Lemmon, Project Manager

971-202-8280

[patricklemmon@gmail.com](mailto:patricklemmon@gmail.com)

[www.fjcwashco.org](http://www.fjcwashco.org)

Facebook

Family Justice Center of Washington County





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 06/12/2017

**SUBJECT:** Consideration of **Resolution No. 5322-17** Declaring the City's Election to Receive State Revenue Sharing Funds During Fiscal Year 2017-18

---

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

The Council will consider whether or not to receive State Revenue Sharing Funds.

### **RECOMMENDATION:**

Staff recommends adopting the attached Resolution after conducting the required public hearing.

### **EXECUTIVE SUMMARY:**

In order for the City to receive state shared revenues, the City must have levied property taxes in the prior fiscal year, pass a resolution approving participation in the program and hold two public hearings on the use of state revenue sharing funds. The first public hearing, before the budget committee, is to discuss possible uses of the funds. That public hearing was held on May 30, 2017. The second public hearing, before the City Council this evening, is to discuss the proposed uses of the funds.

The City is set to receive \$365,900 in State Revenue Sharing Funds in 2017-18. This amount is a portion of the Liquor Tax and is apportioned to cities based upon a calculation defined in Oregon Revised Statutes (ORS) 221.770 using factors such as adjusted population and state per capita income.

The City also receives allocations for another portion of Liquor Tax funds, as well as Cigarette and Gas Taxes, based upon a per capita distribution. These funds are governed under ORS 221.760. The law provides that cities located within a county having more than 100,000 inhabitants, must provide four or more municipal services (out of a list of seven types of services) to be eligible to receive these revenues. Council must pass a resolution stating that these services are provided (on this evening's Council Agenda), and are therefore not part of tonight's public hearing.

These revenues are not restricted by the State and are therefore used as a General Fund revenue source.

**OUTCOMES OF DECISION:**

If the Council approves the Resolution, the City will be eligible to receive state shared revenues. If the Council does not approve the Resolution, the City will not receive state shared revenues and will need to reduce its expenditures or contingencies.

**FINANCIAL IMPLICATIONS:**

The City has budgeted \$365,900 of state shared revenues in the General Fund for general city operations in Fiscal Year 2017-2018.

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**Attachments:**    [Resolution No. 5322-17](#)

RESOLUTION NO. 5322-17

A RESOLUTION ELECTING TO RECEIVE STATE REVENUE SHARING FUNDS FOR THE 2017-18 FISCAL YEAR

WHEREAS, ORS 221.770 requires the City Council adopt a resolution declaring the City's election to receive State Revenue Sharing Funds; and

WHEREAS, the 2017-18 budget for the City of Tualatin contains State Revenue Sharing Funds as a resource in the budget year beginning July 1, 2017; and

WHEREAS, the Budget Advisory Committee held a public hearing to discuss the possible uses of State Revenue Sharing Funds on May 30, 2017 and the City Council held a public hearing on June 12, 2017 to discuss the proposed use of the funds for Fiscal Year 2017-18, giving citizens an opportunity to comment on use of State Revenue Sharing, and

WHEREAS, the City levied a property tax for the preceding fiscal year, beginning July 1, 2016.

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

**Section 1.** Pursuant to ORS 221.770, the City of Tualatin elects to receive State Revenue Sharing Funds for Fiscal Year 2017-18.

**Section 2.** This resolution is effective upon adoption.

Adopted by the City Council this 12<sup>th</sup> day of June, 2017.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

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



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Erin Engman, Associate Planner  
Aquilla Hurd-Ravich, Planning Manager

**DATE:** 06/12/2017

**SUBJECT:** Plan Map Amendment 16-0001 to Change the Designation of 0.64 acres from General Commercial to High Density Residential Located at 6645 SW Nyberg Lane (former RV Park of Portland)

---

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

Consideration of Plan Map Amendment 16-0001, to change the designation of two tax lots totaling 0.64 acres from General Commercial to High Density Residential located at 6645 SW Nyberg Lane. This amendment will revise Community Plan Map 9-1.

### **RECOMMENDATION:**

The Tualatin Planning Commission considered PMA 16-0001 at their meeting held on May 18, 2017 to provide a recommendation to City Council. The Tualatin Planning Commission passed a motion to recommend approval of PMA 16-0001 to City Council 7-0. A draft of the TPC minutes is included as Attachment 108.

Staff asks that the Council consider the staff report, analysis and findings, application materials, proposed maps, and Tualatin Planning Commission recommendation to provide direction to staff.

### **EXECUTIVE SUMMARY:**

#### **PROJECT DESCRIPTION**

The City has received an application requesting a Plan Map Amendment to change the planning designation of property located at 6645 SW Nyberg Lane from General Commercial (CG) to High Density Residential (RH). The site is made up of two tax lots. One lot (2S1 24A 2601) is approximately 10.85 acres in size and is predominately designated RH with a portion designated CG. The second lot (2S1 24A 2600) is approximately 0.1 acres in size and is designated CG. Together tax lots 2601 and 2600 form one legal lot under single ownership with an area of 10.95 acres. The land proposed for amendment is located on the southernmost portion of the site and totals 0.64 acres. This current configuration was established through PMA-94-04.



The subject property shares frontage along SW Nyberg Lane. The General Commercial district land was bisected by an improvement project that was identified in the City of Tualatin's 2001 Transportation System Plan as the Nyberg Street / SW 65 th Avenue, and Nyberg Lane intersection improvement. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with System Development Charge (SDC) funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street.

The applicant contends that the remaining 0.64 acres of General Commercial land is undevelopable under its current planning designation due to size, shape, and configuration and is therefore requesting this PMA to change the designation to Residential High Density. Background information has been included as Attachment 101. The applicant Tandem Property Management, Inc, submitted application materials included as Attachment 103.

### **SITE DESCRIPTION**

The subject site is located in the City of Tualatin's Planning Map Area 5. This area is east of I-5 and is described in Chapter 9 Plan Map as containing "substantial multifamily" uses. The site is bordered by the Tualatin River to the north, Stonestrow Apartment to the east, Nyberg Lane to the south, and Forest Rim apartments to the west. Historically this site was used as an RV park, but the business closed in 2012. The property has sat vacant since that time. The 0.64 acre site is impacted by floodplain constraints that result in 0.45 net buildable acres.

### **PLAN AMENDMENT CRITERIA**

The Analysis and Findings in Attachment 102 contain findings of fact to demonstrate that the proposed amendment to Community Plan Map 9-1 is consistent with approval criteria per Tualatin Development Code Section 1.032 Burden of Proof. These criteria must be met if the proposed amendment is to be granted. As demonstrated in the Analysis and Findings, all ten criteria are met. The Analysis and Findings goes through a comprehensive analysis of applicable Tualatin Community Plan chapters, State Goals, and Metro Urban Growth Functional Plan.

### **OUTCOMES OF DECISION:**

A recommendation to approve PMA 16-0001 would result in the following:

- A change of the Planning Designation on Tax Lot 2S1 24A 2600 and a portion of 2601 from General Commercial to High Density Residential on Community Plan Map 9-1. The two tax lots are located at 6645 SW Nyberg Lane. The entire site will have the same Planning District.
- Eventual development of the site for multifamily residential purposes with the potential for a density of 25 dwelling units per acre.

A recommendation to deny PMA 16-0001 would result in the following:

- The Community Plan Map 9-1 will not be amended and High Density Residential development will not be allowed on lot 2600 and a portion of lot 2601. The site will remain with split land use designations.

### **ALTERNATIVES TO RECOMMENDATION:**

The alternative recommendations include:

- Approve the proposed Plan Map Amendment with alterations
- Deny the request
- Continue the discussion of the proposed Map Amendment and return to the matter at a later date

#### **FINANCIAL IMPLICATIONS:**

The applicant paid a \$2,245 filing fee for the Plan Map Amendment application.

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**Attachments:**    101 - Background  
                          102- Analysis and Findings  
                          103- Application  
                          104 - Existing Plan District  
                          105 - Proposed Plan Districts  
                          106 - Eng Div Memo  
                          107 - School Dist Memo  
                          108 - Draft TPC Minutes  
                          109 - CC Presentation

**PMA16-0001 Attachment 101:  
BACKGROUND**

The City has received an application requesting a Plan Map Amendment (PMA 16-0001) to change the planning designation of property located at 6645 SW Nyberg Lane from General Commercial (CG) to High Density Residential (RH). Tax Lot 2S1 24A 2600 is approximately 0.1 acres in size and is currently designated CG. Tax lot 2601 is approximately 10.85 acres in size and is designated RH with a portion designated CG. Together tax lots 2600 and 2601 form one legal lot under single ownership with an area of 10.95 acres. The majority of this property is zoned Residential High Density (RH) (10.31 acres or 94%). The southernmost portion of the site: 50 ft at the eastern boundary and 137.95 ft at the western boundary is zoned General Commercial (CG) (0.64 acres or 6%). This current configuration was established through PMA-94-04. See existing and proposed plan designation maps included as Attachments 104 and 105.

The subject site has been historically used as an RV park, but the business closed in 2012. The property has sat vacant since that time. The current owner of the site is proposing to construct high-density residential housing in a future and separate land use application.

Adjacent planning districts and land uses are clockwise:

<u>North:</u>	N/A	Tualatin River, City of Rivergrove and Lake Oswego jurisdictions
<u>East:</u>	Residential Medium-High Density (RMH)	Stonethrow Apartments
<u>South:</u>	General Commercial (CG)	Nyberg Lane, 7 Eleven, Willamette Valley Animal Hospital
<u>West:</u>	Residential Medium-High Density (RMH)	Forest Rim Apartments

The subject property shares frontage along SW Nyberg Lane. As previously mentioned, the General Commercial district land is located on the southern portion of the site along the Nyberg frontage. This portion of land was bisected by an improvement project that was identified in the City of Tualatin's 2001 Transportation System Plan as the Nyberg Street / SW 65<sup>th</sup> Avenue, and Nyberg Lane intersection improvement. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with SDC funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street. The applicant contends that the remaining 0.64 acres of General Commercial land is undevelopable under its current planning designation due to size, shape, and configuration and is therefore requesting this PMA to change the designation to Residential High Density.

While the Plan Amendment criteria of TDC 1.032 are of a conceptual land use level, site redevelopment constraints are relevant. The General Commercial land directly abuts SW Nyberg Lane but has limited access from SW Nyberg Road by an approximately 110 ft queue lane. Additionally there are floodplain constraints on the subject property, making the net buildable acreage of the CG land 0.45 acres and further limiting development possibilities. The change to a RH designation will allow for up to 25 units per acre, and the potential to add 11 multifamily units.

Attachment 102 contains the analysis and findings demonstrating how the PMA meets the approval criteria of Tualatin Development Code (TDC) Section 1.032. Attachment 106 includes a memorandum from the Engineering Division dated March 31, 2017 that examines the affect of the PMA on public facilities, including roads.

## **PMA 16-0001 Attachment 102: ANALYSIS AND FINDINGS**

### **Proposal**

The City has received an application requesting a Plan Map Amendment changing the planning designation of tax lot 2S1 24A 2600 and a portion of tax lot 2601 from General Commercial (CG) to High Density Residential (RH). Tax lot 2600 is approximately 0.1 acres and tax lot 2601 is approximately 10.85 acres. Together tax lots 2600 and 2601 form one legal lot under single ownership with an area of 10.95 acres. The majority of this property is zoned Residential High Density (RH) (10.31 acres or 94%) and the southernmost 50 ft (eastern boundary) to 137.95 ft (western boundary) is zoned General Commercial (CG) (0.64 acres or 6%). This current configuration was established through PMA-94-04.

The subject site has been historically used as an RV park, but the business closed in 2012. The property has set vacant since that time. The current owner of the site is proposing to construct high-density residential housing in a future and separate land use application.

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

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

Applicant Response: Please see Attachment 103 for full response.

In this case, the public interest standard is met. When the land was originally zoned General Commercial, it was part of a larger tract of land that enjoyed frontage on a busy street. The original intent was to allow a commercial business to take advantage of the busy street. The original intent was to allow a commercial business to take advantage of the high visibility offered by this street frontage. Examples of this development pattern can be seen on the southern frontage of SW Nyberg Street, which features a diverse group of mostly auto-oriented businesses, such as fast food restaurants, a 7-11, a car wash, gas stations, an oil change business, and commercial businesses such as a furniture store, dog rescue shelter animal hospital, and strip mall. However when the City determined that a portion of the subject property was need for traffic safety improvements, it took a portion of the commercially-zoned land for public use, presumably using its power of eminent domain. At the time, there was apparently no consideration given to the continued viability of the remainder portion of the property. Of course, at the time the intersection improvements were made, the commercially-zoned portion of the property was used for boat and vehicle storage which was accessory to a RV Park. For this reason, it was likely not considered a pressing concern. However, now that the RV Park is no longer operational, the continued viability of the remainder of the commercially-zoned portion of TL 2600 and 2601 is a critical use.

Certainly, there is an insufficient amount of commercially-zoned land remaining to support any viable stand-alone commercial enterprise, particularly an auto-oriented use that would benefit from its proximity to a high-visibility street. In fact, the land's size, shape, and close proximity to this busy intersection makes it unsuitable for supporting a stand-alone auto-oriented commercial use due to site circulation issues and limitations on access. Furthermore, since the vast majority of TL 2601 is zoned Residential High Density (RH), the highest and best use of this small sliver of commercial land is to use it in conjunction with the residentially-zoned land to the South, similar to the lands directly to the east and west of the subject property.

*Staff Response: The general purpose of the Tualatin Community Plan (TDC Section 2.020) is to guide the physical development of the City so as to preserve the natural beauty of the area while accommodating economic growth. Specifically, the Plan is intended to define locations for both private and public land uses and to arrange these uses in a manner that reduces conflicts and provides convenient movement between individual land uses. The Plan is also intended to provide for diverse living and working environments of the highest quality. Staff considers the purpose of the Plan an appropriate measure in protecting the public interest.*

*It is additionally in the public interest to respond to an applicant's proposal for a Plan Map Amendment that will lead to subsequent land use actions to permit new development and redevelopment of property that is currently vacant and underutilized. Two tax lots (2600 and 2601) which total 10.95 acres are the subject of this amendment and currently stand vacant and underutilized. The applicant is requesting that 0.64 acres of General Commercial (CG) district land be amended to High Density Residential (RH), making the subject site entirely RH land. The applicant ultimately seeks to develop this property for a multifamily residential use, which is complimentary to uses described in Plan Map Area 5 (TDC Section 9.035) "Located east of the Interstate 5 Freeway, this area is primarily designated for low density residential uses, but contains substantial multi-family and commercial use north of Sagert Street and west of SW 65th Avenue."*

*The currently planning district configuration was established through PMA94-04 and Ordinance No. 918-94. The PMA94-04 application was submitted by Mr. Robert Johnson of Great Northwest Management Company to change TL 2601 and 2600 from Medium High Density Residential (RMH) to High Density Residential (RH), Medium High Density Residential (RMH) to General Commercial (CG), and General Commercial (CG) to High Density Residential (RH). It appears that tax lots were not amended to reflect the planning district change.*

*The applicant additionally mentions the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement project and its impact to the subject CG land. This project was identified in the City of Tualatin's 2001 Transportation System Plan. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with SDC funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street. City Council, staff, and/or the property owner did not initiate a plan map amendment update as part of road improvement in 2004; therefore the planning district configuration was not changed.*

*The applicant states that the subject land in General Commercial district is constrained by "size, shape, and close proximity to a busy intersection making it unsuitable for supporting a stand-alone auto-oriented commercial use due to site circulation issues and limitations to access." The applicant further states that access from Nyberg Road to the subject site has a queue length of approximately 110 ft or five or six cars, making it unsuitable for an auto-oriented commercial use. They also note that convenience store, gas station, fast food, and coffee shop uses already exist in close proximity to the site. For this reason, they would like to amend the Plan Map to recognize the entirety of the legal lot as High Density Residential.*

*Staff finds that the General Commercial planning district (CG) is described in TDC Section 6.040(5) as providing "areas suitable for a full range of commercial uses, including those uses that are inappropriate for neighborhood, office or central commercial areas. This district is particularly suitable for automobile/service-oriented businesses, located along the freeway and major arterials. This District is suitable for mixed commercial and residential uses through the Mixed Use Commercial Overlay District on the Durham Quarry Site and in the Durham Quarry Area."*

*The subject site is located adjacent to neighborhood developments to the east and west and a Minor Collector to the south. Additionally the site is not located in a Mixed Use Commercial Overlay district. For these reasons, staff finds that the subject CG district land is not maximized to uses described in the Tualatin Community Plan. Further the request to amend 0.64 acres to RH land would increase residential development opportunities up to 11 dwelling units. It is in the public's interest to grant the amendment so that the site may better align with the Tualatin Community Plan, with the future potential to be developed with high density housing options.*

*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.**

Applicant Response: Please see Attachment 103 for full response.

There is no reason to retain a commercial zoning designation on a sliver of land that cannot reasonably support any viable commercial land use activities. In most cases where the timing of a plan amendment is an issue, the timing issue relates to the inability of the local government to provide adequate levels of urban services to the property. In this case, there is no reason to believe that this change, which would facilitate infill development, should not occur at this time due to a lack of available public facilities or services. The change will have a *de minimis* impact, if any, on existing public facilities and services.

In addition, the proposed change facilitates redevelopment of the existing CG zoned portion of the overall 10.95 acre tract. The proposed change to Residential High Density is consistent with the 10.34 acre portion of the overall tract and is compatible with the adjacent RM zoning to the west and east. *(Staff finds that this sentence should state "The proposed change to Residential High Density is consistent with the 10.34 acre portion of the overall lot and is compatible with the adjacent RMH zoning to the west and east." Tracts are defined as non buildable units of land in the TDC.)*

Rezoning this land will increase the likelihood that the site will not remain vacant. Once residential units are built on the property, the property will generate more property tax revenue for the City. Multi-family residential development requires the payment of a Parks SDC, which is not required for commercial development.

Staff Response: *Staff finds that this amendment is timely, because a future proposal to develop this site is unlikely under current conditions. The applicant states that the 0.64 CG land is severely constrained and not suitable to commercial development. The applicant believes the one-way access into and out of the site is a primary deterrent to commercial, particularly retail, development. Adding additional dwelling units to this area is seen as viable, due to existing development patterns, transportation capabilities, public recreation opportunities, and proximity to commercial development.*

*Staff additionally finds that there are sufficient public facilities to serve this site, and the amendment of 0.64 acres to RH district land.*

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

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

Applicant Response: Please see Attachment 103 for full response.

*Staff has paraphrased the findings below for brevity.*



**Chapter 4 Community Growth Section 4.040 General Growth Assumptions:**

*To begin the composition of a planning map, certain assumptions must be made, based on available data. The following are the general growth assumptions used to develop this Plan, based on the data generated in the Phase I - Technical Memoranda:*

**(1) The approximate proportion of residential land to commercial and industrial land should be 60 percent residential and 40 percent commercial and industrial.**

*Staff Response: Staff finds that there is currently 49 percent residential land to 51 percent commercial and industrial land. The amendment of 0.64 acres of land from CG to RH will support the residential percentage.*

**Chapter 4 Community Growth Section 4.050 Objectives:**

**(4) Provide a plan that will create an environment for the orderly and efficient transition from rural to urban land uses.**

Applicant Response: The majority of the subject tract is zoned RH.

*Staff Response: Staff finds that the proposal matches the Neighborhood Planning Area No. 5 approach outlined for the area in Section 9.035 of the Tualatin Community Plan. As described in the plan "this area contains substantial multi-family use north of Sagert Street and west of SW 65<sup>th</sup> Avenue." By expanding the RH designation to the southern end of the subject site, the proposed plan change will maintain the transition to urban land uses and higher density housing will be maintained.*

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

Applicant Response: As noted above, the proposed RH zoning is compatible with surrounding land uses. These include adjacent lands with the RMH residential zoning designations, as well as the nearby commercial land that includes retail establishments that will benefit from additional nearby residential customers. The eventual development on the subject property will also be compatible with the adjacent Tualatin River to the north by virtue of the vegetated corridor that be required by the Tualatin Development Code and Clean Water Services, which preserves open space along the river and a buffer between development and the river.

**(9) Prepare a plan providing a variety of living and working environments.**

**(15) Arrange the various land uses in a manner that is energy efficient.**

Applicant Response: The commercially-zoned portion of the property presents an impediment to the functional development of the site. The proposal will allow the applicant to better integrate the property for an appealing living environment that is close to employment, transportation, and retail. The development of multi-family in areas so close to potential destinations is an energy efficient arrangement of development. The proximity of the property to transit services also encourages transportation alternatives to the automobile. The proposed residential environment will also be unique to its location along the Tualatin River. Multi-family residential development along the river will increase the number of people who can enjoy this community asset while buffer areas required by the Tualatin Development Code and Clean Water Services will ensure that any development of the site does not affect the ecological health of the river.

#### **Chapter 5 Residential Planning Growth Section 5.030 General Objectives:**

- (1) Provide for the housing needs of existing and future City residents.**
- (2) Provide housing opportunities for residents with varied income levels and tastes that are esthetically and functionally compatible with the existing community housing stock.**

Applicant Response: The proposal will create additional residential land in an appealing area ideal for multi-family residential development. This addition will serve existing and future City residents. The multi-family residential development of this property will provide opportunities for individuals and families to live in a high quality area with the river as a positive amenity all while being in close proximity to the employment, services, and transportation. Such residential development will provide housing opportunity for a broad spectrum of income levels, particularly as an alternative to home ownership in a traditional, single-family residential setting (e.g. a residential subdivision).

- (4) Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing and provide residential opportunities in selected commercial areas through the Mixed Use Commercial Overlay District.**

Applicant Response: The proposed additional RH land is adjacent to an arterial street which is close to transit service (Tri-Met Route 96 is 1/5 of a mile away). *Staff notes that this sentence should state "The proposed additional RH land has access to an arterial street and is located 0.2 miles away from [transit service](#) (TriMet Route 76 Stop ID 3867)." It is adjacent to land designated RMH, is near to existing multifamily housing, and has immediate access to commercial areas. It is served by the Bridgeport Elementary School, Hazelbrook Middle School, and Tualatin High School. All of these factors make the property ideal for higher density residential development. This conclusion is consistent with Section 9.035 of the Tualatin Community Plan that states that Area No. 5 "contains substantial multi-family and commercial use north of Sagert Street and west of SW 65<sup>th</sup> Avenue."*

#### **Chapter 10 Community Design Section 10.020 Design Objectives:**

- (1) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.**
- (3) Promote the City's natural beauty and visual character and charm by insuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the esthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures and other improvements.**

Applicant Response: Any development of the property will be required to go through the City's design review process (Architectural Review) to ensure appealing and functional development of the site. Additionally, buffer areas required by the Tualatin Development Code will ensure that any development of the site does not affect the ecological health of the river and will ensure that the design of the site will leverage and enhance this unique community asset.

#### **Chapter 11 Transportation Section 11.610 Goals and Objectives:**

- (2)(b) Provide efficient and quick travel between points A and B.**
- (2)(c) Provide connectivity within the City between popular destinations and residential areas.**
- (2)(e) Reduce trip length and potential travel times for motor vehicles, freight, transit, bicycles, and pedestrians.**
- (2)(f) Improve comfort and convenience of travel for all modes including bicycles, pedestrians, and transit users.**
- (2)(g) Increase access to key destinations for all modes.**

Applicant Response: The property has excellent access to transportation resources and is in close proximity to employment and services. This makes the subject property ideal for multi-family residential development by making short travel times and trip lengths between destinations. Such proximity also creates more favorable conditions for the use of nearby transit service (located 0.2 miles southbound) and other alternative modes of transportation. Development of the subject property will also facilitate construction of an important link in the City's pedestrian path along the Tualatin River.

#### **Chapter 15 Parks and Recreation Section 15.020 Objectives**

##### **(5) Preserve the scenic value of the Tualatin River by creating a greenway along the entire bank of the River within the City.**

Applicant Response: The change in the plan designation will not affect the preservation of the greenway along the Tualatin River. Buffer areas required by the Tualatin Development Code and Clean Water Services will ensure that a greenway is maintained.

*Staff finds that the proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion "3" is met.*

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

Applicant Response: Please see Attachment A for full response to each criterion below.

*Staff has paraphrased the findings below for brevity.*

#### **The various characteristics of the areas in the City:**

Applicant Response: The area immediately adjacent to the subject site consists of medium-density residential (apartments) and general commercial uses. As previously noted, the vast majority of the subject site is zoned high density residential, which is consistent and compatible with the adjacent properties. Due to the realignment process of SW Nyberg Lane, the commercial zoned remnant portion of the subject site is no longer developable as commercial use.

Overall the proposed RH plan designation will match well with the adjacent residential uses in the area and will offer the benefit of new customers and employees to the businesses in the area.

*Staff Response: Staff finds that the applicant is referring to medium-high density residential district land that is located to the east and west of the site. General commercial uses are located on SW Nyberg Road, south of the subject site. The Tualatin River is located to the north.*

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

Applicant Response: Rezoning the land in question for multi-family residential development is fully compatible and consistent with the existing adjacent multifamily and commercial uses.

*Staff Response: Section 9.035 of the Tualatin Community Plan states that "this area contains substantial multi-family use north of Sagert Street and west of SW 65<sup>th</sup> Avenue." Staff finds that amending the plan designation from CG to RH is fully compatible and consistent with adjacent multifamily developments. The majority of the subject site (94%) is currently designated RH. The land also has good access to employment centers via the I-5 corridor (0.4 mile away).*

#### **Trends in land improvement and development:**

Applicant Response: The demand for additional multifamily housing units within Tualatin and the entire tri-county area is very high. A future application proposing multifamily development would

help address a market demand for housing.

**Property values:**

Applicant Response: The proposed redevelopment of the previously existing RV Park of Portland to multi-family housing will allow additional investment in the area which will increase property values of the subject property as well as its neighbors. As previously described, the RH designation is compatible with the zoning and development pattern in the area. Additionally, the development will provide customers for nearby retail and a more significant employee base for area office and manufacturing businesses. This will increase the value of these nearby commercial uses, and will enhance adjacent property values and will be an asset to the community.

Staff Response: *Staff finds that the subject property has remained vacant since 2012. The requested change will enable significant investment in Neighborhood Planning Area 5.*

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

Applicant Response: The proposed multifamily housing will enhance the local economic demographic and will bring additional residents and revenue into the local economy and adjacent existing and future businesses. The additional residents will enhance the overall local economic community. Concentrations of residents are a pre-requisite to successful economic development in most areas of a city. The vitality and spending from residents on the subject property will have a greater, positive impact on local economy than the subject property's continued vacancy under its current commercial planning designations.

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

Applicant Response: The existing SW Nyberg Street, SW Nyberg Lane, and SW 65<sup>th</sup> Avenues were redeveloped in 2004 to provide better access to the local area. The proposed plan map amendment from the General Commercial to High Density Residential will reduce the overall trip generation and is effectively a "down zone" which will result in fewer daily trips. The existing right-of-way and proposed access to the subject site were adequate for high-density residential development.

Staff Response: *Staff notes that the Technical Memorandum provided by Lancaster Engineering, dated August 15, 2016 [Attachment 103] summarizes that the change in planning district will result in a net decrease of site trips and will not result in the need for additional traffic mitigation.*

**Natural resources of the City and the protection and conservation of said resources; and Prospective requirements for the development of natural resources in the City:**

Applicant Response: The portion of the overall site subject to the proposed plan map amendment does not contain any recognized natural areas and therefore this factor is not applicable.

Staff Response: *Staff notes that the overall property is adjacent to the Tualatin River which is an important community resource. The change in the plan designation will not affect the preservation of the Tualatin River. An architectural review of the multi-family residential development will analyze and address the river corridor.*

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

Applicant Response: The proposed plan change will allow the development of the currently vacant site into a vibrant residential development. A portion of the site will remain undeveloped and

enhanced due to the Tualatin River buffering requirements. This will create a pleasant experience for residents and the public who will have the benefit of the natural area along the river as well as excellent access to nearby employment, retail, and services.

**Proof of change in a neighborhood or area; and Mistake in the Plan Text or Plan Map.**

Applicant Response: The proposed plan map amendment is not motivated by any perceived change but is more appropriately characterized as a “mapping error” resulting from the roadway realignments.

Staff Response: *The current planning district configuration was established through PMA94-04 and Ordinance No. 918-94. The PMA94-04 application was submitted by Mr. Robert Johnson of Great Northwest Management Company to change TL 2601 and 2600 from Medium High Density Residential (RMH) to High Density Residential (RH), Medium High Density Residential (RMH) to General Commercial (CG), and General Commercial (CG) to High Density Residential (RH). It appears that tax lots were not amended to reflect the planning district change, resulting in remnants of General Commercial on a portion of a tax lot.*

*The applicant additionally mentions the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement project and its impact to the subject CG land. This project was identified in the City of Tualatin’s 2001 Transportation System Plan. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. This project was constructed in 2004 with SDC funds to improve the safety and operations of the existing intersection and included the completion of a sidewalk system along Nyberg Street. City Council, staff, and/or the property owner did not initiate a plan map amendment update as part of road improvement in 2004; therefore the planning district configuration was not changed.*

*Staff recognizes that the CG site is constrained and that a residential designation would be a more appropriate designation for the residential neighborhood area.*

*Staff notes that the applicant sufficiently addressed the factors in this Criterion. 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.**

Applicant Response: In this case, there is no need to resort to the formula set forth above. Converting 0.64 acres of land from CG to RH would not have a measurable impact on school capacity.

Staff Response: *Staff has notified the Tigard-Tualatin School District about the proposal and has requested their comments. The school district map indicates that the property is located within the Bridgeport Elementary, Hazelbrook Middle, and Tualatin High School boundaries. The School District has indicated that sufficient capacity is available in their memo included as Attachment 107.*

*Criterion “5” is met.*

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).**

*The applicant has provided a response to Goals 1-14 and determined that Goals 15-19 are not applicable. Staff concurs with the applicant determination.*

### **Goal 1 Citizen Involvement**

Applicant Response: The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. Citizen involvement is always applicable to both quasi-judicial and legislative land use applications. The City's Development Code includes citizen involvement procedures with which the review of this application will comply. This process allows for citizens to communicate their input into application review conducted by the City at public hearings or by submitting written comments. This process has been acknowledged as being in compliance with Goal 1.

The applicant held a neighborhood meeting. The site has been posted with the neighborhood information and notices were mailed to all affected neighbors within 1,000 ft of the subject site. This application will be reviewed by staff, the Planning Commission, and the City Council. At least two public hearings will be conducted with the notice and opportunity to be heard presented, as required by the TDC.

Staff Response: *This request is following all citizen involvement requirements of the plan amendment process. This includes the holding of a neighborhood meeting and sending notices to neighbors.*

*The Tualatin Planning Commission reviews all Plan Amendments and makes recommendations to the City Council regarding adoption. Tualatin Municipal Code 11-1-060 (4) states that the Tualatin Planning Commission "[s]erves as the City of Tualatin Commission for Citizen Involvement" in accordance with Goal 1 Citizen Involvement.*

### **Goal 2 Land Use Planning**

Applicant Response: Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is "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 Tualatin Development Code is acknowledged to be in compliance with the Statewide Planning Goals and associated guidelines. Goal 2's coordination obligation will be met because the applicant and city shall seek public comment from any affected unit of government, including METRO and any special district whose boundaries overlap with the site.

### **Goal 3 Agricultural Lands**

Applicant Response: Goal 3 is no longer applicable once land is included in an Urban Growth Boundary: OAR 660-024-0020(b). The land under review is within the City's jurisdictional limits, is anticipated to be redeveloped at an urban scale, and no identified agricultural lands are listed on site.

### **Goal 4 Forest Lands**

Applicant Response: The subject property does not contain forest land; therefore Goal 4 does not apply to this land. The Goal is also not applicable since the land is anticipated to be redeveloped at an urban scale.

Staff Response: *Staff notes that Goal 4 is no longer applicable once land is included in an Urban Growth Boundary: OAR 660-024-0020(b). Buffer areas are also required by the Tualatin Development Code which will ensure that any development of the property will not affect the*

forest.

**Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces**

Applicant Response: There are no identified Goal 5 resources on or near the portion of site which is proposed for rezoning from CG to RH. The northern portion of the tract is located within the Tualatin River Greenway. The portion of the subject property at issue is not designated as an open space, scenic, or historic area and has no Goal 5 natural resources to protect. There are no natural resources located on the subject property at issue.

Staff Response: Staff notes that the overall site is adjacent to the Tualatin River which is an important natural, scenic, and open space resource. The City has identified the greenway adjacent to the river as a significant forest resource. The change in the plan designation will not affect the preservation of the River or the forest resource adjacent to the river. Buffer areas are required by the Tualatin Development Code which will ensure that any development of the property will not affect the ecological or aesthetic value of the River or the forest. There are also no historic areas on the subject property.

**Goal 6 Air, Water and Land Resources Quality**

Applicant Response: The site is currently zoned for commercial use and is proposed to be zoned for residential use. Residential uses are generally considered to have less impact on air, water and land resources than commercial uses. Any development applications submitted in the future will create additional impervious surfaces which will increase storm water effluent unless those impacts are mitigated. However, it is reasonable and likely that engineering solutions exist which can successfully mitigate those impacts, and therefore, compliance with this goal can be deferred to future development proposals.

Staff Response: Staff notes the change in the plan designation will have no effect on air, water, and land resources quality or federal, state and, city regulations. Future land use applications will be reviewed to federal, state, and city standards.

**Goal 7 Areas Subject to Natural Hazards**

Applicant Response: The portion of the subject tract at issue is basically flat and devoid of natural hazards. There are no identified landslide areas on the subject property. The northern portion of the subject property has been identified by FEMA as being a Special Flood Hazard Area (i.e. is within the 100-year floodplain).

Staff Response: Staff notes that a portion of the subject property is located in the 100 year floodplain. Development of these areas is subject to existing rules and regulations that will not be modified by the proposed plan designation change.





### **Goal 8 Recreational Needs**

Applicant Response: Goal 8 requires government organizations with responsibilities for providing recreational facilities plan for meeting the recreational needs of the community. The City of Tualatin has adopted a Parks and Recreation Master Plan (1983) that implements this Goal.

The site is presently zoned CG and is proposed to be zoned RH. The site has not been planned for recreational use. The requested plan map amendment will not result in a reduction of land planned or reserved for recreational use.

Staff Response: Staff notes that the change in plan designation will enable development of the site and will provide a greater connection with and utilization of Tualatin River. Buffer areas are required by the Tualatin Development Code which will ensure that the greenway along the river and the river itself will be maintained as a recreational resource.

### **Goal 9 Economic Development**

Applicant Response: The Goal is applicable to commercial and industrial lands. In this case, the commercial land was rendered unusable when a portion was taken for public right-of-way use. The remainder is of an insufficient size to support commercial activities. Any effect on the City's supply of commercial land is *deminimus*.

Staff Response: The subject property is 0.64 acres in size and has remained vacant for five years. This portion of land was bisected by an improvement project that was identified in the City of Tualatin's 2001 Transportation System Plan as the Nyberg Street / SW 65th Avenue, and Nyberg Lane intersection improvement. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103.

The Plan Map Amendment would have a negligible impact on the City's commercial land resources. The requested change will enable significant investment north of SW Nyberg. Additionally, the development will provide customers for nearby retail and a more significant employee base for nearby office and manufacturing businesses.

### **Goal 10 Housing**

Applicant Response: The site is currently zoned CG. The proposed zoning map amendment to RH would create small amount of additional buildable land for needed housing.

Staff Response: The Metropolitan Housing rule, OAR 660-007 is intended to establish residential density and mix standards to measure Goal 10 Housing compliance for cities and counties. Per OAR

660-007-0030 the City is to designate buildable land to provide an opportunity for at least 50 percent of new residential units as attached single family housing or multiple family housing. Staff has referred to 2015 Census data on housing estimates to establish total housing units provided in the table below. The total built housing estimate provides an indication of the City’s current housing make-up. The amendment would add 0.45 acres of buildable land to the RH zoning district. Right of way and floodplain land were deducted from the 0.64 gross acreage of the subject site to make this determination. TDC 43.015 permits a maximum of 25 dwelling units per net acre; therefore subject site has the potential to add 11 multifamily units. This would result in a positive increase in multifamily units and would support the housing mix standard.

<b>2015 Tualatin Total Housing Unit Estimate</b>		
Type	Estimate	Percentage
Attached Single-Family/ Multifamily	5,011	44.9%
Detached Single-Family	6,155	55.1%

Per OAR 660-007-0035(2) the City of Tualatin is required to provide a net density of eight dwelling units per acre (8 du/ac). The City is currently in the draft stage of identifying its buildable land inventory. As part of the effort, the City is in the process of drafting language to define Net Buildable Acres. The analysis below represents gross acreage of land designated residential minus: present and future right-of-ways, restricted resource protection areas, slopes greater than 25%, public institutions, cemeteries, and restricted hazard areas. As shown, the proposed Plan Map Amendment would provide opportunities to provide a density of up to 8.4 dwelling units per net buildable acre.

<b>DRAFT 2017 Buildable Land Inventory</b>						
	RL	RML	RMH	RH	RH/HR	Total
Gross Acreage	2213.4	277.24	190.91	165.89	17.8	2865.24
Buildable Acreage	1195.23	188.33	118.04	78.42	0.6	1580.62
<i>PMA 16-01 Buildable Acreage</i>				0.45		0.45
<b>Total Net Buildable Acres</b>	<b>1195.23</b>	<b>188.33</b>	<b>118.04</b>	<b>78.87</b>	<b>0.6</b>	<b>1581.07</b>
<i>Maximum Density Allowed</i>	6.4	10	15	25	30	
Total Dwelling Units Allowed	7649.47	1883.3	1770.6	1971.75	18	13293.1
<b>Dwelling Units / Acre</b>						<b>8.4</b>

**Goal 11 Public Facilities and Services**

Applicant Response: The subject property is inside the City of Tualatin Urban Growth Boundary and has access to nearby public facilities and services. The applicant has met with City and Clean Water Services staff, and as reviewed below all relevant service providers have indicated that sufficient capacity exists to serve the site with the proposed plan designation.

Sanitary Sewer – The site is located within the Clean Water Services (CWS) Service Boundary. There is an existing 8-inch sanitary sewer main located in an easement located on the east property line. *Staff notes that this line traverses the north end of the site, as well.*

Storm Drainage (surface water management) – The site is located within the CWS Service Boundary. Storm drainage improvements required for development of the subject property will include the installation of a new outfall to the Tualatin River. Storm water quality treatment will be provided in accordance with CWS standards and potentially consist of water quality swales, low impact development approaches (LIDA), mechanical treatment, or a combination thereof. Storm water detention is not required due to the site proximity to the Tualatin River.

*Staff notes that there is a 12” storm main with 10” lateral located on the SW corner of the site, near SW Nyberg Lane.*

Potable Water – There is an existing City of Tualatin 8-inch potable water main in Nyberg Lane along the site frontage. Potable water service is available to the site by connecting to the existing main.

Staff Response: A Memorandum from the Engineering Division dated March 31, 2017 [Attachment 106] provides an analysis of Transportation Facility, Sanitary Sewer, Stormwater, and Water. The analysis is also included below.

Sanitary Sewer, Stormwater, & Water

*Downstream sizing for all public utilities will need to be evaluated by the developer for the change from current zoning compared to the RH zoning with any associated future proposed redevelopment within an Architectural Review land use application. Any upsizing will be a requirement in the Architectural Review land use decision.*

*Public sanitary sewer lines exist within the development area to the west and north. Stormwater would need to be treated and released to the Tualatin River or to City lines within SW Nyberg Lane. Water laterals exist to the development at the southwest and southeast. The applicant will need to determine the location of water treatment, detention, and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.*

**Goal 12 Transportation**

Applicant Response: This Goal requires the City to prepare and implement a Transportation System Plan (TSP). The City of Tualatin completed a TSP update in 2013 and assumed that this site would be developed under the City’s current CG zoning designation. The proposal to change the subject property from CG to RH is not expected to have a significant effect on the local transportation facilities. The proposal will not change the functional classifications of the adjacent roadways. No development is proposed concurrent with this zone change request.

Staff Response: Staff notes that the City of Tualatin TSP was updated in February of 2014. Traffic impacts to the City’s transportation system will be reduced through the proposed amendment to RH. See enclosed Memorandum from Lancaster engineering, dated August 15, 2016 [Attachment 103].

*A Memorandum from the Engineering Division dated March 31, 2017 [Attachment 106] provides an analysis of Transportation and addresses OAR 660-012-0060 the State’s Transportation Planning Rule. The analysis is also included below.*

*As demonstrated by the analyses and findings presented in the study, the proposed land use action is not expected to “significantly affect” any existing or planned transportation facility and is, therefore, expected to be in compliance with the State’s Transportation Planning Rule.*

The scenarios generate the following traffic:

<u>Scenario</u>	<u>AM Peak</u>	<u>PM Peak</u>	<u>Total</u>
Existing Zoning <i>Fast Food Restaurant Analysis</i>	81	56	868
Proposed Zoning <i>Apartments Analysis(12 units)</i>	6	7	80
<b>Change</b>	<b>-75</b>	<b>-49</b>	<b>-788</b>

*This plan map amendment will reduce the AM and PM Peak traffic from the currently allowed uses, which would not increase the Level-of-Service at nearby intersections.*

*ODOT responded on March 27, 2017 that they have no issues with the zone change.*

**Goal 13 Energy Conservation**

Applicant Response: LUBA and the Courts have never given any regulatory effects to this Goal. Despite this, the rezoning of land from CG to RH will result in more efficient urban form, which should have at least a marginal effect on energy efficiency. The site is located immediately adjacent to other residential land. The proposed zoning map amendment would permit development in accordance with the Comprehensive Plan, with the potential to create an energy efficient land use pattern within the City limits of Tualatin.

Staff Response: Staff notes that a map amendment will lead to subsequent land use actions to permit new development and redevelopment of property that is currently vacant and underutilized. The amendment will additionally permit increased densities in an area with access to a high capacity transportation corridor (Nyberg Street, I-5). As such, the proposed plan change should result in more efficient energy usage.

**Goal 14 Urbanization**

Applicant Response: The subject property is already located within the City limits, and has been planned for urban land use. Goal 14 does not apply.

**Goal 15 Willamette River Greenway**

**Goal 16 Estuarine Resources**

**Goal 17 Coastal Shorelands**

**Goal 18 Beaches and Dunes**

**Goal 19 Ocean Resources**

*Staff notes that none of these goals apply, as the subject site is not in any of these planning areas.*

*Criterion "6" is met*

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

Applicant Response: The applicant reviewed the provisions of Metro's Urban Growth Management Functional Plan ("UGMFP") and identified the following provisions in Title 4 that may be mandatory approval standards to a zone change seeking to convert commercial land to residential land use designations.

*Staff notes that the applicant has only responded to Title 4 of the UGMFP.*

**Title 4 (Metro Code Sections 3.07.410 – 3.07.450) – Industrial or Other Employment Area**

Map 9-4 in the Tualatin Community Plan shows the location of the Metropolitan Services District's Growth Concept Design Types. The subject site has a designation of "Employment Area."



Staff Response: Staff finds that the amendment meets the criteria of UGMFP 3.07.450(c) to amend the zoning regulation from CG to RH. The subject site designated as Employment Area is under 40

*acres; is not surrounded by land designated Industrial Area or Regionally Significant Industrial Area; is currently vacant and therefore the proposed amendment will not reduce employment capacity.*

**Title 1 (Metro Code Sections 3.07.110 – 3.07.120) – Housing Capacity**

The Regional Framework Plan calls for a compact urban form and a "fair share" approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring the city or county to maintain or increase its housing capacity except as provided in section 3.07.120.

Staff Response: *The Plan Map Amendment would change the planning designation of 0.64 acres of land from CG to RH. The request to amend 0.64 acres to RH land would increase residential development opportunities by up to 11 multifamily dwelling units. This change will increase the City of Tualatin's housing capacity thus meeting the requirements of Title 1.*

**Title 3 (Metro Code Sections 3.07.310 – 3.07.360) – Water Quality and Flood Management**

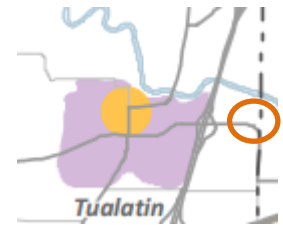
The intent of Title 3 is to protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

Staff Response: *Title 3 is the Metro response to Statewide Planning Goal 5, which calls for flood management and protection water and riparian resources. The subject site will conform to these standards through review of a future Architectural Review application.*

**Title 6 (Metro Code Sections 3.07.610 – 3.07.650) – Centers, Corridors, Station Communities and Main Streets**

The Regional Framework Plan identifies Centers, Corridors Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

Staff Response: *The subject site is located outside of the Tualatin designated town center. This title does not apply.*



**Title 7 (Metro Code Sections 3.07.710 – 3.07.750) – Housing Choice**

The Regional Framework Plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress toward increasing the supply of affordable housing. It is the intent of Title 7 to implement these policies of the Regional Framework Plan.

Staff Response: *The housing developed in this project will be available at market rates for higher density housing helping to increase the supply of this needed housing type. Table 3.07-7 of the UGMFP calls for 120 needed units to serve households earning less than 30% of the median household income and 69 needed units to serve households earning 30-50% of median household income in the City of Tualatin.*

**Title 12 (Metro Code Sections 3.07.1210 – 3.07.1240) – Protection of Residential Neighborhoods**

The purpose of this title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

*Staff Response:* Title 12 is not directly applicable. However, development of the subject property, which has been vacant and underdeveloped for several years, helps protect the surrounding uses from potential crime.

**Title 13 (Metro Code Sections 3.07.1310 – 3.07.1370) – Nature in Neighborhoods**

The purpose of this title is to conserve, protect and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape.

*Staff Response:* Title 13 establishes a regional ethic of preservation of important wildlife habitat and natural areas. A portion of the subject property will be set aside as permanent open space in order to provide a natural corridor along the river which will be important for the preservation of riparian habitat.

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.**

Applicant response: The applicant's TIA prepared by Lancaster Engineering demonstrates that the proposed zone change will reduce the trip generation allowed on the site.

*Staff Response:* The applicant provided a memorandum from their traffic engineer which is included in Attachment 103. As discussed in the memo the proposed plan designation change would reduce the potential number of trips that could be produced by a development on the property. As such, the change is consistent with the level of service standards set by the City.

Refer to the earlier analysis relating to Statewide Planning Goal 12 and the Engineering Division Memorandum dated March 31, 2017 [Attachment 106].

Criterion "8" is met.

**9. Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.**

Applicant response: Because any development resulting from this zone change would be in the nature of "in-fill" development, it does not trigger any of the concerns that the TDC 12.020 is intended to address. Sufficient water capacity presently exists to serve the uses proposed by future development. Water mains of sufficient size and capacity are already stubbed out to the subject property. All adjacent properties are already being served with water. Issues such as looping water systems and providing adequate fire flows can be addressed during any subsequent development applications.

*Staff Response:* Refer to the earlier analysis related to Statewide Planning Goal 11 Public Facilities and Services and the Engineering Division Memorandum dated March 31, 2017.

Sanitary Sewer, Stormwater, & Water

*Downstream sizing for all public utilities will need to be evaluated by the developer for the change from current zoning compared to the RH zoning with any associated future proposed redevelopment within an Architectural Review. Any upsizing will be a requirement in the Architectural Review decision.*

*Public sanitary sewer lines exist within the development area to the west and north. Stormwater would need to be treated and released to the Tualatin River or to City lines within SW Nyberg Lane. Water laterals exist to the development at the southwest and southeast. The applicant will need to determine the location of water treatment, detention, and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.*

*Criterion "9" is met.*

**10. The applicant has entered into a development agreement.**

**(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.**

**(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9).**

*Staff Response: Staff notes that the subject property is located within the City of Tualatin boundaries. This criterion does not apply to the proposal.*





**TUALATIN APARTMENTS  
PLAN MAP AMENDMENT  
APPLICATION**

**TABLE OF CONTENTS**

1. PLAN MAP AMENDMENT APPLICATION
2. PROJECT DESIGN TEAM
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6. TRAFFIC IMPACT ANALYSIS
7. NEIGHBORHOOD/DEVELOPER MEETING MATERIALS

**CITY OF TUALATIN  
RECEIVED**

**FEB 21 2017**

**COMMUNITY DEVELOPMENT  
PLANNING DIVISION**

**PLAN MAP AMENDMENT  
APPLICATION**



# City of Tualatin

www.tualatinoregon.gov

## APPLICATION FOR PLAN MAP AMENDMENT

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

Case No. \_\_\_\_\_  
Fee Rec'd. \_\_\_\_\_  
Receipt No. \_\_\_\_\_  
Date Rec'd. \_\_\_\_\_  
By \_\_\_\_\_

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

Nature of amendment requested Change the Plan Map Designation from General Commercial (GC)  
to Residential High Density (RH) for tax lot 2600 and a portion of tax lot 2601

State the specific section number(s) of the Code to be amended Section 9.020 Plan District Boundaries

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

Applicant's Signature 

Applicant's Name Thomas Clarey Phone (503) 750-1012

Applicant's address 1200 SW 66th Ave., Suite 300 Portland, Oregon 97225  
(street) (city) (state) (zip)

Applicant is: Owner  Contract Purchaser \_\_\_\_\_ Developer  Agent \_\_\_\_\_

Other \_\_\_\_\_

If the request is for a specific property:

County Washington Map # 2S-1-24-A Tax Lot #(s) 2600 and 2601

Owner's Name Nyberg Road Property LLC, Tom Clarey

Owner's Address 1200 SW 66th Ave. Suite 300 Portland, Oregon 97225  
(street) (city) (state) (zip)

Owner recognition of application: 

\_\_\_\_\_  
(signature of owner(s))

Name of Document For Recording: <b>Waiver Of Rights And Remedies</b> Grantor: (Petitioner(s))  Grantee: City of Tualatin Consideration: None. Tax Statement to be mailed to: No change. <u>After Recording, Return To:</u> City of Tualatin, Attn: City Recorder, 18880 SW Martinazzi, Tualatin, OR 97062	(For County Recording Use Only)
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**Measure 37 Waiver Of Rights And Remedies**

**Whereas,** Nyberg Road Property, LLC ("Petitioner", including collectively all petitioners) has petitioned to the City of Tualatin ("City") to commence certain proceedings, i.e., annexation, planning district change, and/or plan text amendment for the following described real property,

See attached legal description

**Whereas,** under Ballot Measure 37 (effective December 2, 2004), a property owner may seek just compensation or waiver of certain land use regulations if a public entity enacts or enforces the land use regulations after the property owner acquired the property; and

**Whereas,** Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances; and

**Whereas,** City does not wish to approve the Petitioner's requested proceedings if such approval could result in the owner or the owner's successors or assigns filing a claim for compensation for the land use regulations in effect upon the effective date of the proceedings or a claim seeking to require the City to waive its land use regulations, which are being newly imposed upon the property as a result of the Petitioner's requested proceedings; and

**Whereas,** Petitioner wishes to obtain the City's approval of Petitioner's requested proceedings and therefore agrees to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings.

**Now, therefore,** Petitioner warrants that the Petitioner executing this Waiver Agreement holds the full and complete present ownership or any interest therein in the property, and agrees as follows:

1. As inducement to the City to proceed with the following proceeding(s) affecting the subject real property: Annexation, planning district change, and/or plan text amendment which may include designation of the property as subject to additional applicable overlay zones and districts, e.g., Mixed Use Commercial



Overlay District, Industrial Business Park Overlay District, Flood Plain District, Wetlands Protection District, Greenway Protection Overlay District and Natural Areas, and/or design districts ("proceedings"), the undersigned Petitioner, on behalf of Petitioner, Petitioner's heirs, devisees, executors, administrators, successors and assigns, agrees and covenants to the City of Tualatin, its officers, agents, employees and assigns that the Petitioner hereby waives, releases and forever discharges, and agrees that Petitioner shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 37 (2004) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from city land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.

2. This Waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This waiver, release and discharge shall run with the land, and this instrument or a memorandum of it may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Waiver filed by the City of Tualatin.
  
3. If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Petitioner acknowledges that the proceedings may be initiated by the City of Tualatin at any time in the discretion of the City and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
  
4. This document is executed of my own free will and without duress. I/we respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect our legal rights and remedies.

DATED this 9 day of August, 2016

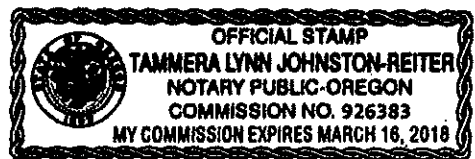
<p style="text-align: center;">(signature)</p> <p>Petitioner Name: <u><i>[Handwritten Signature]</i></u></p> <p>Date Signed: <u>8/9/16</u></p>	<p style="text-align: center;">(signature)</p> <p>Petitioner Name: _____</p> <p>Date Signed: _____</p>
--	--

Petitioner (corporation, etc.) Name: Nyberg Road Property LLC  
 By: [Signature]  
 Name of Signor: TOM CLAREY  
 Office/Title of Signor: MANAGING MEMBER

State of Oregon \_\_\_\_\_  
 County of Washington

On this 9 day of August, 2016 before me the undersigned  
 Notary Public, personally appeared  
Tom Clarey  
 (Name of Petitioners signing; not Notary name)

- Personally known to me
- Proved to me on the basis of satisfactory evidence
- To be the person who executed the within instrument**
- As managing member or on behalf of the entity therein named, pursuant to authority, and acknowledged to me the execution hereof.

WITNESS my hand and official seal (Do not write outside of the box)	Place Notary Seal Below
Notary Signature <u>[Signature]</u> Notary name (legible): <u>Tammera L. Johnston-Reiter</u>	

**This document is accepted pursuant to authority and approved for recording.**

City of Tualatin, Oregon  
 \_\_\_\_\_  
 City Manager

**PROJECT DESIGN TEAM**

**TUALATIN APARTMENTS  
PLAN MAP AMENDMENT**

**PROJECT DESIGN TEAM**

**OWNER**

Nyberg Road Property LLC  
1200 SW 66<sup>th</sup> Avenue, Suite 300  
Portland, Oregon 97225  
(503) 222-0007  
Owner's Representative: Tom Clarey

**ARCHITECT**

REITER DESIGN GROUP ARCHITECTS, INC.  
7956 SW Cirrus Drive  
Beaverton, Oregon 97008  
(503) 574-3036  
Project Manager: Scott Reiter

**CIVIL ENGINEER**

SR Design, LLC  
8196 SW Hall Blvd., Suite 101  
Beaverton, Oregon 97008  
(541) 757-8991  
Project Civil Engineer: Steve Roper

**LANDSCAPE ARCHITECT**

Christopher Freshley  
3944 SW 36<sup>th</sup> Place  
Portland, Oregon 97221  
(503) 222-9881  
Project Landscape Architect: Chris Freshley

## **LEGAL DESCRIPTION**



Legal Description of Land Proposed to be Rezoned from CG to RH.

A tract in the Donation Land Claim of William J. Barr and Mary J. Barr, in the Northeast quarter of Section 24, Township 2 South, Range 1 West, of the Willamette Meridian, in the County of Washington and State of Oregon, described as follows:

Beginning at a point located at the Southeast corner of the North one-half of Section 24; thence West along the South line of the North one-half of said section a distance of 31.97 feet, more or less, to a point; thence North along a line parallel to the East line of said section a distance of 167.91 feet, to a point; thence West along a line parallel with the South line of the North one-half of said section a distance of 364.03 feet, more or less, to a point; thence South along a line parallel with the East line of said section for a distance of 167.91 feet, more or less, to the South line of the North one-half of Section 24, thence East along the South line of the North one-half of said section a distance of 396.03 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM that portion thereof lying within County Road No. 1153 also known as SW Nyberg Road and also SW Nyberg Lane, including but not limited to that portion of said land dedicated to the City of Tualatin in Deed recorded on June 2, 2003 as Fee No. 2003-088103.

**APPLICATION FOR A  
POST ACKNOWLEDGEMENT PLAN  
AMENDMENT (“PAPA”)  
AND  
ZONE CHANGE**

Application Narrative  
(Revised February 21, 2017)

**I. PROPOSAL SUMMARY.**

**A. GENERAL INFORMATION.**

OWNER & APPLICANT: Nyberg Road Property, LLC  
1200 SW 66<sup>th</sup> Ave, Suite 300  
Portland, OR 97225

APPLICANT'S REPRESENTATIVE: Andrew H. Stamp, Esq.  
Andrew H. Stamp, P.C.  
Kruse-Mercantile Professional Offices, Suite 16  
4248 Galewood Street  
Lake Oswego, OR 97035

TAX LOT NUMBERS: T2S R1E, Sec. 24A, TL 2600  
T2S R1E, Sec. 24A, TL 2601

TOTAL AREA: Approximately .64 acres

CITY COMP PLAN & ZONING: General Commercial (CG) (Current)  
Residential High Density (RH) (Proposed)

**B. NATURE OF REQUEST**

Tualatin has an integrated comprehensive or comp plan and land development code known as the Tualatin Development Code (TDC). Chapters 1-30 constitute the comprehensive plan, and the remaining chapters contain zoning and site development standards. Because of this integration, in lieu of land use and zoning maps, Tualatin has a single map of "planning districts," which function as both comprehensive plan land use designations and zoning districts.

This application seeks to amend the Comprehensive Plan & Zoning Map from General Commercial (CG) to Residential High Density (RH), which is the highest and best use of the property in question. When the City acquired a portion of TL 2600 to facilitate the realignment of SW Nyberg Lane and the intersection of SW Nyberg Street/SW 65th Avenue and SW Nyberg Lane, it did not give any thought to the continued viability of using the remainder of TL 2600 for commercial purposes. Roughly 2/3 of the commercially-zoned portions of TL 2600 & 2601 were taken for public use. The size, shape and configuration of the remnant portion of TL 2600 is not usable or developable, and in the current condition provides no benefit to anyone under its current CG zoning. For this reason, the applicant views this application as being in the nature of correcting a mapping error.

### **C. Background on the Subject Property.**

The subject property comprises two tax lots, TL 2600 and 2601. The majority of the property is zoned RH, and the Southern-most 137 feet is zoned GC.

For many years prior to 2012, These two tax lots were used an RV park, but that business was closed in 2012. The property has been vacant since that time.

The current owner of the subject property is proposing to construct a high-density residential community on the subject property. The site is uniquely suited for this use. It is conveniently located off of I-5 at Nyberg Rd, close to I-205. This proximity to major routes enables transportation options that few high-density residential communities can enjoy. With less than a 30-minute commute to downtown Portland and the high-tech employment centers of Wilsonville and Washington County, this location offers affordable access to jobs, shopping, restaurants, and entertainment.

In 2004, the City of Tualatin redesigned the intersection of Nyberg Land and Nyberg Road. In so doing, the City acquired a significant portion of the commercially-zoned land on the subject property. This public utility project, while necessary for public safety, created a significant unintended consequence for the remainder of the commercially-zoned land on the subject tract. As an initial matter, the remnant land is oddly shaped and too small to be efficiently used for commercial purposes. Perhaps more critically, having a small sliver of commercially-zoned land at the front of the tract creates problems for the future redevelopment of the remainder of the property. Most critically, the stacking lane into the site from traffic coming from the West is now highly limited, especially during the critical PM Peak hour. The addition of a commercial use would compete against the stacking capacity needed to support the remainder of the site.

Furthermore, since the front of the property is what is seen from the street, it creates the first impression. The front view should be visually appealing and integrated to the remainder of the land. It should serve as a visual gateway, by creating visual interest that invites the tenants and guests onto the property. Under current zoning, the front portion of the tract would have to be developed with a commercial use that lacks any visual or functional integration with the remainder of the property. Any such commercial development would, therefore, detract from the residential development, not complement it. Although mixed-use type development is appropriate in some cases, in this case the limited access and on site circulation present challenges for the subject property that make mixed use inappropriate. This is particularly true since the adjacent properties to the west and east were designed without any forethought regarding connectivity. Given these facts, it is appropriate to rezone the remnant commercial land to a more compatible high-density residential zoning designation.

## D. Adjacent Properties.

The northern boundary of the subject property is located in the center of the Tualatin River. High-end residential dwellings are located on the North Shore of the Tualatin River. The properties directly to the east and west of the subject property are used as high-density residential communities. The property directly to the west is known as the Forest Rim Apartment Complex. It offers higher-end 1, 2, and 3 bedroom rental apartments, and a pool and clubhouse amenity. The property to the east is known as the Stonestrow apartment complex. It features higher-end 1 and 2 bedroom apartments. In between the subject property and the property to the east is an access easement for the Tualatin River Greenway. The property located directly to the South of the subject property is in public ownership and supports Nyberg Lane and Nyberg Road, a public utility use.

## II. LEGAL ANALYSIS

### **Section 1.032 Burden of Proof.**

**Before granting an amendment to the Plan Text or Plan Map of the Tualatin Development Code (TDC), including the Tualatin Community Plan, the Council shall find that:**

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

Applicant's Response: The term "public interest" does not appear to have a well-defined legal meaning.<sup>1</sup> Nonetheless, scholars have attempted to define the term. For example, commentator and author Walter Lippmann defines "public interest" as "what men would choose if they saw clearly, thought rationally, acted disinterestedly and benevolently."<sup>2</sup> David Martinson describes "public interest" as "what one would choose if he or she were not selfish but thinking of others in the community/society."<sup>3</sup> The American Planning Association asserts that the planning profession and land use regulations exist to serve the public interest and that:

*"While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community." See Ethical Principles in Planning, <http://www.planning.org/abtaicp/ethics.html>.*

Thus, although the term "public interest" is a somewhat elusive concept, it is clear from the above discussion that it does involve consideration of the greater public good. Applying the concept of the public interest changes with each particular set of circumstances.

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<sup>1</sup> Webster's Third Edition International Unabridged Dictionary defines the term "interest" as "the state of being concerned or affected, esp. with respect to advantage or well-being: GOOD, BENEFIT, PROFIT."

<sup>2</sup> Lippmann, Walter, *The Public Philosophy*: Little Brown and Co.

<sup>3</sup> Martinson, David L., *The Public Interest/Common Good: an Ignored Topic in High School Social Studies Courses?* CONTEMPORARY EDUCATION, Summer 1997, Vol. 68, Issue 4, p. 256.



Each land use application is unique and must weigh the question of public good and public interest based on all the unique variables presented.

In this case, the public interest standard is met. When the land was originally zoned General Commercial (“GC”), it was part of a larger tract of land that enjoyed frontage on a busy street. The original intent was to allow a commercial business to take advantage of the high visibility offered by this street frontage. Examples of this development pattern can be seen on the southern frontage of SW Nyberg Street, which features a diverse group of mostly auto-oriented businesses, such as fast food restaurants, a 7-11, a car wash, gas stations, an oil change business, and commercial businesses such as a furniture store, dog rescue shelter, animal hospital, and a strip mall. However, when the City determined that a portion of subject property was needed for traffic safety improvements, it took a portion of the commercially-zoned land for public use, presumably using its power of eminent domain. At the time, there was apparently no consideration given to the continued viability of the remainder portion of the property. Of course, at the time the intersection improvements were made, the commercially-zoned portion of the property was used for boat and vehicle storage, which was accessory to a RV Park. For this reason, it was likely not considered a pressing concern. However, now that the RV Park is no longer operational, the continued viability of the remainder of the commercially-zoned portion of TL 2600 and 2601 is a critical issue.

Certainly, there is an insufficient amount of commercially-zoned land remaining to support any viable stand-alone commercial enterprise, particularly an auto-oriented use that would benefit from its proximity to a high-visibility street. In fact, the land’s size, shape, and close proximity to this busy intersection makes it unsuitable for supporting a stand-alone auto-oriented commercial use due to site circulation issues and limitations on access, which are discussed in more detail below. Furthermore, since the vast majority of TL 2601 is zoned Residential High Density (“RH”), the highest and best use of this small sliver of commercial land is to use it in conjunction with that residentially-zoned land to the South, similar to the lands directly to the east and west of the subject property.

Thus, the proposed plan and zoning map amendment corrects what can be viewed as a “mapping error” that was not addressed with the realignment of SW Nyberg Lane and the intersection of SW Nyberg Street/SW 65th Avenue and SW Nyberg Lane. The size, shape and configuration of the current CG zoned portion is not usable or developable and in the current condition and provides no benefit to anyone.

The portion of the property that is zoned GC has a width of approximately 364 feet, and a depth varying from 137 feet at the west end to 50 feet at the east end. The commercially-zoned area encompasses .64 acres (27,800 s.f). This fact alone makes the site suspect for a viable auto-oriented commercial use. As an example, the average convenience store site today is 52,991 square feet, a little over an acre. Fast-food restaurants such as McDonalds typically seek out sites that have a minimum of 60,000 square feet (depending on setbacks, etc.). This site is too small to be ideal for such a use.

According to the TCP, the GC district is particularly suitable for automobile/service-oriented businesses, excluding automobile, truck and machinery sales and rental, located

along the freeway and major arterials. However, we have eliminated most retail establishments from consideration simply on the basis of site size alone: Most retail uses need 10,000-50,000 s.f. of gross building area, and given the awkward and irregular shape of this site, it could only support a building that is 2,400 s.f. (40 x 60 s.f).

Another likely candidate for consideration, a gas station, can be eliminated from further considerations due to the fact that two other gas stations with vastly superior access and visibility access are located within 500 - 1200 feet of the subject property. Furthermore, the subject property cannot accommodate large fueling trucks, which need large turnaround areas. Any gas station that cannot be resupplied with large refueling trucks is a severe competitive disadvantage, and can only survive in isolated areas where competition is non-existent. Finally, a gas station would completely detract from the desired aesthetic of the residential uses desired on the remainder of the property.

We also do not believe that the site provides a good location for destination retail, because it is physically isolated from other retail uses. A destination retail would be much better suited to a strip mall or other high traffic area where it will benefit from its proximity to other retail establishments.

Given the small, isolated nature of the site from other commercial uses, combined with the direct proximity to existing and planned high-density residential uses, the only logical commercial use of the site would be an auto-oriented stand-alone use such as a convenience store, coffee shop, or fast food restaurant ("FFR"). A typical convenience store requires 2,400 s.f. of gross square footage (40 x 60 s.f), which, as discussed below, is the maximum size building this site could comfortably handle. However, there is already a 7-11 located directly across the street, and that location has far superior access than the subject property. A Shell station with a "Jackson's" convenience store is also located a ¼ mile to the west on Nyberg Road. Two convenience stores within ¼ mile of one another provides market saturation. McDonalds and Subway restaurants are located within 500-600 feet of the subject property, and both of these locations have vastly superior access. Given these competitors, the subject property would not be an advisable location of a FFR.

A typical coffee shop needs 1,800-1,900 of retail space. Such a "convenience use" might otherwise be logical for this site, since it is located in close proximity to residential neighborhoods. However, an existing Starbucks is located less than 1000 feet away from the subject site. Moreover, as discussed below, the subject property's access and internal circulation make it a poor candidate for any such convenience use.

In addition, the long, narrow shape of the lot creates inefficiencies in terms of site access and circulation. The sole access point is located on the eastern boundary of the tract, which is the furthest point away from the major Nyberg Road intersection as possible. The left-hand turn into the subject property from the west only has a queue lane that is roughly 110 feet long. This provides enough space for roughly 5-6 cars to stack without impeding traffic. Because the applicant is proposing to use the remainder of the site for high-density residential housing, it does not make any sense to add another high-auto-intensity use that will compete for this limited stacking space.

Most auto-oriented coffee shops are heavily dependent on drive thru windows for the majority of their business. A typical drive thru will strive to serve 20-30 cars per hour, or one roughly every 2-3 minutes. Such high volume requires plenty of space on site for stacking 8-10 cars, and this site simply does not have such space available. But even if it did, the shape of this lot would create circulation conflicts between stacked cars and other parked cars. Coffee shops also create high amounts of am peak hour trips, which is not good for this site since it will compete against the trip generation and internal circulation required for the residential uses proposed for the remainder of the site.

Also, while this access design is good from the standpoint of minimizing conflict points and blockages caused by the intersection cues backing up, it does not provide a very intuitive entrance point to customers seeking a speedy purchase of retail items. For this reason, the site is not appropriate for a convenience store or FFR. Easy access to the site is an absolute necessity for a convenience store or FFR to thrive. All other factors being equal, the site with the most convenient access attracts the most customers. For a convenience store or FFR in an urban setting, the industry considers 100 feet of frontage to be the minimum amount of space necessary for access, and 250 foot or more is ideal. This site has the bare minimum amount of access frontage needed, and even then, it is not ideal due to the limited approach road width.

The site also suffers from poor visibility, which is essential for auto-oriented retail. Convenience retail establishments rely on unplanned impulse purchase decisions. Because of this, convenience locations require high visibility and good access, more so than any other property type. Driver reaction time and visibility are concepts that are closely related to accessibility. Although these considerations are of less importance for destination retail concepts such as big-box stores and movie theaters, reaction time and visibility are critical to the success of a convenience retail concept such as a gas station, 7-11, or FFR. As a general planning matter, building and any signs should be clearly visible for at least 700 feet from both sides of the street. In this case, the entrance is located on a curve, which effectively limits visibility to roughly 250-300 feet in either direction. While that may be sufficient to meet site distance requirements, it does not provide a driver unfamiliar with the location much time to determine which access is the correct one to access the retail establishment.

Industry experts believe that the convenience customer not only needs to identify the business but must also perceive how to access the entry point within a required seven-second reaction time. Reaction times that are shorter than this do not allow the potential customer enough time to distinguish the subject offering from the visual background noise of the neighborhood landscape, make the decision to stop, and make the turn into the site. In this case, the access is not located in front of the building envelop, which complicates driver reaction times. Furthermore, if the driver misses the access, it is not easy to turn around and try again from the opposite direction. Furthermore, a driver cannot easily “circle the block” and approach from the same direction.

The site offers no opportunity for drive-thru lanes or cueing, which, as discussed above, are mandatory for auto-oriented fast-food type establishments and coffee shops. The

potential building envelop for the property would be very small once you factor in setbacks, areas for loading and similar site design requirements. Examples of code requirements that consume land include:

- Setbacks: Minimum of 5 feet for all dimensions. TDC 54.310.
- Landscaped area. A minimum 5-foot-wide landscaped area must be located along all building perimeters which are viewable by the general public from parking lots or the public right-of-way, TDC 74.310.
- Perimeter site landscaping of at least 5 feet in width. TDC 73.340.
- Parking. Between 4 to 10 parking spaces per 1000 s.f of gross floor area, depending on the use. TDC 73.370.
- Parking Islands. 25 s.f. per parking space. TDC 73.360.
- Loading facilities. TDC 73.390

For all of these reasons, the remnant portion of the commercially-zoned portion of the site is no longer viable for commercial uses. It is in the public interest to rezone the property to its highest and best use, which is high-density residential use.

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

Applicant's Response: As previously addressed, the proposed plan amendment corrects what can be considered a "mapping error." There is no compelling reason to retain a commercial zoning designation on a sliver of land that cannot reasonably support any viable commercial land use activities. In most cases where the timing of a plan amendment is an issue, the timing issue relates to the inability of the local government to provide adequate levels of urban services to the property. In this case, there is no reason to believe that this change, which would facilitate infill development, should not occur at this time due to a lack of available public facilities or services. The change will have a *deminimis* impact, if any, on existing public facilities and services.

In addition, the proposed change facilitates redevelopment of the existing CG zoned portion of the overall 10.95-acre tract. The proposed change to Residential High Density is consistent with the 10.34-acre portion of the overall tract and is compatible with the adjacent RM zoning to the west and east.

Rezoning this land will increase the likelihood that the site will not remain vacant. Once residential units are built on the property, the property will generate more property tax revenue for the City.

Rezoning the land may also have some incremental benefit for Parks. Multi-family residential development requires the payment of a Parks SDC, which is not required for commercial development.

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

Applicant's Response: The Tualatin Community Plan ("TCP"), which is the City's comprehensive plan or comp plan, is integrated within the Tualatin Development Code (TDC) as Chapters 1-30. Determining whether any given Comprehensive Plan policy is an "applicable" approval standard can present vexing questions for practitioners. In some cases, the plan itself will provide a "roadmap" by expressly stating which, if any, of its policies are applicable approval standards. For example, if the comprehensive plan specifies that a particular plan policy is itself an implementing measure, LUBA will conclude that policy applies as an approval criterion for land use decisions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990). On the other hand, where the comprehensive plan emphasizes that plan policies are intended to *guide* development actions and decisions, and that the plan must be implemented through the local code to have effect, such plan policies are not approval standards for individual conditional use decisions. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991). Similarly, statements from introductory findings to a comprehensive plan chapter are not plan policies or approval standards for land use decisions. *19th Street Project v. City of The Dalles*, 20 Or LUBA 440 (1991). Comprehensive plan policies which the plan states are specifically implemented through particular sections of the local code do not constitute independent approval standards for land use actions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990). Where the county code explicitly requires that a nonfarm conditional use in an exclusive farm use zone "satisfy" applicable plan goals and policies, and the county plan provides that its goals and policies shall "direct future decisions on land use actions," the plan agriculture goals and policies are applicable to approval of the nonfarm conditional use. *Rowan v. Clackamas County*, 19 Or LUBA 163 (1990).

Often, however, no roadmap is provided. In those cases, the key is to look at the nature of the wording of the plan provision at issue. LUBA has often held that some plan policies in the comprehensive plan will constitute mandatory approval criteria applicable to individual land use decisions, depending on their context and how they are worded. See *Stephan v. Yamhill County*, 21 Or LUBA 19 (1991); *Von Lubken v. Hood River County*, 19 Or LUBA 404 (1990). For example, where a comprehensive plan provision is worded in mandatory language – such as when the word “shall” is used – and is applicable to the type of land use request being sought, then LUBA will find the standard to be a mandatory approval standard. Compare *Axon v. City of Lake Oswego*, 20 Or LUBA 108 (1990) (“Comp plan policy that states that “services shall be available or committed prior to approval of development” is a mandatory approval standard); *Friends of Hood River v. City of Hood River*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2012-050, March 13 2013). Conversely, use of aspirational language such as “encourage” “promote,” or statements to the effect that certain things are “desirable” will generally not be found to be mandatory approval standards. *Id.*; *Neuschwander v. City of Ashland*, 20 Or LUBA 144 (1990); *Citizens for Responsible Growth v. City of Seaside*, 23 Or LUBA 100 (1992), *aff'd w/o op.* 114 Or App 233 (1993).

In some cases, an otherwise applicable plan policy will be fully implemented by the zoning code. Where the text of the comprehensive plan supports a conclusion that a city's land use regulations fully implement the comprehensive plan and displace the comprehensive plan entirely as a potential source of approval criteria, demonstrating that a permit application complies with the city's land use regulations is sufficient to establish consistency/compliance with the comprehensive plan. *Save Our Skyline v. City of Bend*, 48 Or LUBA 211-12; *Murphy v. City of Ashland*, 19 Or LUBA 182, 199 (1990); *Miller v. City of Ashland*, 17 Or LUBA 147, 169 (1988); *Durig v. Washington County*, 35 Or LUBA 196, 202 (1998) (explicit supporting language is required to establish that land use regulations entirely displace the comprehensive plan as a source of potentially applicable approval criteria for land use decisions). However, a local government errs by finding that its acknowledged zoning ordinance fully implements the acknowledged comprehensive plan, thus making it unnecessary to apply comprehensive plan provisions directly to an application for permit approval, where the acknowledged zoning ordinance specifically requires that the application for permit approval must demonstrate compliance with the acknowledged comprehensive plan and the county does not identify any zoning ordinance provisions that implement applicable comprehensive plan policies. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

The applicant has reviewed the TCP and offers the following findings:

The subject property is located in Neighborhood Planning Area No. 5. Section 9.035 describes Area 5 as follows:

***Located east of the Interstate 5 Freeway, this area is primarily designated for low density residential uses, but contains substantial multi-family and commercial use north of Sagert Street and west of SW 65th Avenue. Meridian Park Hospital is located in this area on the northeast corner of SW 65th Avenue and Borland Road. Commercial land uses are located along the Interstate 5 Freeway, and on Nyberg Street from I-5 to SW 65th Avenue. A major greenway loop surrounds a majority of the area's perimeter, including a greenway shown along the Tualatin River frontage. A new neighborhood park is proposed. The eastern and southern boundaries of this area are adjacent to land outside the Urban Growth Boundary.***

As previously mentioned, the small isolated strip of land in question is currently zoned General Commercial. Section 6.040, which is entitled "Commercial Planning District Objectives," sets forth the purpose of the General Commercial zone, as follows:

***(5) General Commercial Planning District (CG). To provide areas suitable for a full range of commercial uses, including those uses that are inappropriate for neighborhood, office or central commercial areas. This district is particularly suitable for automobile/service-oriented businesses, excluding automobile, truck and machinery sales and rental, located along the freeway and major***



**arterials. Because of their location, these uses are highly visible to large numbers of passing motorists. Commercial development along the freeway provides perhaps the only lasting impression of Tualatin for many travelers. Therefore, careful attention shall be given to site and structure design for development in this district, including signs, choice of materials, and landscaping, particularly in and around parking areas. This District is suitable for mixed commercial and residential uses through the Mixed Use Commercial Overlay District on the Durham Quarry Site and in the Durham Quarry Area.**

Conversely, Section 5.040 of the Comprehensive Plan is entitled “Planning District Objectives” and discusses the purpose of the RH zone.

**(4) High Density Residential Planning District (RH). To provide areas of the City suitable for townhouses, high density garden apartments and condominium developments. Except for retirement housing and nursing and convalescent homes, which shall not exceed 37.5 dwelling units per net acre, the maximum density of any residential use shall not exceed 25 dwelling units per net acre.**

Of the existing overall 10.95-acre parcel, 94% is currently zoned RH. The remaining 6% of the site abuts SW Nyberg Lane and is configured in such a manner that development for commercial uses is not practical or feasible. Access is limited to the far eastern portion of the site for both the CG and RH portions of the site.

The proposed plan map amendment to RH is fully compatible to the goals and objectives of the Tualatin Development Code. The overwhelming majority (94%) of the parcel is currently zoned RH. With the proposed map amendment, the overall parcel will provide better opportunities for connectivity and access for the future residents and will provide connectivity and access to the Tualatin River Greenway Trail for the general public.

#### **Chapter 4 Community Growth Section 4.050 Objectives:**

**(4) Provide a plan that will create an environment for the orderly and efficient transition from rural to urban land uses.**

Applicant’s Response: The majority of the subject tract is zoned RH. The proposed PAPA is consistent with that previous decision.

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

Applicant’s Response: As noted above, the proposed RH zoning is compatible with surrounding land uses. These include adjacent lands with the RMH residential zoning designations, as well as the nearby commercial land that includes retail establishments that

will benefit from additional nearby residential customers. The eventual development of the subject property will also be compatible with the adjacent Tualatin River to the north by virtue of the vegetated corridor that be required by the Tualatin Development Code and Clean Water Services, which preserves open space along the river and a buffer between development and the river.

- (9) Prepare a plan providing a variety of living and working environments.***
- (15) Arrange the various land uses in a manner that is energy efficient.***

Applicant's Response: The commercially-zoned portion of the property presents an impediment to the functional development of the site. The proposal will allow the applicant to better integrate the property for an appealing living environment that is close to employment, transportation, and retail. The development of multi-family in areas so close to potential destinations is an energy efficient arrangement of development. The proximity of the property to transit services also encourages transportation alternatives to the automobile. The proposed residential environment will also be unique to its location along the Tualatin River. Multi-family residential development along the river will increase the number of people who can enjoy this community asset while buffer areas required by the Tualatin Development Code and Clean Water Services will ensure that any development of the site does not affect the ecological health of the river.

#### **Chapter 5 Residential Planning Growth Section 5.030 General Objectives:**

- (1) Provide for the housing needs of existing and future City residents.***
- (2) Provide housing opportunities for residents with varied income levels and tastes that are esthetically and functionally compatible with the existing community housing stock.***  
***The proposal will create additional residential land in an appealing area ideal for multi-family residential development. This addition will serve existing and future City residents. The multi-family residential development of this property will provide opportunities for individuals and families to live in a high quality area with the river as a positive amenity all while being in close proximity to the employment, services, and transportation. Such residential development will provide housing opportunity for a broad spectrum of income levels, particularly as an alternative to home ownership in a traditional, single-family residential setting (e.g. a residential subdivision).***
- (4) Locate higher density development where it is convenient to the City's commercial core, near schools, adjacent to arterial and collector streets and, as much as possible, in areas with existing multi-family housing and provide residential opportunities in selected commercial areas through the Mixed Use Commercial Overlay District.***

Applicant's Response: The proposed additional RH land is adjacent to an arterial street which is close to transit service (Tri-Met Route 96 is 1/5 of a mile away). It is adjacent to land designated RMH, is near to existing multifamily housing, and has immediate access to commercial areas. It is served by the Bridgeport Elementary School, Hazelbrook Middle School, and Tualatin High School. All of these factors make the property ideal for higher density residential development. This conclusion is consistent with the conclusion in Section

9.035 of the Tualatin Community Plan that states that this area “contains substantial multi-family and commercial use north of Sagert Street and west of SW 65th Avenue.”

**Chapter 10 Community Design Section 10.020 Design Objectives:**

- (1) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.***
  
- (3) Promote the City's natural beauty and visual character and charm by insuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the esthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures and other improvements.***

Applicant's Response: Any development of the property will be required to go through the City's design review process (Architectural Review) to ensure appealing and functional development of the site. Additionally, buffer areas required by the Tualatin Development Code will ensure that any development of the site does not affect the ecological health of the river and will ensure that the design of the site will leverage and enhance this unique community asset.

**Chapter 11 Transportation Section 11.610 Goals and Objectives**

- (2)(b) Provide efficient and quick travel between points A and B.***
  
- (2)(c) Provide connectivity within the City between popular destinations and residential areas.***
- (2)(e) Reduce trip length and potential travel times for motor vehicles, freight, transit, bicycles, and pedestrians.***
  
- (2)(f) Improve comfort and convenience of travel for all modes including bicycles, pedestrians, and transit users.***
  
- (2)(g) Increase access to key destinations for all modes.***

Applicant's Response: The property has excellent access to transportation resources and is in close proximity to employment and services. This makes the subject property ideal for multi-family residential development by making short travel times and trip lengths between destinations. Such proximity also creates more favorable conditions for the use of nearby transit service and other alternative modes of transportation. Development of the subject property will also facilitate construction of an important link in the City's pedestrian path along the Tualatin River.

Additionally, an existing Tri-Met bus stop is located 1/5 of a mile from the proposed site heading south bound on SW 65<sup>th</sup> Ave on the Meridian Park Hospital Property.

## Chapter 15 Parks and Recreation Section 15.020 Objectives

**(5) Preserve the scenic value of the Tualatin River by creating a greenway along the entire bank of the River within the City.**

Applicant's Response: The change in the plan designation will not affect the preservation of the greenway along the Tualatin River. Buffer areas required by the Tualatin Development Code and CleanWater Services will ensure that a greenway is maintained.

The proposed amendment conforms with the 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; the suitability of the areas for particular land uses and improvements in the areas; trends in land improvement and development; property values; the needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area; natural resources of the City and the protection and conservation of said resources; prospective requirements for the development of natural resources in the City; and the public need for healthful, safe, esthetic surroundings and conditions. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.***

Each of these factors is addressed separately below:

***the various characteristics of the areas in the City;***

Applicant's Response: The area immediately adjacent to the subject site consists of medium-density residential (apartments) and general commercial uses. As previously noted, the vast majority of the subject site is zoned high density residential, which is consistent and compatible with the adjacent properties. Due to the realignment process of SW Nyberg Lane, the commercial zoned remnant portion of the subject site is no longer developable as commercial uses.

Overall, the proposed RH plan designation will match well with the adjacent residential uses in the area and will offer the benefit of new customers and employees to the businesses in the area.

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

Applicant's Response: Rezoning the land in question for Multi-family residential development is fully compatible and consistent with the existing adjacent multifamily and commercial uses. The majority (94%) of the existing subject site is currently zoned high density residential (RH). This land has good access to employment centers via the I-5 corridor.

***trends in land improvement and development;***

Applicant's Response: The demand for additional multifamily housing units within Tualatin and the entire tri-county area is very high. A future applicant proposing multifamily development would help address a market demand for housing.

***property values;***

Applicant's Response: The proposed redevelopment of the previously existing RV Park of Portland to multi-family housing will allow additional investment in the area which will increase the property values of the subject property as well as its neighbors. As previously described, the RH designation is compatible with the zoning and development pattern in the area. Additionally, the development will provide customers for nearby retail and a more significant employee base for area office and manufacturing businesses. This will increase the value of these nearby commercial uses, and will enhance adjacent property values and will be an asset to the community.

***the needs of economic enterprises and the future development of the area;***

Applicant's Response: The proposed multifamily housing will enhance the local economic demographic and will bring additional residents and revenue into the local economy and adjacent existing and future businesses. The additional residents will enhance the overall local economic community.

Granting the requested plan change is in the public interest and will bring significant investment and improvement to this planning area. As noted above, property values will increase with the addition of high-quality, multi-family residential development in the area. Concentrations of residents are a pre-requisite to successful economic development in most areas of a city. The vitality and spending from residents on the subject property will have a greater, positive impact on local economy than the subject property's continued vacancy under its current commercial planning designations.

***needed right-of-way and access for and to particular sites in the area;***

Applicant's Response: The existing SW Nyberg Street, SW Nyberg Lane and SW 65th Avenues were redeveloped in 2004 to provide better access to the local area. The proposed plan map amendment from General Commercial to Residential High Density will reduce the overall trip generation and is effectively a "down zone" which will result in fewer daily trips. The existing right-of-way and proposed access to the subject site are adequate for high-density residential development.

***natural resources of the City and the protection and conservation of said resources;***

Applicant's Response: The portion of the overall site subject to the proposed plan map amendment does not contain any recognized natural areas and therefore this is not applicable.

***prospective requirements for the development of natural resources in the City; and***

Applicant's Response: The subject property is adjacent to the Tualatin River which is an important community resource. The change in the plan designation will not affect the preservation of the Tualatin River. Buffer areas are required by the Tualatin Development Code and by Clean Water Services, which will ensure that any development of the property will not affect the ecological value of the River. In addition, allowing multi-family residential development of the subject property will facilitate enhancement of the river corridor, including providing a location and SDC funds for the City's pedestrian path along the river.

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

Applicant's Response: The proposed multiple family use promotes safe, healthful and aesthetic conditions and surroundings. The provisions of the TDC ensure that proposed developments comply with the requirements of the applicable sections of the Tualatin Development Code. The proposed plan change will allow the development of the currently vacant site into a vibrant residential development. A portion of the site will remain undeveloped and enhanced due to the Tualatin River buffering requirements. This will create a pleasant experience for residents and the public who will have the benefit of the natural area along the river as well as excellent access to nearby employment, retail, and services.

***Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.***

Applicant's Response: The proposed plan map amendment is not motivated by any perceived change but is more appropriately characterized as a "mapping error" resulting from the roadway realignments.

As previously addressed, the proposed plan map amendment is the result of the realignment of SW Nyberg Lane and the intersection of SW Nyberg Street/SW 65th Avenue and SW Nyberg Lane. The existing CG zoned portions of the subject site was significantly impacted by the roadway realignment. The resultant remnant CG zoned portion cannot be efficiently or reasonably developed as commercial.

***(5) The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment. The Tigard-Tualatin School District's School Facility Plan criteria (formula) for new school capacity are:***

$$\begin{aligned} & (TCR - SMR) * CSR = NC \\ & (NC * CFF) ? CSP = MNP \\ & (MNP \text{ or } MPS) * CSP = AC \\ & \text{Where:} \end{aligned}$$



TCR	=	Total number of classrooms.
SMR	=	Special mandated classrooms.
CSR	=	Average class size policy for regular rooms.
NC	=	Normal capacity.
COF	=	Core facility factor (kitchen, cafeteria, restrooms, offices, gym, music, mechanical: 0.12 for K-8 schools and 0.15 for 9-12 schools.
CSP	=	Average class size policy for portables.
MNP	=	Maximum number of portables, rounded up to the nearest whole number, <u>or</u>
MPS	=	Maximum number of portables allowed on site, as determined by existing school capacity, above, or allowed by the City of Tualatin through land use decisions such as, but not limited to, conditional use permits.
AC	=	Additional capacity.

Applicant’s Response: In this case, there is no need to resort to the formula set forth above. Converting .64 acres of land from CG to HR would not have a measurable impact on school capacity.

In general, multi-family residences have fewer children of school age per dwelling unit than do single-family residences. From a planning standpoint, it is reasonable to assume that there will be .20 to .33 students per family apartment. Assuming that the land in question could accommodate 12 additional residential apartments, that would result in roughly 3-4 more students, which is within the margin of error for school facility planning purposes.

**(6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).**

Applicant’s Response: Early LUBA cases suggested that a local government could not “pass the buck” by deferring compliance with the TPR until the time of site plan review.<sup>4</sup> However, more recent case law clarifies that conditions of approval can be used to limit new development until such time as the TPR is addressed. For example, in *Citizens for Protection of Neighborhoods v. City of Salem*, 47 Or LUBA 111 (2004), the City of Salem approved a zone change to allow mixed residential and commercial use of a 275-acre property. That

<sup>4</sup>1000 *Friends of Oregon v. City of North Plains*, 27 Or LUBA 372 (1994), *aff’d*, 130 Or App 406 882 P2d 1130 (1994); *Concerned Citizens of the Upper Rogue v. Jackson County*, 33 Or LUBA 70 (1997).

approval included a condition that prohibited development of the property until later adoption of a master plan for the property. The City of Salem's code criteria applicable during the master plan process included requirements that were substantially identical to the requirements of the TPR. Based on the condition requiring master plan approval, the city found that the zone change did not significantly affect the transportation facility because no development could occur until the subsequent master plan phase. *Id.* at 115, 116. LUBA held that the city could properly conclude that the rezoning of the property did not significantly affect any transportation facility because the condition essentially prohibited development on the property without first showing that any allowed development is consistent with the function, capacity and performance standards of affected transportation facilities. *Id.* at 120.

In *ODOT v. City of Klamath Falls (Southview Dev'l, LLC)*, 39 Or LUBA 641, 660, *aff'd* 177 Or App 1, 34 P2d 667 (2001), LUBA affirmed that portion of a county decision which approved a zone change with a condition that prevented additional development from impacting a transportation facility until such a time in the future when the TPR is addressed. LUBA found that this condition was sufficient to ensure compliance with the TPR in the interim.

Finally, in *Willamette Oaks, LLC v. City of Eugene*, 59 Or. LUBA 60 (2009), the city approved a zone change, and imposed a condition of approval prohibiting development of the property without approval of a planned unit development (PUD) application and a showing of consistency with the TPR as part of the PUD application and review. LUBA approved this approach, stating as follows:

In sum, with one caveat discussed below,<sup>5</sup> we think it is permissible for the city to defer consideration of compliance

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<sup>5</sup> LUBA stated in a footnote that the PAPA procedural requirements would still need to be satisfied as part of the deferred process:

The caveat mentioned above is that unless the local government takes steps to ensure otherwise, the subsequent review process may not require a comprehensive plan or land use regulation amendment and therefore will not trigger the notice obligations of a post-acknowledgement action under ORS 197.610 *et seq.* Under those statutes, a local government that amends its comprehensive plan or land use regulations, including zone changes, must provide to the Department of Land Conservation and Development (DLCD) timely notice of the hearing on the proposed amendments as well the decision adopting the amendments. DLCD, in turn, provides notice of the proposed amendments and any subsequent adoption to persons or agencies who request such notice. OAR 660-018-0025. The requirement to provide notice of post-acknowledgment plan amendments to DLCD and other parties is a critical component of a statutory and rule-based scheme that is designed to ensure that post-acknowledgment plan and land use amendments comply with the applicable statewide planning goals and rules, including the TPR. *See Oregon City Leasing, Inc. v. Columbia County*, 121 Or App 173, 177, 854 P2d 495 (1993) (failure to provide DLCD the notice required under ORS 197.610 *et seq.* is a substantive, not procedural error). The efficacy of that scheme is undermined if a local government defers consideration of compliance with the TPR to a subsequent review process that does not

with the TPR to a subsequent review process at the time actual development is proposed, provided that the zone change or plan amendment is effectively conditioned to prohibit traffic or other impacts inconsistent with the TPR's requirements unless and until those requirements are fully addressed. Petitioner offers no reason in the present case why deferring the application of the provisions of the TPR to a later PUD application process is insufficient to ensure that allowed uses of the subject property are consistent with the function, capacity and performance standards of the affected transportation facilities. *ODOT v. City of Klamath Falls*, 39 Or LUBA at 660.

For this reason, the City has the option of imposing a condition of approval to the PAPA and Zone Change that prohibits any new development on the subject property until transportation impacts are fully considered.

However, the applicant has provided a Traffic Impact Analysis prepared by a licensed Transportation Engineer that demonstrates that the change from GC to RH zoning will not violate the TPR because uses allowed in the GC zone are more intensive from a transportation planning standpoint than corresponding development allowed under RH zoning.

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

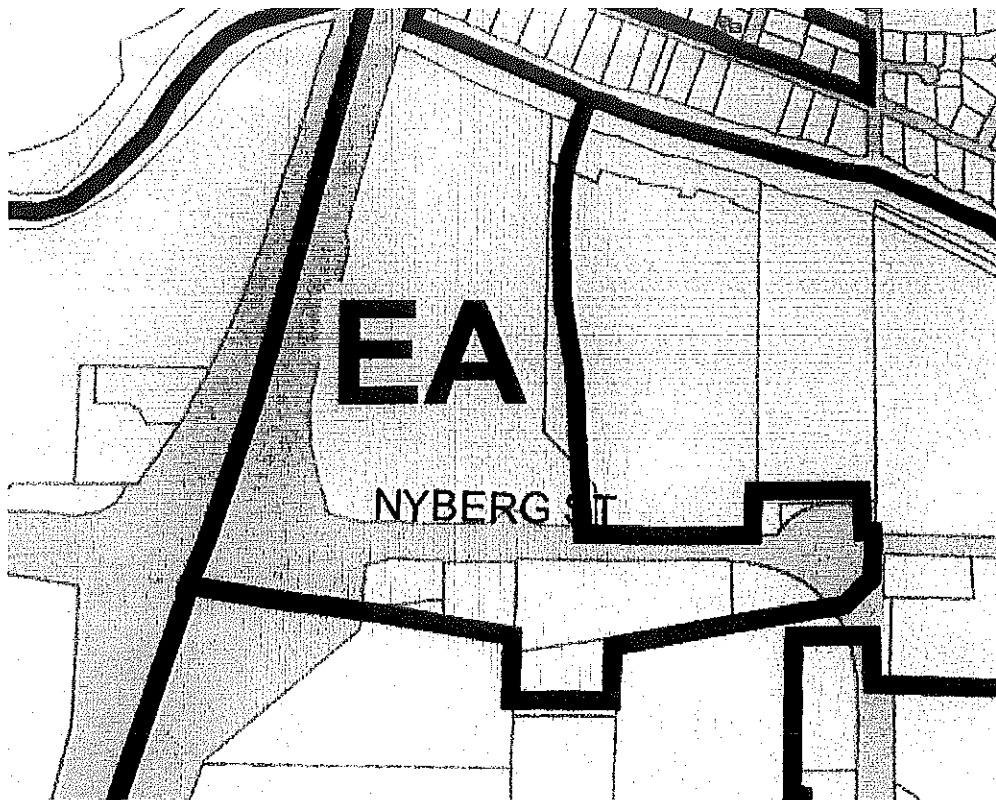
Applicant's Response: The applicant reviewed the provisions of Metro's Urban Growth Management Functional Plan ("UGMFP") and identified the following provisions in Title 4 that *may* be mandatory approval standards to a PAPA / Zone Change seeking to convert commercial land to residential land use designations.

*Title 4 (Metro Code Sections 3.07.410 – 3.07.450) – Industrial and other Employment Areas.*

Map 9-4 in the Tualatin Community Plan shows the location of the Metropolitan Service District's Growth Concept Design Types. The subject site has a designation of "Employment Area."

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provide equivalent notice to that required by ORS 197.610 *et seq.* Without such notice, it is possible that DLCD and parties who may rely on DLCD's re-notice, potentially including ODOT, may not learn of the review proceeding or have an opportunity to participate in that proceeding.



The map is noteworthy because it highlights how isolated the subject property is from other land in this EA.

Metro defines the term “Employment Area” in its RUGGOs as follows

***Areas of mixed employment that include various types of manufacturing, distribution and warehousing uses, commercial and retail development as well as some residential development. Retail uses should primarily serve the needs of the people working or living in the immediate employment area. Exceptions to this general policy can be made only for certain areas indicated in a functional plan.***

Thus, the EA designation does not limit the conversion of the property to the proposed RH designation.

#### **3.07.440 Protection of Employment Areas**

***(a) Except as provided in subsections (c), (d), and (e), in Employment Areas mapped pursuant to Metro Code section 3.07.450, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.***

Applicant’s Response: This provision does not limit the City’s ability to zone the land in question for high-density residential use. Rather, it limits the types of commercial retail uses

can be sited in an Employment Area. In fact, it does recognize that residential uses are allowed in an Employment Areas.

**3.07.450 Employment and Industrial Areas Map**

**(a) The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.**

**(b) If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer (COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.**

Applicant's Response: Not applicable.

**(c) A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:**

**(1) The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;**

**(2) The amendment will not reduce the employment capacity of the city or county;**

**(3) If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;**

**(4) The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;**

**(5) The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and**

**(6) If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.**

Applicant's Response: This provision does not limit the City's ability to zone the land in question for high-density residential use, because residential uses are allowed in Employment

Areas. However, even if one assumes, for purposes of argument, that the proposed amendment “*allows uses not allowed by this title,*” the only provision that potentially has direct applicability would be UGMFP 3.07.450(2). That provision merely requires the City to find that “the amendment will not reduce the employment capacity of the city.” The Comprehensive Plan indicates that the City has sufficient surplus of employment land to meet its projected need over the planning horizon, and rezoning a .64 acre parcel will not alter that conclusion.

***(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.***

Applicant's Response: The applicant's TIA prepared by Lancaster Engineering demonstrates that the proposed zone change will reduce the trip generation allowed on the site.

***(9) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.***

Applicant's Response: Section 12.020 is entitled “Water Service Policies” and provides as follows:

***City of Tualatin water service policies are to:***

- (1) Plan and construct a City water system that protects the public health, provides cost-effective water service, meets the demands of users, addresses regulatory requirements and supports the land uses designated in the Tualatin Community Plan.***
- (2) Require developers to aid in improving the water system by constructing facilities to serve new development and extend lines to adjacent properties.***
- (3) Water lines should be looped whenever possible to prevent dead-ends, to maintain high water quality and to increase reliability in the system.***
- (4) Improve the water system to provide adequate service during peak demand periods and to provide adequate fire flows during all demand periods.***
- (5) Review and update the water system capital improvement program and funding sources as needed or during periodic review.***
- (6) Prohibit the extension of City water services outside the City's municipal boundaries, unless the water service is provided to an area inside an adjacent city.***
- (7) The July 2013 Water Master Plan is accepted by reference as a supporting technical document to the Tualatin Community Plan. [Ord. 1152-03, 12/8/03; 03; Ord. 1191-05, 6/27/05; Ord. 1321-11 §32, 4/25/11; Ord. 1359-13 §2, 9/23/13].***



Because any development resulting from this zone change would be in the nature of “in-fill” development, it does not trigger any of the concerns that TDC 12.020 is intended to address. Sufficient water capacity presently exists to serve the uses proposed by future development. Water mains of sufficient size and capacity are already stubbed out to the subject property. All adjacent properties are already being served with water. Issues such as looping water systems and providing adequate fire flows can be addressed during any subsequent development application.

**(10) The applicant has entered into a development agreement.**

**(a) This criterion shall apply only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.**

**(b) This criterion is applicable to any issues about meeting the criterion within 1.032(9). [Ord. 964-96, §2, 6/24/96; Ord. 1026-99, §2, 8/9/99; Ord. 1103-02, 03/25/02; Ord. 1310-10 §2, 9/13/10; Ord. 1354-13 §1, 02/25/13]**

Applicant’s Response: Not applicable.

## STATEWIDE PLANNING GOALS

### ***Citizen Involvement (Goal 1)***

***To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.***

Applicant’s Response: The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. As stated in the Goal, the purpose is:

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Goal 1 has five stated objectives that are relevant to a zone change:

*Citizen Involvement -- To provide for widespread citizen involvement.*

*Communication -- To assure effective two-way communication with citizens.*

*Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.*

*Technical Information -- To assure that technical information is available in an understandable form.*

*Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.*

Citizen involvement is always applicable to both quasi-judicial and legislative land use applications. The City's acknowledged Comprehensive Plan and Development Code include citizen involvement procedures with which the review of this application will comply. This process allows for citizens to communicate their input into this application review conducted by the City at public hearings or by submitting written comments. This process has been acknowledged as being in compliance with Goal 1.

The applicant held a neighborhood meeting. The site has been posted with the neighborhood information and notices were mailed to all affected neighbors within 1,000 feet of the subject site. This application will be reviewed by staff, the Planning Commission, and the City Council. At least two public hearings will be conducted with notice and opportunity to be heard presented, as required by the TDC. The property will be posted with notice as well as mailed notice to surrounding property owners and affected governmental agencies. At the public hearings anyone wishing to present relevant testimony or documentary evidence will be allowed to do so. Adequate citizen involvement is guaranteed in this case.

***Land Use Planning (Goal 2)***

***To establish a land use planning process and policy framework as a basis for all decision and actions related to use.***

Applicant's Response: Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

*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 Tualatin Comprehensive Plan and Community Development Code are acknowledged to be in compliance with the Statewide Planning Goals and associated guidelines. Goal 2's coordination obligation will be met because the applicant and city shall seek public comment from any affected unit of government, including METRO and any special district whose boundaries overlap with the site.

The procedural requirements for a PAPA and zone change are contained in the Tualatin Comprehensive Plan, which involve assessment of the applications merits, notice to affected parties, and public hearings. The proposal is to change the zoning on the subject property, in compliance with Goal 2. Notice of the zoning map amendment has been provided

by the City of Tualatin to the Oregon Department of Land Conservation and Development (DLCD), as required. The City's decision will be based on findings of fact. For this reason, Goal 2 is met.

### ***Agricultural Lands (Goal 3)***

***To preserve and maintain agricultural lands.***

Applicant's Response: Goal 3 is no longer applicable once land is included in an Urban Growth Boundary. OAR 660-024-0020(b). The land under review is within the City's jurisdictional limits, is anticipated to be redeveloped at an urban scale, and no identified agricultural resources are listed on site.

### ***Forest Lands (Goal 4)***

***To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.***

Applicant's Response: The subject property does not contain forest land. Therefore, Goal 4 does not apply to this land. This Goal is also not applicable since the land is anticipated to be redeveloped at an urban scale, and no identified forest lands are identified on site.

### ***Open Spaces, Scenic and Historic Areas and Natural Resources (Goal 5)***

***To protect natural resources and conserve scenic and historic areas and open spaces.***

Applicant's Response: There are no identified Goal 5 resources on or near the portion of site which is proposed for rezoning from CG to RH. The northern portion of the tract is located within the Tualatin River Greenway. However, the proposed PAPA does not affect the Goal 5 land in any manner. The portion of the subject property at issue is not designated as an open space, scenic, or historic area and has no Goal 5 natural resources to protect. There are no natural resources located on the subject property at issue. There are no landslide hazard areas. There are no historic resources or cultural areas located or identified on the site. There are no identified mineral or aggregate resources on the site. The site is not located downtown or in a neighborhood conservation district. Therefore, this Goal is satisfied.

### ***Air, Water and Land Resources Quality (Goal 6)***

***To maintain and improve the quality of the air, water, and land resources of the state.***

Applicant's Response: The site is currently zoned for commercial use, and is proposed to be zoned for residential use. Residential uses are generally considered to have less impact on air, water and land resources than commercial uses. Any development applications submitted in the future will create additional impervious surfaces which will increase storm water effluent unless those impacts are mitigated. However, it is reasonable and likely that engineering solutions exist which can successfully mitigate those impacts, and therefore, compliance with this goal can be deferred to future development proposals.

**Areas Subject to Natural Disasters and Hazards (Goal 7)**  
**To protect people and property from natural hazards.**

Applicant's Response: The portion of the subject tract at issue is basically flat and devoid of natural hazards. There are no identified landslide areas on the subject property. The northern portion of the subject property has been identified by FEMA as being a Special Flood Hazard Area (i.e. is within the 100-year floodplain). Flood hazard areas identified on the Flood Insurance Rate Map are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood. In this case, the SFHAs has been labeled as Zone AE on the FEMA FIRM map.

Goal 7 is complied with by this application as follows:

**C. IMPLEMENTATION**

***Upon receiving notice from the Department, a local government shall:***

***1. Evaluate the risk to people and property based on the new inventory information and an assessment of:***

***a. the frequency, severity and location of the hazard;***

***b. the effects of the hazard on existing and future development;***

***c. the potential for development in the hazard area to increase the frequency and severity of the hazard; and***

***d. the types and intensities of land uses to be allowed in the hazard area.***

Applicant's Response: The risk of flooding on the portion of the subject property subject to the FEMA AE overlay is roughly 1-percent chance in any given year. The risk to people is slight since the valley is broad, and therefore rising flood water will arrive with ample warning. Conversely, the risk of flash floods are very low. No development is proposed with the AE zone. Also, the risk of high-velocity flows are low outside of the well-defined creek channel and adjacent steeply sloped lands. The risk to property is also slight, since the area subject to flooding is simply going to be used a public trail access.

***2. Allow an opportunity for citizen review and comment on the new inventory information and the results of the evaluation and incorporate such information into the comprehensive plan, as necessary.***

Applicant's Response: Not applicable.

**3. Adopt or amend, as necessary, based on the evaluation of risk, plan policies and implementing measures consistent with the following principles:**

**a. avoiding development in hazard areas where the risk to people and property cannot be mitigated; and**

**b. prohibiting the siting of essential facilities, major structures, hazardous facilities and special occupancy structures, as defined in the state building code (ORS 455.447(1) (a)(b)(c) and (e)), in identified hazard areas, where the risk to public safety cannot be mitigated, unless an essential facility is needed within a hazard area in order to provide essential emergency response services in a timely manner.**

**4. Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.**

Applicant's Response: The Implementation measures set forth above are not applicable to a quasi-judicial land use application, but rather are policy directives to the City.

## **GUIDELINES**

### **A. PLANNING**

**1. In adopting plan policies and implementing measures to protect people and property from natural hazards, local governments should consider:**

**a. the benefits of maintaining natural hazard areas as open space, recreation and other low density uses;**

Applicant's Response: The portion of the subject property subject to the FEMA AE designation will be used low-intensity recreational uses such as a public access way.

**b. the beneficial effects that natural hazards can have on natural resources and the environment; and**

Applicant's Response: The site will provide habitat for bird and small mammals. The river will be protected from urban development.

**c. the effects of development and mitigation measures in identified hazard areas on the management of natural resources.**

Applicant's Response: This consideration shall be addressed at the time of development.

**2. Local governments should coordinate their land use plans and decisions with emergency preparedness, response, recovery and mitigation programs.**

Applicant's Response: Not applicable.

## **B. IMPLEMENTATION**

**1. Local governments should give special attention to emergency access when considering development in identified hazard areas.**

Applicant's Response: The hazard areas located on the subject property will be accessed from Nyberg Lane.

**2. Local governments should consider programs to manage stormwater runoff as a means to help address flood and landslide hazards.**

Applicant's Response: Not applicable. This is a directive to the City, and is not an approval criterion for a site-specific quasi-judicial PAPA.

**3. Local governments should consider nonregulatory approaches to help implement this goal, including but not limited to:**

- a. providing financial incentives and disincentives;**
- b. providing public information and education materials;**
- c. establishing or making use of existing programs to retrofit, relocate, or acquire existing dwellings and structures at risk from natural disasters.**

Applicant's Response: Not applicable. This is a directive to the City, and is not an approval criterion for a site-specific quasi-judicial PAPA.

**4. When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties.**

Applicant's Response: Not applicable because no "development" is proposed. Future development applications may trigger the need to comply with City Floodplain regulations.

**5. Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:**

- a. limiting placement of fill in floodplains;**

Applicant's Response: No fill is proposed.

- b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials;**

Applicant's Response: No storage of hazardous materials in floodplains is proposed.



***c. elevating structures to a level higher than that required by the NFIP and the state building code. Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.***

This provision can be addressed when future development is proposed.

***Recreational Needs (Goal 8)***

***To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.***

Applicant's Response: Goal 8 requires governmental organizations with responsibilities for providing recreational facilities plan for meet the recreational needs of the community. The City of Tualatin has adopted a Parks and Recreation Master Plan (1983) that implements this Goal.

The site is presently zoned GC, and is proposed to be zoned HR. The site has not been planned for recreational use. The requested zoning map amendment will not result in a reduction of land planned or reserved for recreational use. Consequently, the requested zoning map amendment has no impact on the City's compliance with this Goal.

***Economic Development (Goal 9)***

***To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.***

Applicant's Response: This Goal is applicable to commercial and industrial lands. In this case, the commercial land was rendered unusable when a portion was taken for public ROW use. The remainder is of an insufficient size to support commercial activities. Any effect on the City's supply of commercial land is *deminimus*.

***Housing (Goal 10)***

***To provide for the housing needs of citizens of the state.***

Applicant's Response: The site is currently zoned GC. The proposed zoning map amendment to HR would create a small amount of additional buildable land for needed housing.

***Public Facilities and Services (Goal 11)***

***To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.***

Applicant's Response: The subject property is inside the City of Tualatin Urban Growth Boundary and has access to nearby public facilities and services. The applicant has met with City and Clean Water Services staff, and as reviewed below all relevant service providers have indicated that sufficient capacity exists to serve the site with the proposed plan designation.

Sanitary Sewer – The site is located within the Clean Water Services (CWS) Service Boundary. There is an existing 8-inch sanitary sewer main located in an easement located on the east property line.

Storm Drainage (surface water management) – The site is located within the CWS Service Boundary. Storm drainage improvements required for development of the subject property will include the installation of a new outfall to the Tualatin River. Storm water quality treatment will be provided in accordance with CWS standards and potentially consist of water quality swales, low impact development approaches (LIDA), mechanical treatment, or a combination thereof. Storm water detention is not required due to the site proximity to the Tualatin River.

Potable Water – There is an existing City of Tualatin 8-inch potable water main in Nyberg Lane along the site frontage. Potable water service is available to the site by connecting to the existing main.

***Transportation (Goal 12)***

***To provide and encourage a safe, convenient and economic transportation system.***

Applicant's Response: This Goal requires the City to prepare and implement a Transportation System Plan (TSP). The City of Tualatin completed a TSP update in 2012 and 2013 and assumed that this site would be developed under the City's current GC zoning designation. The proposal to change the subject property from CH to RH is not expected to have a significant effect on the local transportation facilities. The proposal will not change the functional classifications of the adjacent roadways. No development is proposed concurrent with this PAPA / zone change request.

***Energy Conservation (Goal 13)***

***To conserve energy.***

Applicant's Response: LUBA and the Courts have never given any regulatory effect to this Goal. Despite this, the rezoning of land from GC to HR will result in more efficient urban form, which should have at least a marginal effect on energy efficiency. The site is located immediately adjacent to other residential land. The proposed zoning map amendment would permit development in accordance with the Comprehensive Plan, with the potential to create an energy efficient land use pattern within the City limits of Tualatin.

***Urbanization (Goal 14)***

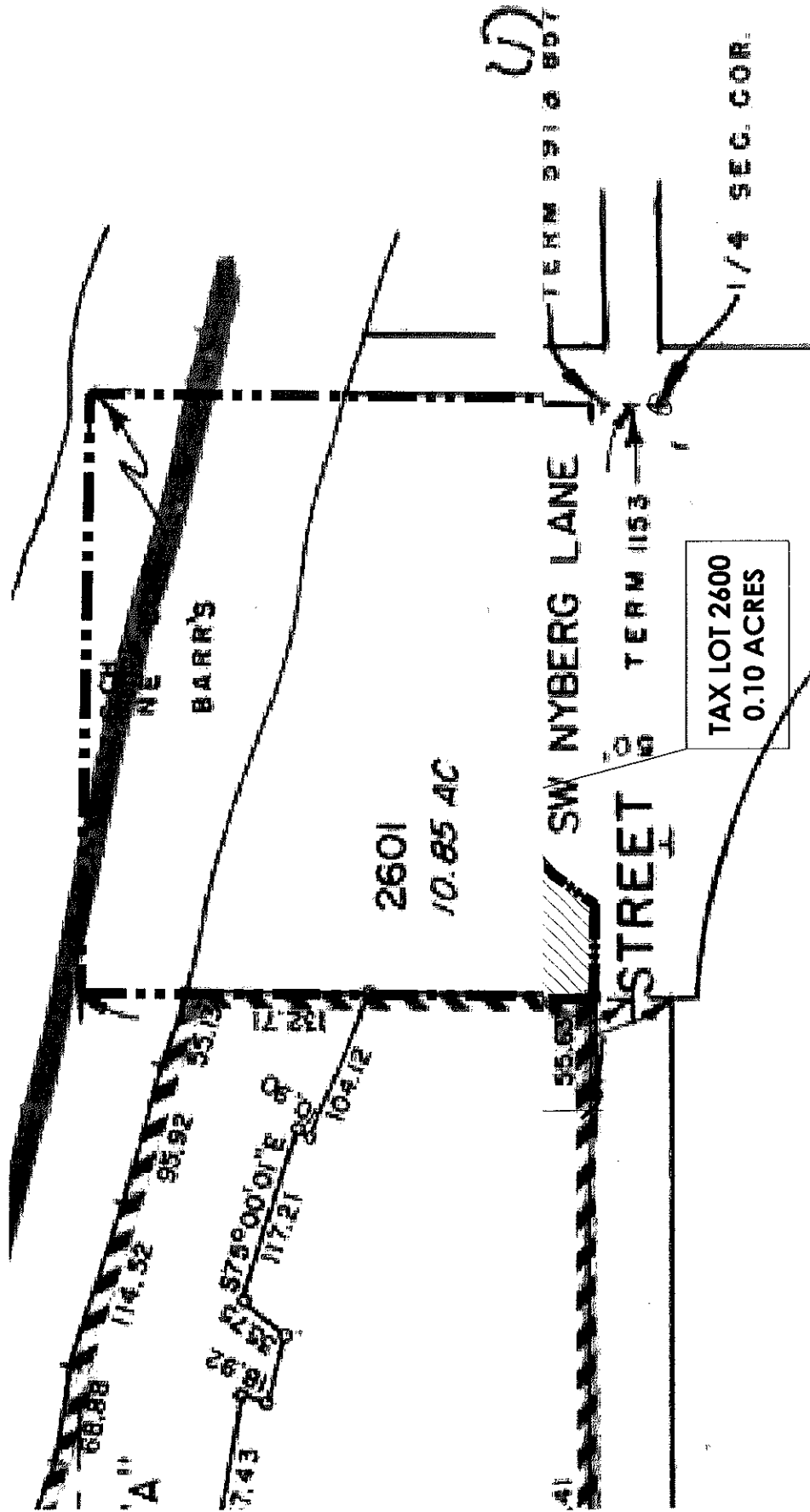
***To provide for an orderly and efficient transition from rural to urban land use.***

Applicant's Response: The subject property is already located within the City limits, and has been planned for urban land use. Goal 14 does not apply.

***Goals 15 through 19***

Applicant's Response: The following Goals are not applicable to this application: Willamette River Greenway (Goal 15); Estuarine Resources (Goal 16); Coastal Shorelands (Goal 17); Beaches and Dunes (Goal 18); and Ocean Resources (Goal 19).

**PLAN MAP AMENDMENT  
APPLICATION DRAWINGS**



TAX MAP WITH PLAN MAP DESIGNATIONS

NOT TO SCALE

A-02

DATE: 08/08/16

PROJECT: 1409

PLAN MAP AMENDMENT

TUALATIN APARTMENTS  
 6625 SW NYBERG LANE, TUALATIN, OREGON

OWNER:  
 TANDEM PROPERTIES

**RDG**

REITER DESIGN GROUP  
 ARCHITECTS, INC.

# **TRAFFIC IMPACT ANALYSIS**



## TECHNICAL MEMORANDUM

**TO:** Tom Clarey  
**FROM:** William Farley, PE  
Todd E. Mobley, PE  
**DATE:** August 15, 2016  
**SUBJECT:** 6645 SW Nyberg Lane  
Zone Change Analysis



**LANCASTER  
ENGINEERING**

321 SW 4th Ave., Suite 400  
Portland, OR 97204  
phone: 503.248.0313  
fax: 503.248.9251  
lancasterengineering.com

This memorandum examines the reasonable worst-case development scenario for the proposed zone change of an approximately 0.64-acre portion of the property located at 6645 SW Nyberg Lane in Tualatin, Oregon. The sliver of property will be rezoned from General Commercial (CG) to High Density Residential (RH) in order to be consistent with the remainder of the property. Oregon's Transportation Planning Rule (TPR) will also be addressed.

### *Project & Location Description*

Approximately 10.95 acres located north of SW Nyberg Lane and east of the Forest Rim Apartments is being considered for development. In order to efficiently develop the property, a zone change is being proposed for a 0.54-acre portion of the 10.85-acre property (Tax Lot #2S124A002601) as well as a 0.10-acre remnant (Tax Lot #2S124A002600) that was part of a larger property prior to the realignment of SW Nyberg Lane in 2004. The partial zoning of the larger property and the zoning of the remnant piece of property will be changed from General Commercial to High Density Residential in order to correct a map error that occurred with the realignment of SW Nyberg Lane.

After the map amendment corrects the zoning designation of the General Commercial portion of the property, an apartment complex will be proposed for development on both the 10.85-acre property and the 0.10-acre remnant. A traffic impact study that evaluates impacts related to the apartment complex is currently underway and will be submitted in a subsequent application following the subject zone change.

### *Trip Generation*

Although the sliver of property remaining from when SW Nyberg Road was realigned could not be developed, traffic impacts that could result from the proposed zone change were examined assuming the total 0.64 acres could be developed without property boundary constraints. To evaluate the impacts from the map amendment, the reasonable worst-case development scenario under both the existing and proposed zoning designations was examined.

Under the existing General Commercial zoning designation, the City's zoning code permits a full range of commercial uses including motels, restaurants, and automobile service stations. Based on the permitted uses, it is assumed that the 0.64 acres could accommodate a 3,500 square-foot fast food

Tom Clarey  
August 15, 2016  
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restaurant. It should be noted that this level of development would be unlikely with the constraints from the property boundaries.

Under the High Density Residential zoning designation, the zoning code permits housing developed up to 25 dwelling units per net acre. Based on the allowable density, it is assumed that the 0.64 acres could accommodate up to 12 dwelling units if 20 percent of the property is reserved for parking and circulation.

To estimate the trip generation from each of the scenarios, trip rates from the manual *TRIP GENERATION*, Ninth Edition, published by the Institute of Transportation Engineers (ITE), were used. For the General Commercial zoning, trip rates for land-use code #934, *Fast Food Restaurant with Drive-Through Window*, were used based on the gross floor area, while trip rates for land-use code #220, *Apartment*, were used based on the number of dwelling units.

The trip generation calculations were adjusted to account for pass-by and diverted-link trips. These trips leave an adjacent or nearby roadway to patronize a land use prior to continuing to their destination. Since these trips would have been present on the transportation system without the fast food restaurant, the trip generation of the facility would be reduced. According to the *TRIP GENERATION HANDBOOK*, Third Edition, the pass-by rate for the fast food land use is 49 percent during the morning peak hour and 50 percent during the evening peak hour.

The trip generation calculations show that the reasonable worst-case development scenario under the existing zoning will generate 81 trips during the morning peak period, 58 trips during the evening peak period, and 868 daily trips. With the proposed zone change of the properties to High Density Residential, it is anticipated that the 0.64 acres could generate six trips during the morning peak period, seven trips during the evening peak period, and eighty daily trips.

A summary of the trip generation calculations for each of the zoning scenarios is shown in the following table. Detailed trip generation calculations are included in the appendix to this memorandum.

<b>Trip Generation Summary</b>								
	Size	Morning Peak Hour			Evening Peak Hour			Weekday
		In	Out	Total	In	Out	Total	Total
<b>Existing Zoning</b>								
Fast Food Restaurant	3.5 ksf	81	78	159	59	55	114	1,736
<i>Pass-by Reduction</i>	49% / 50%	-39	-39	-78	-29	-29	-58	-868
<b>Proposed Zoning</b>								
Apartments	12 units	1	5	6	5	2	7	80
<b>Total Net Decrease</b>		<b>-41</b>	<b>-34</b>	<b>-75</b>	<b>-25</b>	<b>-24</b>	<b>-49</b>	<b>-788</b>



Tom Clarey  
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Since the proposed zone change is a down-zone and will result in a net decrease of site trips at the planning horizon, the zone change will not result in the need for additional traffic mitigation.

#### *Transportation Planning Rule*

The Transportation Planning Rule (TPR) is in place to ensure that the transportation system is capable of supporting possible increases in traffic intensity that could result from changes to adopted plans and land use regulations. The applicable elements of the TPR are each quoted directly in *italics* below, with a response directly following.

#### **660-012-0060**

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*
  - (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
  - (b) *Change standards implementing a functional classification system; or*
  - (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
    - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
    - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
    - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

In the case of this report, subsections (A) and (B) are not triggered, since the proposed zone change will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.



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Subsection (C) is also not triggered since the proposed zone change will reduce the traffic generation potential of the 0.64 acres. Accordingly, the Transportation Planning Rule is satisfied.

*Conclusions*

The traffic resulting from the proposed zone change from General Commercial to High Density Residential of a 0.64-acre portion of 6645 SW Nyberg Lane in Tualatin, Oregon, will not cause any significant impact to the nearby transportation network.

The proposed zone change will result in a decrease in total trips generated by the site at the planning horizon. The zone change will not affect existing or planned transportation facilities as defined under Oregon's Transportation Planning Rule.

1e

***Technical Appendix***





1e

## TRIP GENERATION CALCULATIONS

*Land Use:* Fast Food Restaurant with Drive-Through Window  
*Land Use Code:* 934  
*Variable:* 1000 Sq Ft Gross Floor Area  
*Variable Quantity:* 3.5

### AM PEAK HOUR

*Trip Rate:* 45.42

	Enter	Exit	Total
Directional Distribution	51%	49%	
Trip Ends	<b>81</b>	<b>78</b>	<b>159</b>

### PM PEAK HOUR

*Trip Rate:* 32.65

	Enter	Exit	Total
Directional Distribution	52%	48%	
Trip Ends	<b>59</b>	<b>55</b>	<b>114</b>

### WEEKDAY

*Trip Rate:* 496.12

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	<b>868</b>	<b>868</b>	<b>1,736</b>

### SATURDAY

*Trip Rate:* 722.03

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	<b>1264</b>	<b>1264</b>	<b>2,528</b>

Source: TRIP GENERATION, Ninth Edition

1e

## TRIP GENERATION CALCULATIONS

*Land Use:* Apartment  
*Land Use Code:* 220  
*Variable:* Dwelling Units  
*Variable Value:* 12

### AM PEAK HOUR

*Trip Rate:* 0.51

	Enter	Exit	Total
Directional Distribution	20%	80%	
Trip Ends	1	5	6

### PM PEAK HOUR

*Trip Rate:* 0.62

	Enter	Exit	Total
Directional Distribution	65%	35%	
Trip Ends	5	2	7

### WEEKDAY

*Trip Rate:* 6.65

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	40	40	80

### SATURDAY

*Trip Rate:* 6.39

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	38	38	76

**NEIGHBORHOOD/DEVELOPER  
MEETING MATERIALS**



REITER DESIGN GROUP  
ARCHITECTS, INC.

February 29, 2016

RE: NEIGHBORHOOD/DEVELOPER MEETING  
PROPOSED PLAN MAP AMENDMENT  
Map 2S-1-24-A, Tax Lots 2600 and 2601

Dear Property Owner:

Reiter Design Group Architects, Inc. is representing the owner of the property located at 6625 SW Nyberg Lane, Tualatin, Oregon (former RV Park of Portland), in the City of Tualatin, more specifically shown on the attached map. The owner is proposing a Plan Map Amendment that would change the zoning of tax lot 2600 and a portion of Tax Lot 2601 from General Commercial (GC) to Residential High Density (RH).

The purpose of this meeting is to provide a forum for the applicant and surrounding property owners/residents to review the proposal and to identify issues regarding this proposal.

You are invited to attend a meeting on:

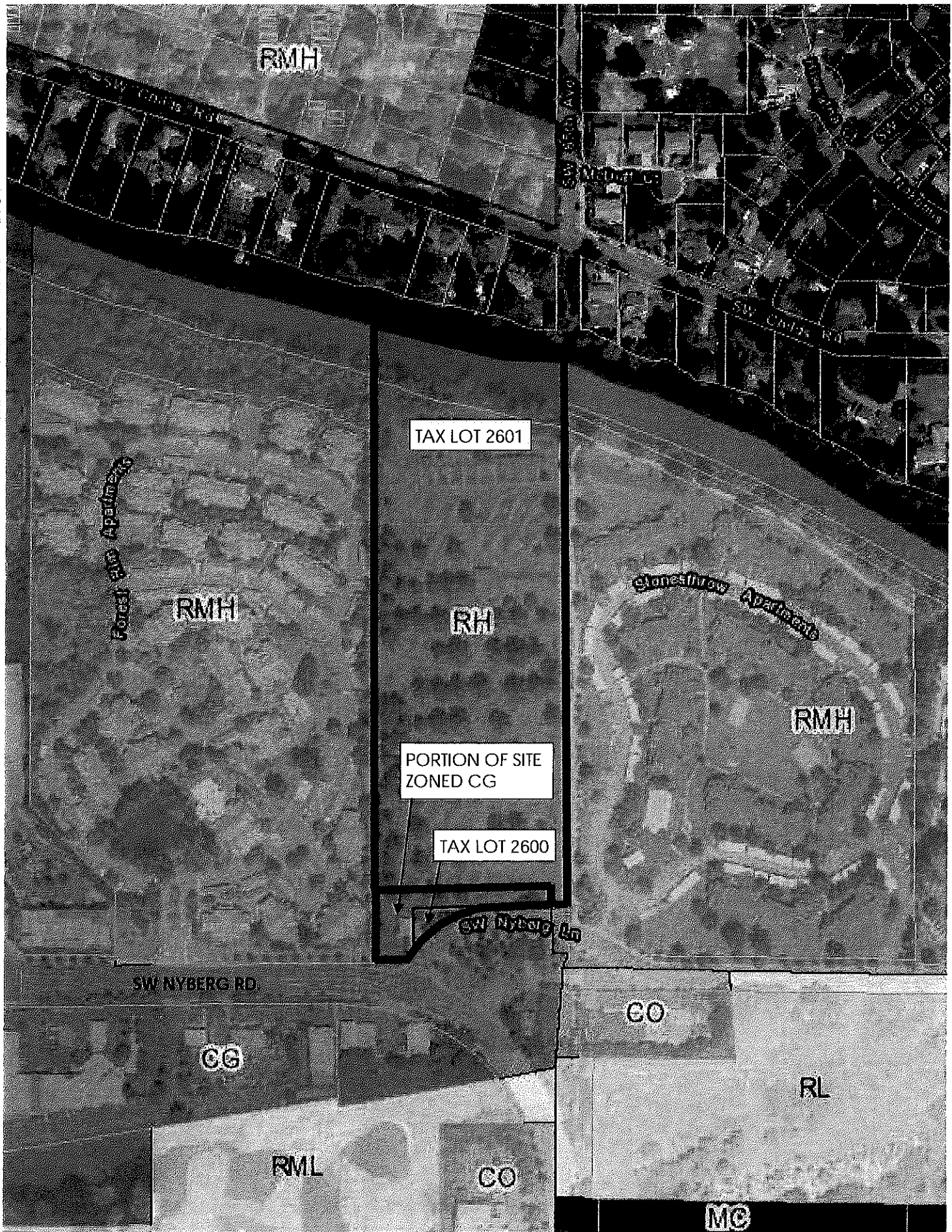
March 16<sup>th</sup>, 2016      6:30-7:30pm  
Tualatin Public Library  
Community Room  
18878 SW Martinazzi Avenue  
Tualatin, OR 97062

We look forward to more specifically discussing the proposal with you. Please feel free to call me at 503-574-3036 or fax 503-574-2916 if you have any questions.

Sincerely,

Scott A. Reiter  
President

Attachments  
City of Tualatin G.I.S. and Tax Map



RMH

TAX LOT 2601

RMH

RM

PORTION OF SITE  
ZONED CG

TAX LOT 2600

RMH

SW NYBERG RD.

CG

CO

RL

RML

CO

MC

Forest Hill Apartments

Stonestrow Apartments

SW Nyberg Ln





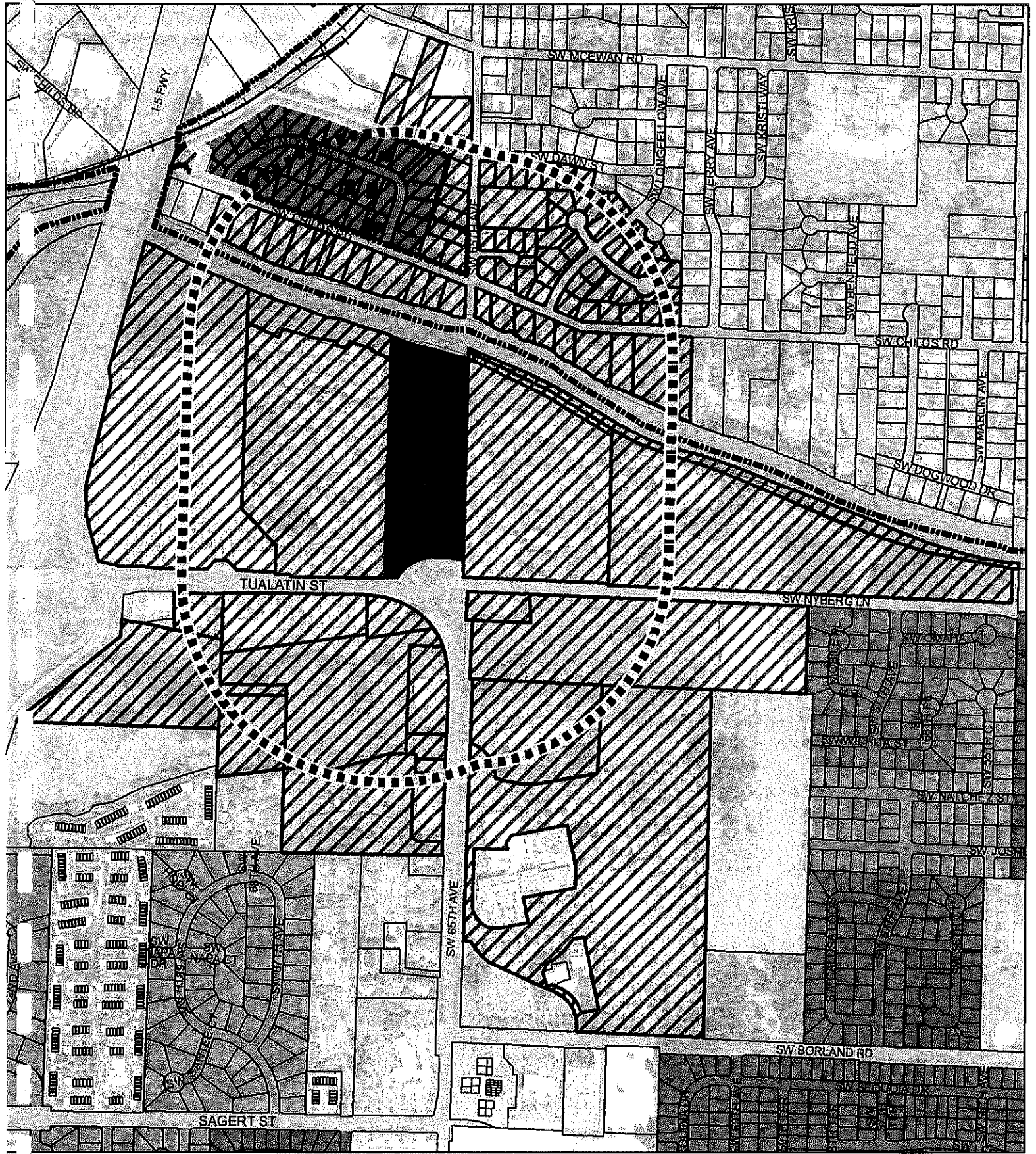
# **NOTICE**


## **NEIGHBORHOOD / DEVELOPER MEETING**


**3/16/2016 6:30 p.m.**


**18878 SW Martinazzi Ave.**

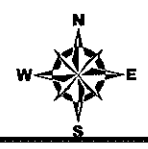
**503-574-3036.**



 1000' Buffer

 1000' Buffer with Subdivisions

 Selected Taxlots



# NEIGHBORHOOD MEETING ATTENDANCE ROSTER

PROJECT: Tualatin Apts

MEETING DATE: March 16, 2016

**PLEASE PRINT LEGIBLY!**

NAME	MAILING ADDRESS & E-MAIL ADDRESS	CITY, STATE	ZIP CODE	PHONE #
Julie VanEtten	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Kim Wright	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Renee Gillenwater	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Paul Heenan	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Erin Engman	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**NEIGHBORHOOD/DEVELOPER MEETING  
AFFIDAVIT OF MAILING**

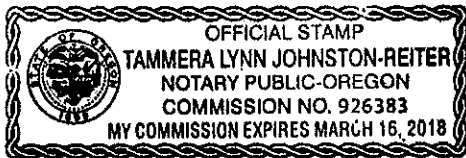
STATE OF OREGON                    )  
  ) SS  
COUNTY OF WASHINGTON        )

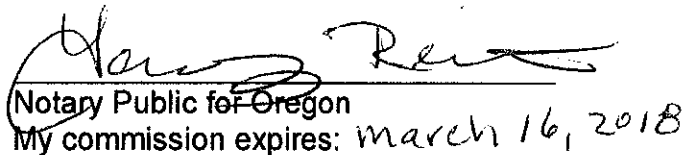
I, Scott Reiter, being first duly sworn, depose and say:

That on the 29<sup>th</sup> day of FEBRUARY, 2016, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of the Notice of Neighborhood/Developer meeting marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail with postage fully prepared thereon.

  
\_\_\_\_\_  
Signature

SUBSCRIBED AND SWORN to before me this 29<sup>th</sup> day of February,  
2016.



  
\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: march 16, 2018

RE: TUALATIN APARTMENTS PLAN MAP AMENDMENT

# NEIGHBORHOOD / DEVELOPER MEETING CERTIFICATION OF SIGN POSTING

<p><b>NOTICE</b></p> <p><b>NEIGHBORHOOD / DEVELOPER MEETING</b></p> <p>__/__/2010 __:__.m.</p> <p>SW _____</p> <p>503-____-____</p>	18"
24"	

In addition to the requirements of TDC 31.064(2) quoted earlier in the packet, the 18" x 24" sign that the applicant provides must display the meeting date, time, and address and a contact phone number. The block around the word "NOTICE" must remain **orange** composed of the **RGB color values Red 254, Green 127, and Blue 0**. Additionally, the potential applicant must provide a flier (or flyer) box on or near the sign and fill the box with brochures reiterating the meeting info and summarizing info about the potential project, including mention of anticipated land use application(s). Staff has a Microsoft PowerPoint 2007 template of this sign design available through the Planning Division homepage at < [www.tualatinoregon.gov/planning/land-use-application-sign-templates](http://www.tualatinoregon.gov/planning/land-use-application-sign-templates) >.

As the applicant for the

TUALATIN APARTMENTS project, I

hereby certify that on this day, TWO sign(s) was/were posted on the subject property in accordance with the requirements of the Tualatin Development Code and the Community Development Department - Planning Division.

Applicant's Name: SCOTT REITER  
(PLEASE PRINT)

Applicant's Signature: [Signature]

Date: 3/1/16

Letterhead (if available)

(Date)

(Name)

(Address)

(City, State Zip)

RE: (Project name, description, location)

Dear Property Owner:

You are cordially invited to attend a meeting on (this date) at (this time) and at (this location). This meeting shall be held to discuss a proposed project located at (address of property, cross streets). The proposal is to (describe proposal here).

The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet and discuss this proposal and identify any issues regarding this proposal.

Regards,

(Your name)

(Company name)

(Contact phone number and email)

---

As the applicant for the TUALATIN APARTMENTS  
project, I hereby certify that on this day, MARCH, 01, 2016 notice of the  
Neighborhood / Developer meeting was mailed in accordance with the requirements of the  
Tualatin Development Code and the Community Development Department - Planning  
Division.

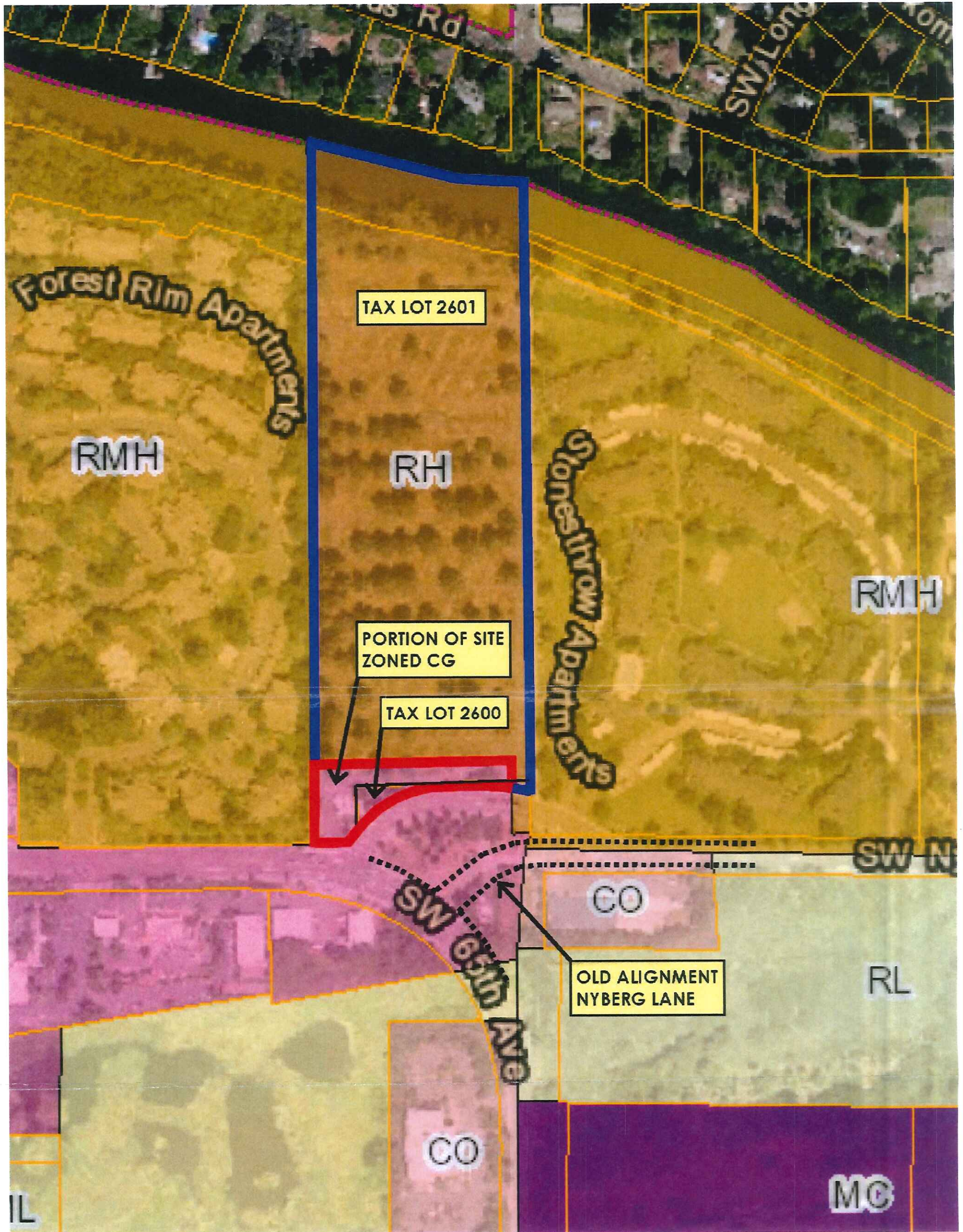
Applicant's Name: \_\_\_\_\_

SCOTT REITER  
(PLEASE PRINT)

Applicant's Signature: \_\_\_\_\_

Date: 3/1/16



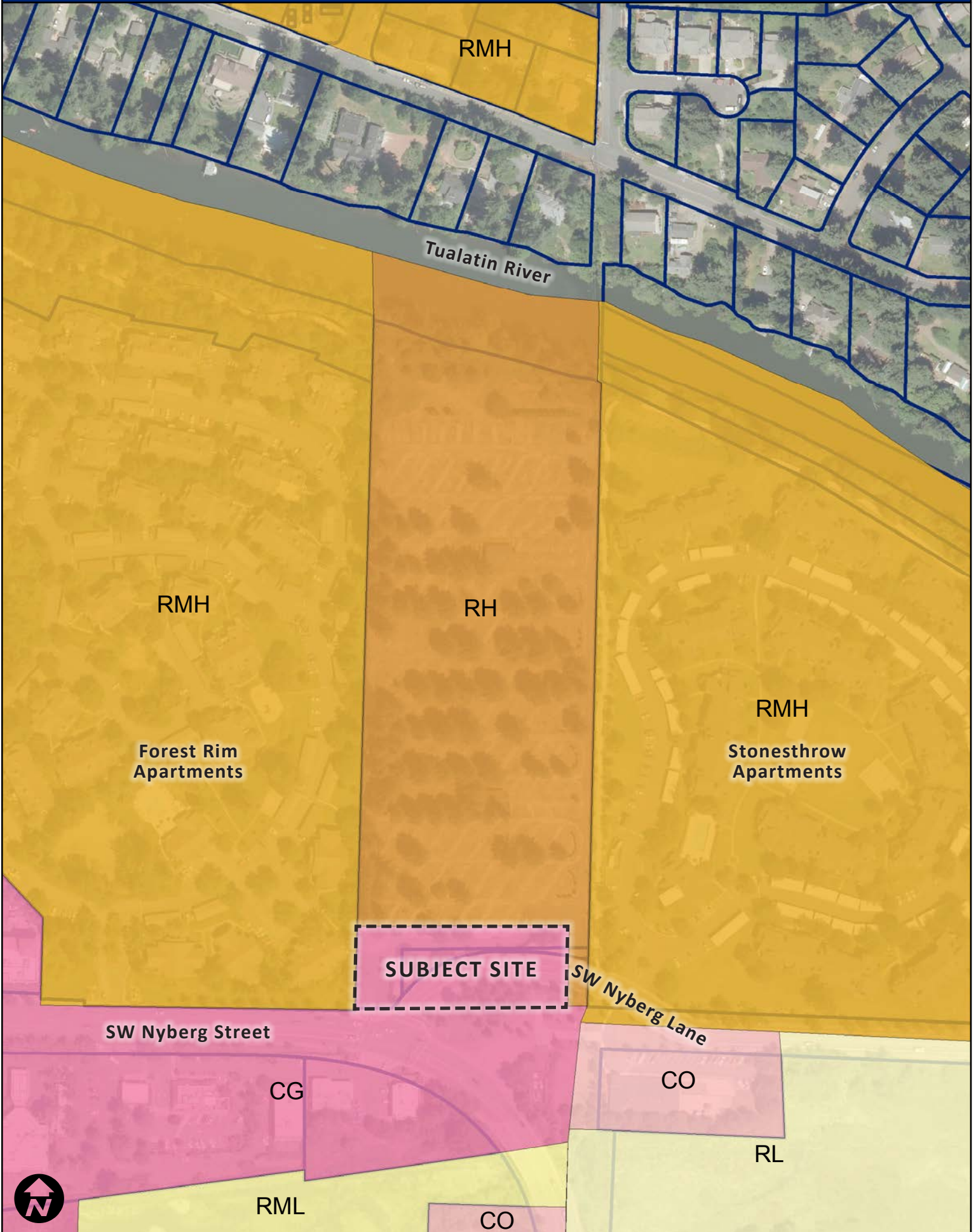


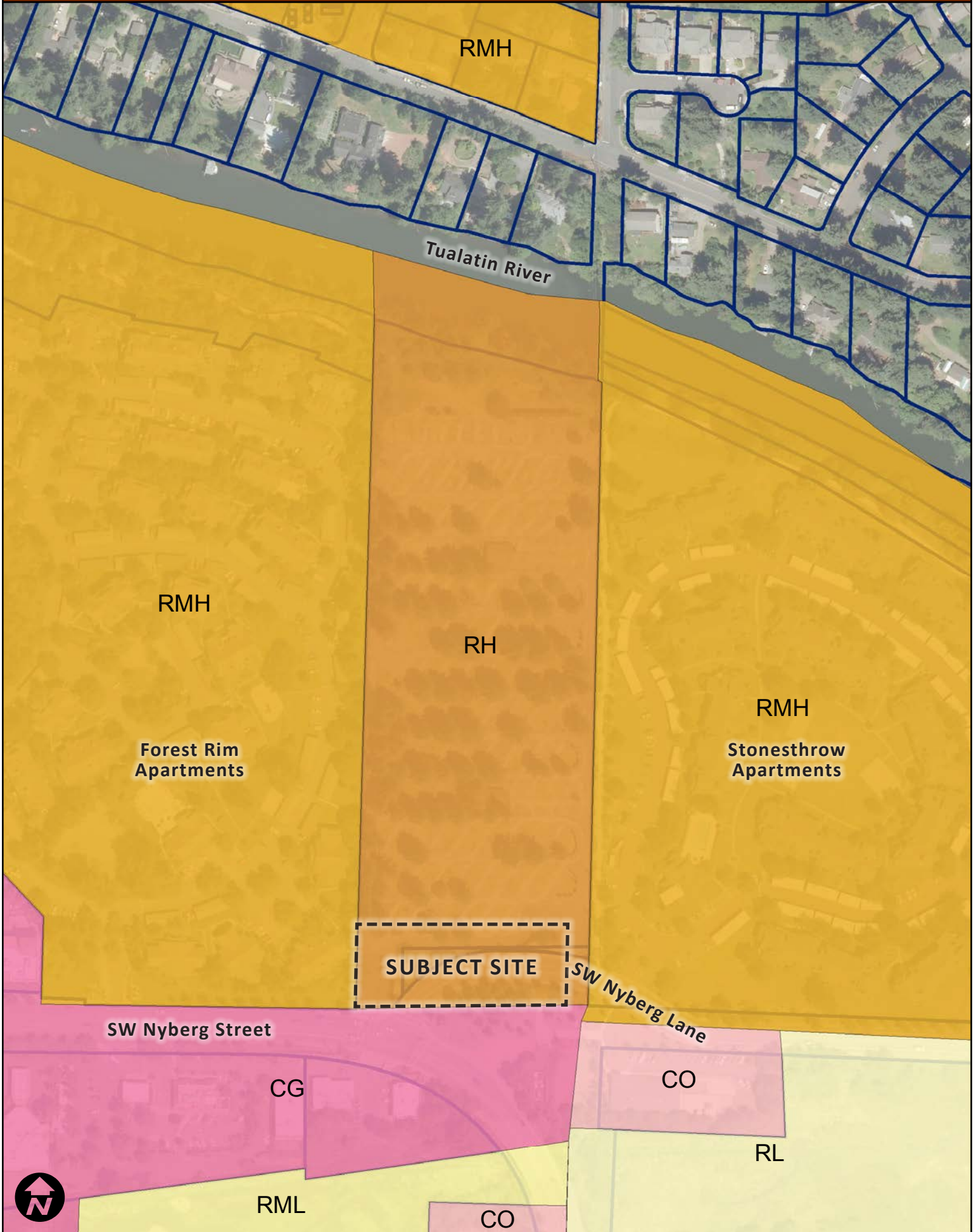
**CURRENT PLAN MAP ZONE DESIGNATIONS**

NOT TO SCALE

<p><b>A-01</b></p>	<p><b>PLAN MAP AMENDMENT</b></p>	<p><b>RDG</b></p>
<p>DATE: 08/24/16 PROJECT: 1409</p>	<p>TUALATIN APARTMENTS 6625 SW NYBERG LANE, TUALATIN, OREGON OWNER: TANDEM PROPERTIES</p>	<p>REITER DESIGN GROUP ARCHITECTS, INC. <small>7965 SW CIRRUS DR. BEAVERTON, OREGON 97008 (503) 574-3036</small></p>











# MEMORANDUM

## CITY OF TUALATIN

**TO:** Erin Engman, Assistant Planner

**CC:**

**FROM:** Tony Doran, Engineer Associate

**DATE:** March 31, 2017

**SUBJECT:** PMA16-0001, Tualatin Apartments

---

The City has received an application requesting a Plan Map Amendment changing the planning designation of tax lot 2S1 24A 2600 and a portion of tax lot 2601 from General Commercial (CG) to High Density Residential (RH). Tax lot 2600 is approximately 0.1 acres and tax lot 2601 is approximately 10.85 acres. Together tax lots 2600 and 2601 form one legal lot under single ownership with an area of 10.95 acres. The majority of this property is zoned Residential High Density (RH) (10.31 acres or 94%) and the southernmost 50 ft (eastern boundary) -137.95 ft (western boundary) is zoned General Commercial (CG) (0.64 acres or 6%). This current configuration was established through PMA-94-04.

**TDC 1.032 Burden of Proof (6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.**

Because the proposed land use action will result in an amendment to the City of Tualatin's zoning map, Section 660-012-0060 of the State's Transportation Planning Rule applies. Division 12 of the State's Transportation Planning Rule (OAR 660-012) gives the Oregon Department of Land Conservation and Development (DLCD) and the City of Tualatin the power to interpret and implement Statewide Planning Goal 12 (Transportation). Section 660-012-0060 of the TPR provides specific language on how to deal with amendments to adopted plans and land use regulation.

**OAR 660-012-0060 Plan and Land Use Regulation Amendments**

**(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:**

**(a) Change the functional classification of an existing or planned transportation**

**facility (exclusive of correction of map errors in an adopted plan);  
 (b) Change standards implementing a functional classification system; or  
 (c) As measured at the end of the planning period identified in the adopted transportation system plan:**

- (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
- (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**
- (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

As demonstrated by the analyses and findings presented in the study, the proposed land use action is not expected to “significantly affect” any existing or planned transportation facility and is, therefore, expected to be in compliance with the State’s Transportation Planning Rule.

**TDC 1.032 Burden of Proof (8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

Transportation

The site is adjacent to and development will have access to SW Nyberg Lane.

SW Nyberg Lane

SW Nyberg Lane is a City of Tualatin facility which is designated as a Minor Collector which has a preferred right-of-way width of 76 feet that includes two 12-foot travel lanes, two 8-foot wide parking strips, two 6-foot bike lanes, two 6-foot planter strips, and two 6-foot sidewalks.

The Plan Map Amendment as reviewed consists of 0.64 developable acres of zone CG (General Commercial) to zone RH (High Density Residential).

The scenarios generate the following traffic:

<u># of Lots</u>	<u>AM Peak</u>	<u>PM Peak</u>	<u>Total</u>
Existing	159-78=81	114-58=56	1,736-868=868
PMA16-0001	6	7	80
Change	-75	-49	-788

This plan map amendment will reduce the AM and PM Peak traffic from the currently allowed uses, which would not increase the Level-of-Service at nearby intersections.

Sanitary Sewer, Stormwater, & Water

Downstream sizing for all public utilities will need to be evaluated by the developer for the change from current zoning compared to the RH zoning with any associated future proposed redevelopment within an Architectural Review. Any upsizing will be a requirement in the Architectural Review decision.

Public sanitary sewer lines exist within the development area to the west and north. Stormwater would need to be treated and released to the Tualatin River or to City lines within SW Nyberg Lane. Water laterals exist to the development at the southwest and southeast. The applicant will need to determine the location of water treatment, detention, and connections to the public lines prior to obtaining a Water Quality and Public Works Permit associated with the development of the future Architectural Review.

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



**6625 SW Nyberg Lane Development**

This property is currently in the Bridgeport, Hazelbrook and Tualatin High boundaries:

Here is the information for those schools:

**Bridgeport Elementary**

K-5 classrooms:	21
Special Purpose classrooms:	10
Classrooms in Portables:	2
School Capacity is:	596

Class size guidelines have ranged from 1 to 25 to 1 to 31—depending upon state funding.

School capacity number is based on 1 to 26

Enrollment projected to grow from its current 505 students to 519 in 2019-20

**Hazelbrook Middle School**

Grade 6-8 classrooms	37
Special Purpose classrooms	9
School Capacity is:	1,040 with portables

Class size staffing ratios have ranged from 1 to 27 to 1 to 30 (same guidelines for portables as for regular classrooms)

School capacity based on 1 to 28

Enrollment is projected to grow from its current 966 students to 975 in 2019-20

**Tualatin High School**

Grade 9-12 classrooms	67
Special Purpose classrooms	1 double classroom
School Capacity is:	1,888

In 2019, School Capacity will be expanded to 2,000 with completion of classroom addition

Class size staffing ratios have ranged from 1 to 27 to 1 to 30

School capacity based on 1 to 28

Enrollment is projected to drop from its current 1,992 to 1,981 in 2019-20

**Durham Center** is a special program for grade 6-12 students who are placed there because they struggle in the regular school setting.

**Overall Tigard-Tualatin Classrooms and Capacities:**

**Elementary**

Total Grade K-5 classrooms	223
Total Grade K-5 portables	14
Total K-5 Capacity with portables	6,161

K-5 Enrollment expected to grow from its current 5,628 to 5,694 in 2019-20

**Middle School**

Total Grade 6-8 classrooms	105
Total Grade 6-8 portable classrooms	5
Total Grade 6-8 Capacity with portables	3,107

Grade 6-8 Enrollment expected to grow from its current 2,795 to 3,053 in 2019-20

**High School**

Total Grade 9-12 classrooms	134
Total Grade 9-12 portable classrooms	4
Total Grade 9-12 Capacity with portables	3,891

Grade 9-12 Enrollment expected to change from its current 4,076 to 4,075 in 2019-20

**Future school additions** Additional classrooms are being built at Tualatin High to expand capacity there to 2,000 students after 2018-19.

**Future portables** City of Tualatin would have to determine if it is possible to add portables at Tualatin High, Hazelbrook Middle School (unlikely because of small school site); Bridgeport (already one portable there and we have been told the city will not allow another); Byrom (already 2 portable buildings there) and Tualatin Elementary.

The remaining school sites are in the city of Tigard- except for Deer Creek which is in King City.

**Special purpose classrooms** are required for special education, English Language Learners and interventions for struggling students. District's educational program would be compromised if these special purpose rooms were converted into regular classrooms.



# City of Tualatin

www.tualatinoregon.gov

UNOFFICIAL

TUALATIN PLANNING COMMISSION -

MINUTES OF May 18, 2017

---

**TPC MEMBERS PRESENT:**

Bill Beers  
Kenneth Ball  
Alan Aplin  
Angela DeMeo  
Travis Stout (arrived after agenda item 2)  
Mona St. Clair  
Janelle Thompson

**STAFF PRESENT**

Aquilla Hurd-Ravich  
Erin Engman  
Charles Benson  
Lynette Sanford

**TPC MEMBER ABSENT:**

**GUESTS:** Andrew Stamp, Campbell Clarey

---

1. **CALL TO ORDER AND ROLL CALL:**

Mr. Beers, Chair, called the meeting to order at 6:32 pm and reviewed the agenda. Roll call was taken.

2. **APPROVAL OF MINUTES:**

Mr. Beers asked for review and approval of the April 20, 2017 TPC minutes. MOTION by St.Clair SECONDED by Ball to approve the minutes as written. MOTION PASSED 6-0.

3. **COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):**

None

4. **ACTION ITEMS:**

**A. Plan Map Amendment 16-01 proposal to change the designation of 0.64 acres from General Commercial to High Density Residential.**

Erin Engman, Assistant Planner, presented the staff report for Plan Map Amendment 16-0001 which included a PowerPoint presentation. This proposal is to change the designation of 0.64 acres from General Commercial to High Density Residential located at 6645 SW Nyberg Lane. This includes tax lots 2600 and a portion of 2601.

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

Ms. Engman stated that this proposal is subject to TPC review because TPC serves as the City's advisory body to fulfill Statewide Planning Goal 1 – Citizen Involvement and provide recommendations to City Council. The City Council will review the PMA proposal on June 12th and the final decision may be appealed to LUBA.

Ms. Engman provided background of the site. The subject property shares frontage along SW Nyberg Lane. The General Commercial district land was bisected by an improvement project that was identified in the City of Tualatin's 2001 Transportation System Plan. In 2003, the City of Tualatin acquired a portion of tax lot 2600 for the Nyberg Lane improvement by Dedication Easement #2003-88103. The applicant contends that the remaining 0.64 acres of General Commercial land is undevelopable under its current planning designation due to size, shape, and configuration and is therefore requesting this PMA to change the designation to Residential High Density.

Ms. Engman explained that the site is bordered by the Tualatin River to the north, Stonestrow Apartments to the east, Nyberg Lane to the south, and Forest Rim apartments to the west. Historically, this site was used as an RV park, but the business closed in 2012. The property has sat vacant since that time. The 0.64 acre site is impacted by floodplain constraints that result in 0.45 net buildable acres. Staff found the application complies with all criteria for a Plan Amendment.

*Andrew Stamp, Land Use Attorney, 4248 Galewood Street, Lake Oswego, OR 97035*

*Campbell Clarey, Tandem Property Management, 1200 SW 66<sup>th</sup> Ave, Suite 300, Portland, OR 97225*

Mr. Stamp introduced Campbell Clary, the Development Coordinator for Tandem Property Management, which owns the site. Ms. Clary stated that Tandem Property Management is family-owned and her father has operated this business for the past 30 years. She has been with the company for the past two year's full time and is looking forward to working with Tualatin. The goal for this property is an apartment complex with approximately 270 units.

Mr. Stamp stated that the first step is to get the property zoned properly. The small portion zoned commercial has safety and access constraints along with limited space for retail development. It would also be difficult to compete with the retail businesses across the street.

Ms. DeMeo asked how long Tandem Development has owned the land. Ms. Clarey responded that it was purchased in 2012 when the land was operating as an RV park. Ms. DeMeo asked if there was a contingency plan in place if the zoning is not approved. Mr. Stamp responded that the portion of land will remain undeveloped due to the transportation issues and the amount of rock on the property. Ms. Clarey added that if this property is zoned high density residential, it will result in less traffic. Ms. DeMeo inquired about the benefit of the rezone. Ms. Clarey responded that it will add consistency throughout the site and allow for additional apartment units. Ms. Clarey

added that the aesthetic design is important and there are plans of an impressive entry and landscaping throughout.

Ms. Hurd-Ravich stated that tax lot 2601 is divided into two zoning areas, which is unusual, and tax lot 2600 is very small. Ms. Hurd-Ravich added that in the general commercial zone, residential is not allowed. It was created in the 1970's for the RV park office use.

Mr. Ball asked if a design was in place for the area. Ms. Clarey responded that there was a preliminary site plan presented at the Neighborhood Developer meeting. The renderings will be forthcoming, once the zoning is in place. Mr. Ball asked if the southern part of Nyberg Lane will be developed. Ms. Engman responded that the southern portion is owned by the City and will not be developed. Mr. Ball asked if there has been any interest in the site from businesses. Mr. Stamp responded that they have not been contacted by businesses interested in the property.

Ms. Thompson asked how the development will affect schools in the area. Ms. Hurd-Ravich responded that they have reached out to the school district and a study will be conducted. Ms. Engman added that this section of land would add approximately 12 units. Mr. Stamp added that 12 units would add approximately .019 students.

Mr. Beers asked for a motion from the Commission members. MOTION by Aplin, SECONDED by Beers to recommend approval to City Council. MOTION passed 7-0.

#### **B. Consideration for the Planning Commission Review of Conditional Use Permit (CUP) Applications.**

Mr. Benson, Associate Planner, gave of an overview of the presentation he gave to Commission members at the April 20, 2017 TPC meeting of consideration for Planning Commission Review of Conditional Use Permit applications.

Mr. Aplin, who was not in attendance at the last meeting, stated that he read through the materials and believes there is a benefit for the Commission members to take over this responsibility.

MOTION by Beers to recommend to the City Council to delegate approval authority over Conditional Use Permits to the TPC. SECONDED by DeMeo. MOTION passed 7-0.

#### **5. COMMUNICATION FROM CITY STAFF:**

None

#### **6. FUTURE ACTION ITEMS**

Ms. Hurd-Ravich stated that in June there should be an update on food carts and the

development code.

Ms. DeMeo asked what the next steps will be regarding the conditional use permit process. Ms. Hurd-Ravich responded that there will be a work session to present the information to Council for their decision. Following that, there will be a text amendment change in the development and municipal code. Ms. Hurd-Ravich stated that there may not be a change until the end of the year, but a schedule can be brought to the next meeting.

**7. ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**

Mr. Ball asked if Mr. Beers will be present at the Council work session to present the conditional use permit recommendation. Mr. Beers responded that he will be present at the work session for the recommendation to Council.

**8. ADJOURNMENT**

MOTION by Aplin, SECONDED by Beers to adjourn the meeting at 7:15 pm.

\_\_\_\_\_ Lynette Sanford, Office Coordinator





# Tualatin Apartments Plan Map Amendment

CITY COUNCIL HEARING  
JUNE 12, 2017



# HEARING AGENDA

- Staff Presentation
- Applicant Presentation
- Public Comment
- Deliberation and Decision



# HEARING PURPOSE

- **Plan Map Amendment:** change CG land to RH land on Tax lot 2600 and a portion of 2601

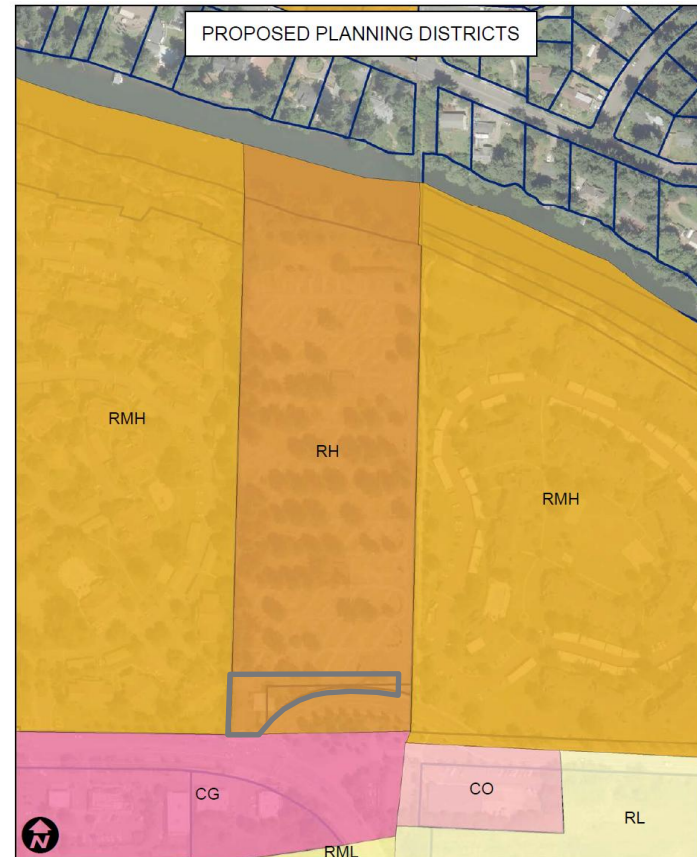
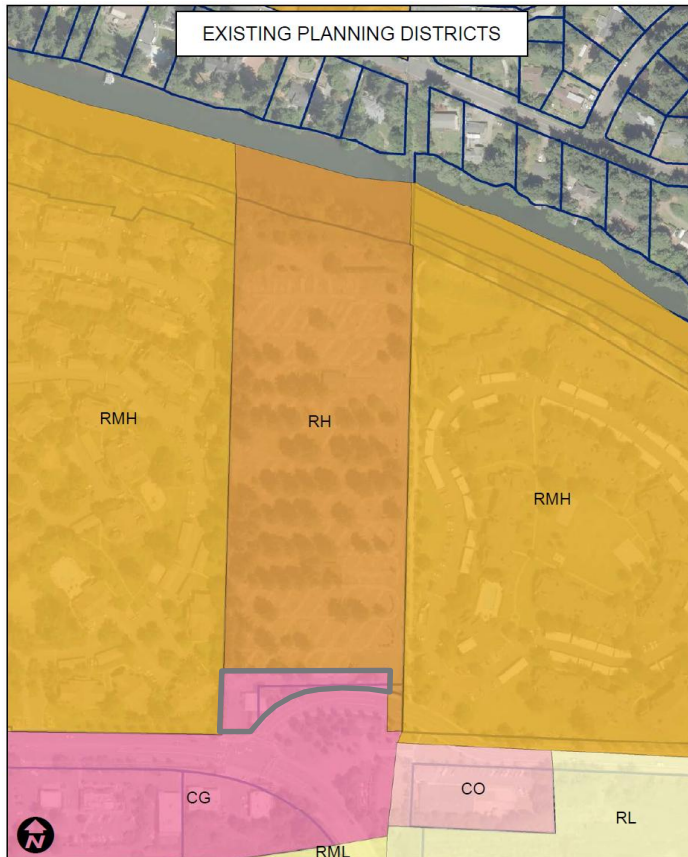






# HEARING PURPOSE

- Existing and Proposed Plan Map 9-1





# REVIEW OF APPLICATION

- **Analysis and Findings**
  - PMA's are subject to criteria found in TDC 1.032. The applicant has the burden of proof to provide evidence that the criteria have been met.
  - Staff has reviewed the application and finds that the proposed PMA is consistent with the Tualatin Community Plan, State Goals, and Metro Urban Growth Functional Plan



# PLANNING COMMISSION REVIEW

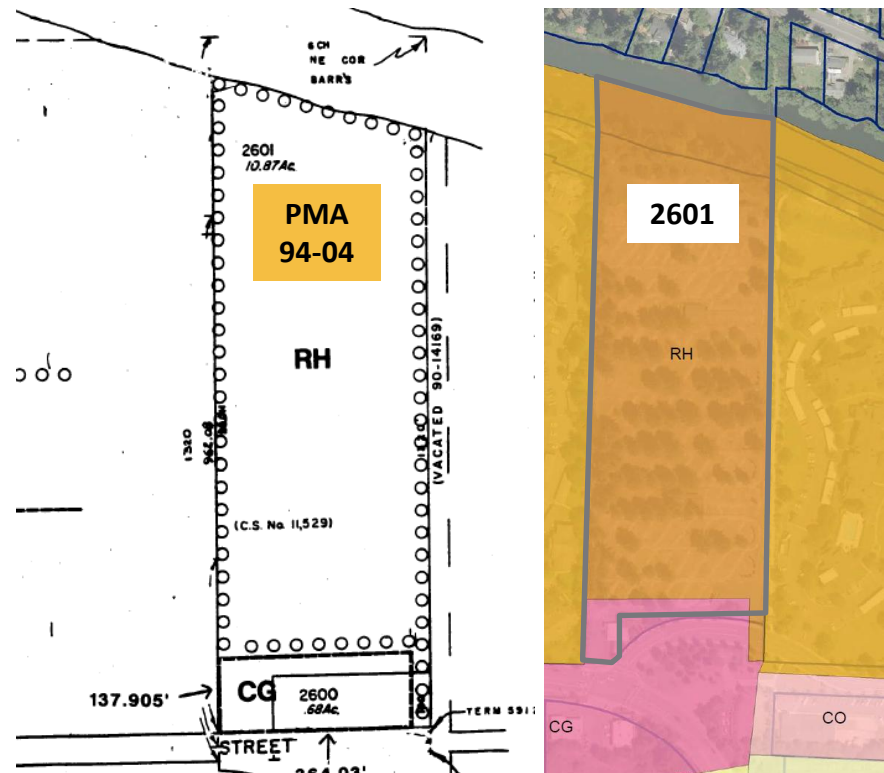
- **Planning Commission Recommendation**
  - On May 18<sup>th</sup>, the Planning Commission recommended that Council approve PMA 16-0001
- **Scope of Approval:**
  - Final decision may be appealed to LUBA.





# BACKGROUND

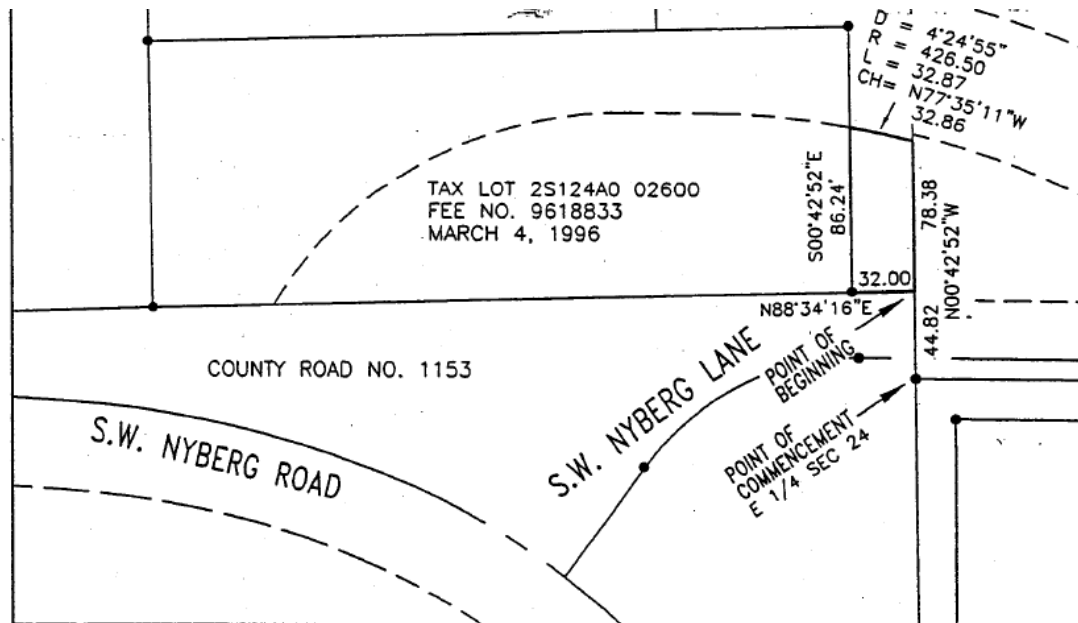
- **Current configuration:** established through PMA 94-04
  - Lot 2601 is 10.85 acres & has 2 zoning designations
  - Lot 2600 is 0.1 acres





# BACKGROUND

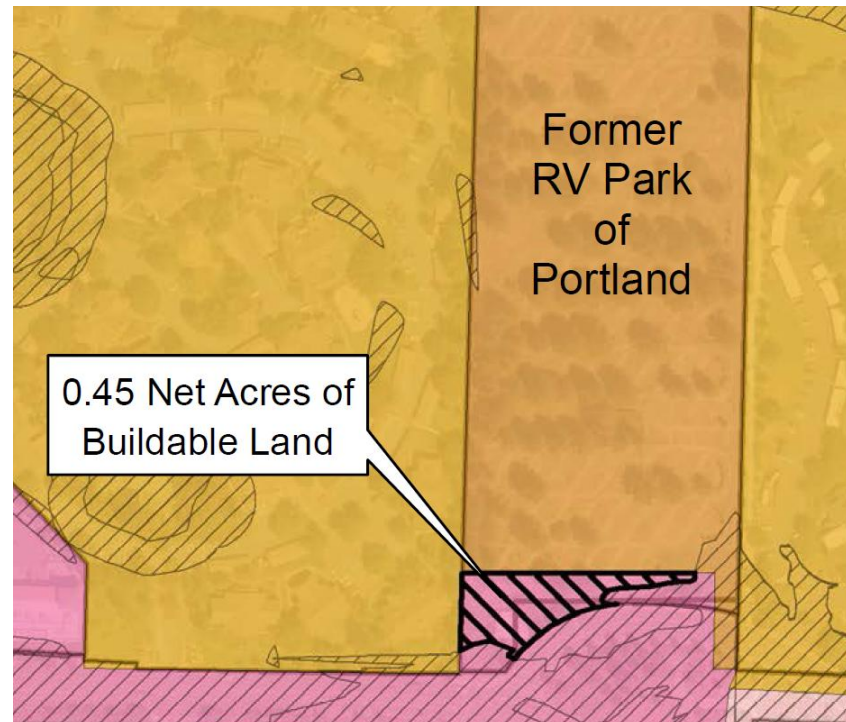
- Land acquired through Dedication Easement
  - CG land bisected by Nyberg Lane intersection improvement project in 2003





# BACKGROUND

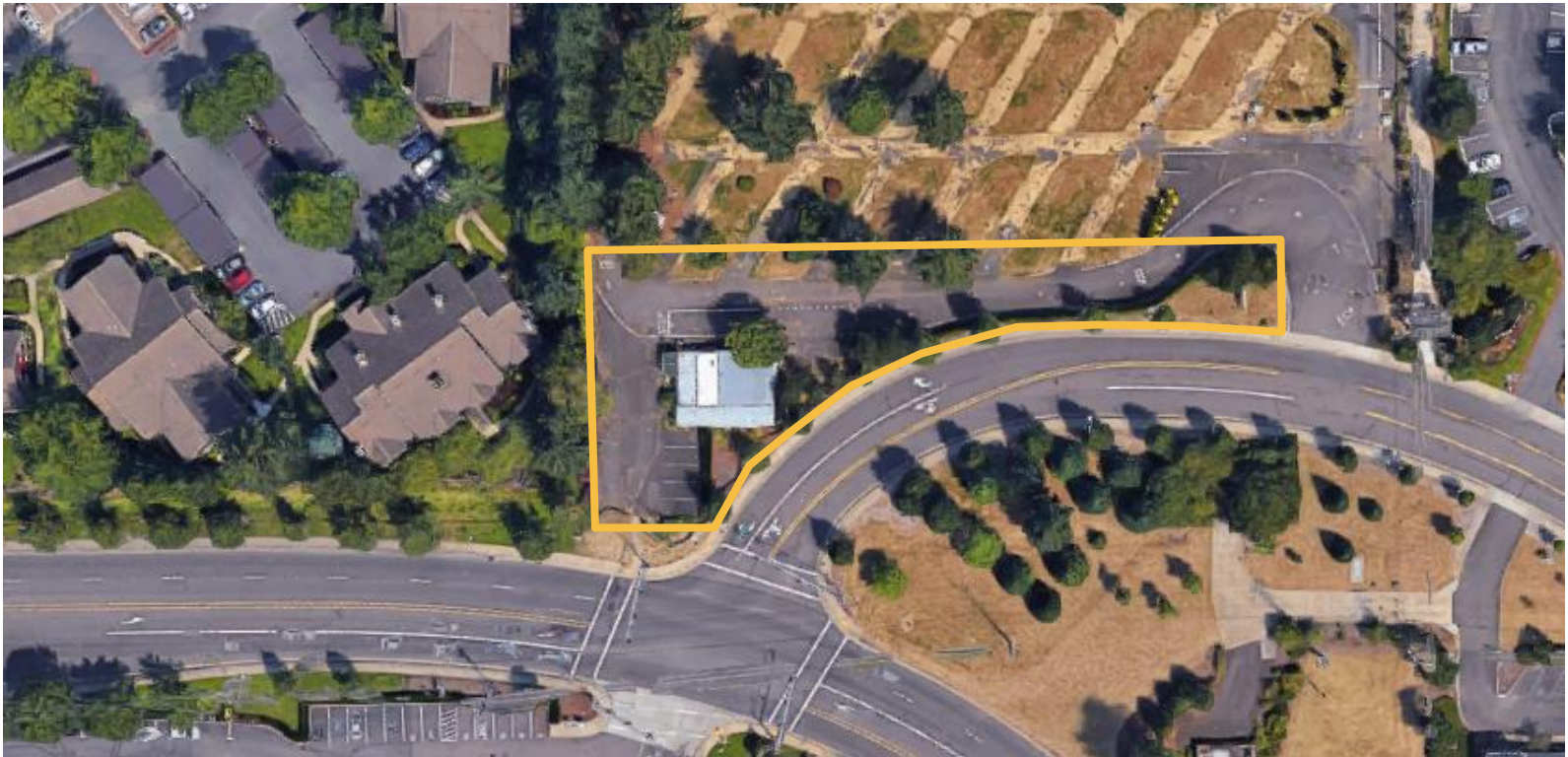
- **Flood Plain Constraints**
  - Impacts 0.19 acres





# BACKGROUND

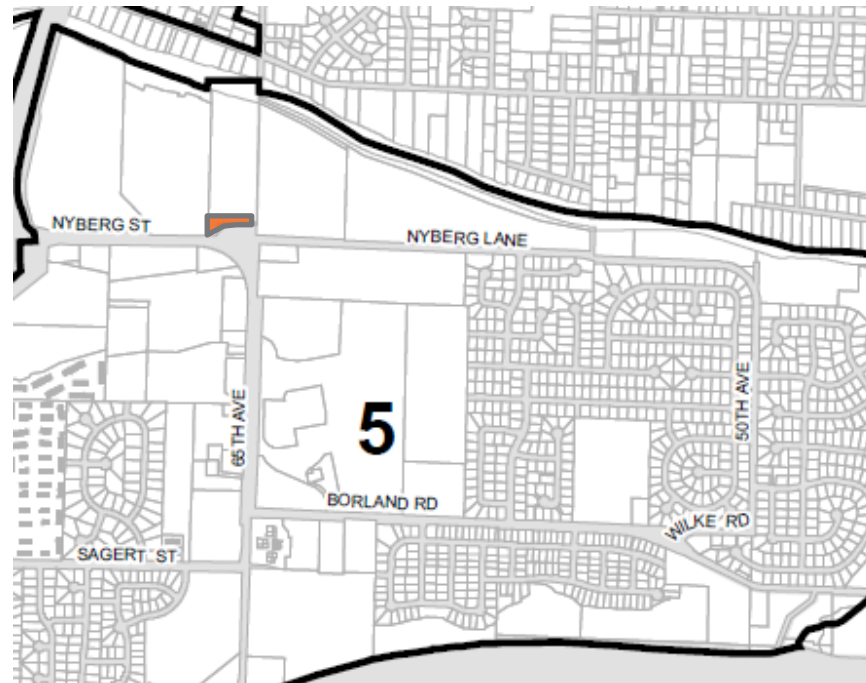
Applicant contends that CG land is undevelopable due to size, shape, and configuration





# PROPOSAL

- **Consistent with TDC Chapter 09: Plan Map**
  - Area 5: This area [...] contains substantial multi-family use north of Sagert and west of 65<sup>th</sup> Ave

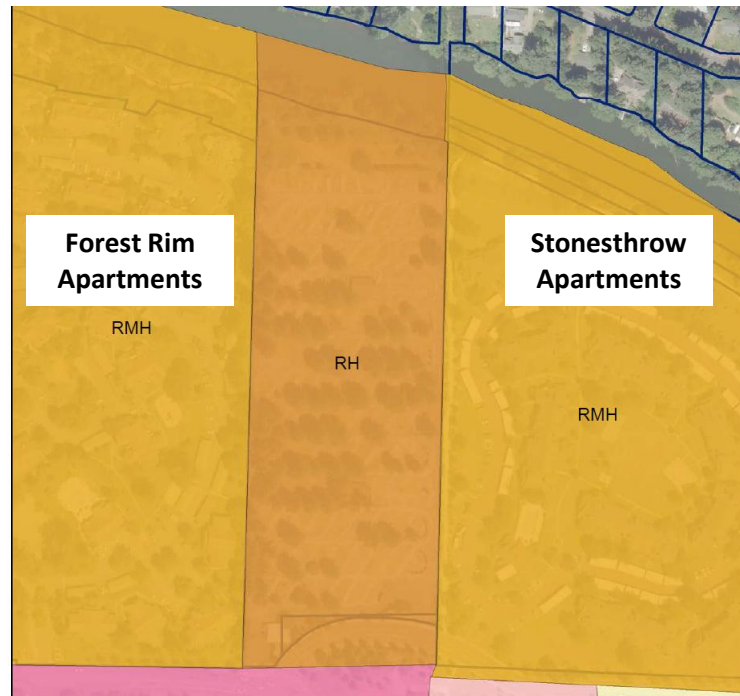






# PROPOSAL

- **Consistent with existing development patterns**
  - Land to the east and west is developed with multi-family development







# DECISION OPTIONS

- Approval
- Approval with amendments
- Denial



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Kathy Kaatz, Program Coordinator  
Don Hudson, Finance Director

**DATE:** 06/12/2017

**SUBJECT:** Consideration of **Ordinance No. 1401-17** Establishing a Core Area Parking District (CAPD) Tax Rate of \$155.34 for Fiscal Year 2017-18

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

Consideration of Ordinance No. 1401-17 establishing a Core Area Parking District (CAPD) tax rate of \$155.34 for Fiscal Year 2017/18.

### **RECOMMENDATION:**

Staff recommends that the City Council consider approval of Ordinance No. 1401-17 establishing a Core Area Parking District (CAPD) tax rate of \$155.34 for Fiscal Year 2017/18.

### **EXECUTIVE SUMMARY:**

The Core Area Parking Board and staff recommend that the tax rate remain at the current rate of \$155.34 for the upcoming Fiscal Year (2017/18). Development of the Fiscal Year 2017/18 budget for the Core Area Parking District assumed this rate for revenues and expenses.

### **OUTCOMES OF DECISION:**

Approval of the CAPD tax rate will result in the following:

- Retain current CAPD tax rate while maintaining current services.

Denial of the CAPD tax rate will result in the following:

- A tax rate will not be established by the beginning of the fiscal year.
- Require the Board to revisit an increase or decrease in the tax rate for fiscal year 2017/18.

### **FINANCIAL IMPLICATIONS:**

Tax revenue support operation and maintenance of the Core Area Parking District. With the current tax rate, the total estimated revenue for the District is \$55,000.

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**Attachments:** 1 A - Ordinance 1401-17 - Core Area Parking Tax Rate



ORDINANCE NO. 1401-17

AN ORDINANCE ADOPTING THE CORE AREA PARKING DISTRICT TAX RATE AND CREDIT FOR FISCAL YEAR 2017/18

WHEREAS, Tualatin Municipal Code (TMC) 11-3-060 requires Council to establish an annual tax rate and credit by ordinance for the Core Area Parking District; and

WHEREAS, the Core Area Parking District Board recommends to Council that the tax rate be \$155.34 and that the credit remain unchanged; and

WHEREAS, Council finds the tax rate and credit to be appropriate;

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** "Schedule A" of the TMC Chapter 11-3 is amended to read as follows:

The annual Core Area Parking District tax rate for Fiscal Year 2017/18 is hereby established as \$155.34.

The formula for the credit is as follows:

$$A = \frac{\text{(Number of on-site parking spaces provided)}}{\text{(Gross Leasable Area) x (Space Factor)}}$$

If "A": is greater than or equal to 1.0, the credit is 50%.

If "A": is less than 1.0, the credit is ("A" x 50%).

INTRODUCED AND ADOPTED by the City Council this 12<sup>th</sup> day of June, 2017.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO FORM

ATTEST

BY \_\_\_\_\_  
City Attorney

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