



# **TUALATIN CITY COUNCIL**

**Monday, February 8, 2016**

**JUANITA POHL CENTER**

**8513 SW Tualatin Road**

**Tualatin, OR 97062**

**WORK SESSION** begins at 6:00 p.m.

**BUSINESS MEETING** begins at 7:00 p.m.

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**Mayor Lou Ogden**

**Council President Monique Beikman**

**Councilor Wade Brooksby    Councilor Frank Bubenik**  
**Councilor Joelle Davis       Councilor Nancy Grimes**  
**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for 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 provided all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

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 FEBRUARY 8, 2016

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**A. CALL TO ORDER**  
Pledge of Allegiance

**B. ANNOUNCEMENTS**

1. Youth Advisory Council Update for February 2016
2. Proclamation Declaring February 8-14, 2016 as Future Business Leaders of America Week

**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 City Council Work Session and Regular Meeting of January 25, 2016
2. Consideration of **Resolution No. 5265-16** Approving the Sagert Farm Subdivision (SB 15-0002) with Conditions.
3. Consideration of Approval of a New Liquor License Application for Tualatin Home Brew Supply
4. Consideration of **Resolution No. 5264-16** Agreeing to Share Transient Room Tax Revenue with Washington County as Provided in Washington County Code Chapter 3.08 and Authorizing the City Manager to Execute an Intergovernmental Agreement

**E. 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.*

**F. COMMUNICATIONS FROM COUNCILORS**

**G.        ADJOURNMENT**

## **City Council Meeting**

**Meeting Date:** 02/08/2016

**ANNOUNCEMENTS:** Update on the Tualatin Youth  
Advisory Council's Activities for  
February 2016

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### **ANNOUNCEMENTS**

Youth Advisory Council Update for February 2016

### **SUMMARY**

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A. YAC Update

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February 8, 2016



# TUALATIN YOUTH ADVISORY COUNCIL

# National League of Cities Congressional Cities Conference

- March 5-8
- Washington, DC
- Leadership development, civic engagement, networking

2016 CONGRESSIONAL  
CITY CONFERENCE

WASHINGTON, D.C. | MARCH 5-9, 2016



NATIONAL  
LEAGUE  
of CITIES 

*Tualatin YAC – Youth Participating in Governance*

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

- Day long anti-bullying workshop for Tualatin 5<sup>th</sup> graders
- Bridgeport, Byrom, and Tualatin Elementary
- Curriculum will be revised and updated
- May 20, 2016





# Other Activities

- Youth Summit
  - Roundtable discussion
  - Possible guest speaker
  - Invite other youth councils and clubs
- Coffeehouse Nights
  - February 26: Star Wars
  - March 11: Fondue Night

**City Council Meeting**

**Meeting Date:** 02/08/2016

**ANNOUNCEMENTS:** Proclamation Declaring February  
8-14, 2016 as Future Business  
Leaders of America Week

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**ANNOUNCEMENTS**

Proclamation Declaring February 8-14, 2016 as Future Business Leaders of America Week

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Proclamation

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# Proclamation

## *Proclamation Declaring February 8-14, 2016 Future Business Leaders of America Week*

WHEREAS, Future Business Leaders of America (FBLA) is a nonprofit educational organization whose first chapter was established in Johnson City, Tennessee in 1942 and has grown to encompass over 250,000 members nationwide; and

WHEREAS, FBLA promotes high school students to experience the world of business through the key pillars of service, education and progress that reflect the social, professional, and community service experience provided; and

WHEREAS, FBLA helps develop vocational and career supportive competencies and promotes civic and personal responsibility; and

WHEREAS, the Tualatin High School FBLA club is the largest club at Tualatin High School and is one of the largest FBLA clubs in the state of Oregon; and

WHEREAS the Tualatin High School FBLA members attend the State Business Leadership Conference, bringing home the past five Chapter of the Year awards as a testament to superior community involvement and participation of members in competitions and business activities; and

WHEREAS recent community service has included raising over to \$1,100 for March of Dimes for Doernbecher's Children's Hospital and designing a campus-wide food drive to provide a complete Thanksgiving meal for 12 families in Tualatin High School; and

WHEREAS, members of the Tualatin High School FBLA club have received national attention through the years by placing in the top ten for their business competitions in the National Leadership Conference.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, Oregon that: the Tualatin High School Future Business Leaders of America club is commended on their achievements, service, and community involvement and that the week of February 8-14, 2016 is declared FUTURE BUSINESS LEADERS OF AMERICAN Week.

INTRODUCED AND ADOPTED this 8th day of February, 2016.

CITY OF TUALATIN, OREGON

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

ATTEST:

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



# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

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

**DATE:** 02/08/2016

**SUBJECT:** Consideration of Approval of the Minutes for the City Council Work Session and Regular Meeting of January 25, 2016

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

The issue before the Council is to approve the minutes for the City Council Work Session and Regular Meeting of January 25, 2016.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

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**Attachments:** City Council Work Session Minutes of January 25, 2016  
City Council Regular Meeting Minutes of January 25, 2016



Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Councilor Joelle Davis

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;

Present: Community Services Director Paul Hennon; Deputy City Recorder Nicole Morris; Maintenance Services Division Manager Clayton Reynolds; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; Library Manager Jerianne Thompson; Management Analyst II Kelsey Lewis; Parks and Recreation Manager Rich Mueller

## CALL TO ORDER

Mayor Ogden called the meeting to order at 6:16 p.m.

### 1. ***Outdoor Smoke & Tobacco Free City Spaces Policy Alternatives.***

Community Services Director Paul Hennon and Parks and Recreation Manager Rich Mueller presented policy alternatives for the Outdoor Smoke and Tobacco Free City Spaces Policy. Manager Mueller shared the background history on the development of the policy. Many types of public involvement were utilized including a survey with 44% of respondents in favor of smoke and tobacco free facilities and an additional 34% in favor with a few stipulations. City advisory committees and community organizations and agencies were approached for their feedback as well. All committees and organizations contacted were in favor of the policy. Direction on policy alternatives including smoke free, tobacco free, location, enforcement, and exceptions were requested of the Council. Next steps include returning with an ordinance for public hearing and adoption. A 90 day implementation period was proposed.

Councilor Truax stated he is not interested in social engineering and thus not in favor of banning smoking. He is unconvinced the City has a problem in this area and will not be voting in favor of the policy.

Councilor Bubenik is in favor of the ban in parks with the exception of citizens being allowed to smoke in their cars. He is not concerned with banning around City owned buildings since these are regulated by the state.

Mayor Ogden stated he is in favor of the proposed tobacco free zone. Council President Beikman concurred.

Councilor Brooksby asked how the policy compared to surrounding cities. Manager Mueller referenced the chart from the last work session. He noted most

surrounding cities have already adopted similar policies.

Councilor Grimes stated she is in favor of a ban in parks but is unsure in regards to the application of the ban to parking lots.

Council directed staff to prepare the ordinance putting a ban in place but leaving specific locations blank where the Council could make that decision at a future meeting date.

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

None.

**ADJOURNMENT**

The work session adjourned at 7:08 p.m.

Sherilyn Lombos, City Manager

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

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



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR JANUARY 25, 2016

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Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Nancy Grimes; Councilor Ed Truax

Absent: Councilor Joelle Davis

Staff City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker;  
Present: Community Services Director Paul Hennon; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Engineer Associate Tony Doran; Maintenance Services Division Manager Clayton Reynolds; Assistant to the City Manager Tanya Williams; Assistant City Manager Alice Cannon; City Engineer Jeff Fuchs

### A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:12 p.m.

### B. 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.*

None.

### C. 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.*

MOTION by Council President Monique Beikman, SECONDED by Councilor Frank Bubenik to approve the consent agenda.

Aye: Mayor Lou Ogden, Council President Monique Beikman, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Joelle Davis, Councilor Ed Truax

Other: Councilor Nancy Grimes (Absent)

## MOTION CARRIED

1. Consideration of Approval of the Minutes for the Regular City Council Meeting of January 11, 2016

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

1. Request for Review of SB15-0002, Sagert Farm Subdivision land use decision located at 20130 SW 65th Avenue.

Mayor Ogden opened the public hearing for a request for review of SB15-0002, Sagert Farm Subdivision Land Use Decision located at 20130 SW 65th Avenue. He read the rules of the hearing in accordance with ORS 197.763(5) and (6) and ORS 197.796(3)(b).

Councilor Bubenik and Councilor Grimes stated they attended the neighborhood developer meeting regarding this subject.

Mayor Ogden stated he has in the past worked with the applicant's engineers from 3J Consulting and has had incidental contact regarding the subject through emails. Mayor Ogden also added the City has hired Jeff Condet of Miller Nash to represent the City in the Stafford Urban Reserves litigation. Mr. Condets representation has no bearing on the concerns brought forth tonight and will not affect the outcomes of decision of the hearing.

### **STAFF REPORT**

City Engineer Jeff Fuchs and Engineering Associate Tony Doran presented the staff report. Engineer Fuchs submitted the staff report, attachments, and PowerPoint into the record. The summary of the application submitted by Lennar Homes was reviewed. A request for review of the application was filed by representatives of Tualatin Professional Center (TPC) on December 16, 2015. The appellant is not in opposition to the subdivision but concerned with how the Sagert Street extension will impact access to their facility. The appellant is asking Council to consider a proposal to move Sagert Street south to lessen the impact on their facility. Requested accommodations include shifting Sagert Street extension to the south, closing the west driveway, and constructing a private driveway located partially in the right of way to connect their East and West lots. Making this accommodation would require elimination of the westbound bike lane. During the 14-day comment period the City received eight comments. Staff and the applicant responded to comments and incorporated them into the decision where appropriate. Lennar Homes held three neighborhood meetings and two individual meetings with TPC. TPC rejected proposed solutions by the applicant. Engineer Fuchs provided background on the original TPC development. TPC was allowed in 1984 to make private improvements that encroached upon the right of way. The agreement allowing improvements expired in 1989 with clear provision to remove improvements when Sagert Street was extended. Engineer Fuchs stated the proposed Sagert Street alignment by the applicant and staff meets the requirements of the Tualatin Development Code 75 by installing a raised median prohibiting left turns into the West driveway while maintaining two Southern access



points in the TPC facility. TPC's request provides circulation between both their lots, eliminates the Western driveway and requires elimination of the Westbound bike lane. TPC's request is not preferred by staff. The applicants proposed subdivision provides the safest alignment, maintains access to TPC, meets TDC Chapter 75 requirements, and does not significantly increase trip times to TPC. Engineer Fuchs stated the Council has three options: approve with original conditions of approval, approve with modified conditions of approval, or deny the application.

#### APPLICANT

Kelly Hossaini, Miller, Nash, Graham, and Dunn LLP, presented on behalf of the applicant Lennar Homes. Ms. Hossaini introduced John Howorth, 3J Consulting, who presented the engineered drawings from the applicant. Matt Hughart, Kittleson and Associates, briefed the Council on the traffic impact study that was prepared on behalf of the applicant. He noted the proposed design is the safest and most efficient layout for the development. Further, the design provides reasonable access as required by recent precedent set by Oregon Supreme Court

#### APPELLANT

Dean Alterman, Folawn Alterman and Richardson LLP, presented on behalf of the appellant Tualatin Professional Center Owners Association (TPC). Mr. Alterman submitted a letter for the record. He highlighted TPC's concerns as outlined in the letter.

#### PUBLIC COMMENT

Nicole Graves presented concerns with how the City will address current traffic issues in the area and the further impact of traffic once the subdivision is built.

Dr. James Walker stated the proposed plan poses an ingress and egress issue for patients coming to visit his office and would like to see access maintained to the Westside of the lot.

Bob Nelson presented concerns regarding the proposed tree fencing for the subdivision as it may pose a problem to the trees on his property.

The Council took a break at 8:06 p.m. and resumed the meeting at 8:16 p.m.

#### REBUTTAL

Ms. Hossaini rebutted the applicant is unsure of TPC's ability to create an internal cross connection between the lots. TPC would have to further study.

Mr. Hughart spoke to access points off of Boreland Road noting they are feasible access points to the site. He addressed Ms. Graves concerns regarding traffic stating that signalized intersections should improve traffic in the area.

Andrew Tull, 3J Consulting, spoke to Mr. Nelson's concerns with the tree fencing. He stated the applicant will have an arborist on site to monitor the trees during construction.

Engineer Fuchs further addressed the traffic concerns presented stating the signaled controls will create traffic improvements in regards to the stacking on 65<sup>th</sup> Street.

Mr. Hughart noted all intersections studied in the area meet city standards.

#### COUNCIL QUESTIONS

Councilor Truax asked if the alternate proposal meets the needs of TPC. Mr. Alterman stated the alternate proposal, exhibit two, meets TPC's needs.

Councilor Bubenik asked what the basis of the appeal is about. Mr. Alterman stated the appeal is based on access concerns for TPC and they are asking for balance for the existing development.

Council President Beikman questioned site circulation and the amount of patients needing to access both parking lots at any given time. Mr. Alterman stated the site slope does not allow for a connection between the lots.

Councilor Brooksby asked if TPC hired a professional engineer to evaluate modifications to the existing lot. Mr. Alterman stated TPC did not.

#### COUNCIL DELIBERATIONS

Councilor Truax stated the main difference between the two plans is the existence of the bike lane. Council President Beikman noted a planter strip is being removed in both plans.

Councilor Bubenik stated he believes staffs proposal meets City code and is the safest plan for the area.

Mayor Ogden stated if TPC had been planned today it would not have been allowed the access it currently has.

Councilor Grimes stated had the City not allowed the entrance on the South side to be built the way it was originally built it would have forced the developer to better address the circulation issues originally.

MOTION by Council President Monique Beikman, SECONDED by Councilor Nancy Grimes to approve the December 3, 2015 SB15-0002, Sagert Farm Subdivision review findings and decision, subject to the original conditions imposed.

Aye: Mayor Lou Ogden, Council President Monique Beikman, Councilor Wade Brooksby, Councilor Frank Bubenik, Councilor Nancy Grimes, Councilor Ed Truax

Other: Councilor Joelle Davis (Absent)

MOTION CARRIED

#### **E. 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.*

#### **F. COMMUNICATIONS FROM COUNCILORS**

Councilor Bubenik will be participating in the Washington County Policy Advisory Board Development Block Grant award process on Wednesday. The grant is underfunded this year based on the amount of requests.

**G. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 9:37 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:** Sean Brady, City Attorney

**DATE:** 02/08/2016

**SUBJECT:** Consideration of **Resolution No. 5265-16** Approving the Sagert Farm Subdivision (SB 15-0002) with Conditions.

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

Consideration of Resolution No. 5265-16 approving the Sagert Farms Subdivision (SB 15-0002) with conditions.

### **RECOMMENDATION:**

Staff recommends Council approve Resolution No. 5265-16 approving the Sagert Farms Subdivision (SB 15-0002) with conditions.

### **EXECUTIVE SUMMARY:**

Resolution No. 5265-16 approves the Sagert Farm Subdivision (SB 15-0002) with conditions of approval and adopts Findings and Conclusions in support of the decision.

On January 25, 2016, Council held a quasi-judicial public hearing to consider approval of a Subdivision Application for Sagert Farm Subdivision (SB SB 15-0002). At the public hearing, Council accepted written testimony and heard oral testimony and argument from City staff, the Applicant, proponents, and opponents of the project. After hearing testimony and argument, the Council closed the public hearing, deliberated, and voted to approve the subdivision with conditions by a vote of 6 to 0. No procedural or other objections were voiced by any party.

The Findings and Conclusions in support of the decision are contained in Exhibit 1 to Resolution No. 5265-16.

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**Attachments:** Reso 5265-16  
Exhibit 1 - Sagert Findings and Conclusions

RESOLUTION NO. 5265-16

A RESOLUTION APPROVING THE SAGERT FARM SUBDIVISION (SB 15-0002) WITH CONDITIONS

WHEREAS, on or about June 4, 2015 an application was received for the Sagert Farm Subdivision (SB 15-0002) and deemed complete on September 14, 2015.

WHEREAS, the applicant extended the 120-day review period to February 13, 2016; and

WHEREAS, On December 3, 2015, the City Engineer approved the subdivision decision with conditions and on December 16, 2015, a Request for Review was filed to submit the matter to Council.

WHEREAS, the criteria for approving the Subdivision are Tualatin Municipal Code (TMC) Chapters 03 (Utilities and Water Quality) and 04 (Building) and Tualatin Development Code Chapters 31 (General Provisions); 34(Special Regulations); 36 (Subdividing, Partitioning and Property Line Adjustments); 38 (Sign Regulations); 40 (Low Density Residential Planning District (RL)); 72 (Natural Resource Protection Overlay District (NRPO)); 73 (Community Design Standards); 74 (Public Improvement Requirements); and 75 (Access Management).

WHEREAS, the City Council held a public hearing on January 25, 2016, where the City Council accepted written testimony and heard oral testimony and argument from City staff, the Applicant, proponents, and opponents of the project.

WHEREAS, after considering the testimony and argument submitted, the City Council closed the public hearing and began deliberations. After deliberating, the City Council approved the subdivision with conditions by a vote of 6 to 0. No procedural or other objections were voiced by any party.

WHEREAS, based upon the record submitted to City Council, the City Council makes this final written decision.

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

**Section 1.** The Subdivision Application, which consists of the following documents submitted in the record:

- 101A Subdivision Application
- 101B Preliminary Land Use Plans
- 101C Narrative
- 101D Preliminary Title Report

- 101E Neighborhood Mailing
- 101F Neighborhood Meeting May 2014
- 101G Neighborhood Meeting December 2014
- 101H Neighborhood Meeting January 2015
- 101I Tualatin Professional Center Meeting Minutes
- 101J Tualatin Professional Center Sagert St ClackCo Recorded Document 84-16656-7
- 101K MEI Building Meeting Minutes
- 101L PGE Meeting Notes
- 101M Arborist Report
- 101N Traffic Study With Borland Access Update Memorandum
- 101O Clackamas County Modification Request Submittal - Borland
- 101P Clackamas County Modification Request Submittal - Sagert & 65th Modification
- 101Q Geotechnical Report Addendum
- 101R Stormwater Report
- 101S Clean Water Services' Service Provider Letter

is hereby approved with the following conditions:

A. Prior to Any On-Site Work Related to this Decision:

- PFR-1 Provide a tree protection plan to scale that shows all preserved trees will be protected with sturdy chain link fencing around the drip line throughout the entirety of the development. If the drip line of the preserved trees is shown within a current building envelope, the building envelope shall be moved so that no construction takes place within the drip line of the preserved trees. Any encroachment on the drip line of the preserved trees must first be approved by the City per TDC 73.250(2)(e). In addition to the tree protection plan, any and all grading plans shall show all preserved trees protected with sturdy fencing (chain link fence) during the construction process. Any and all grading plans shall include a note that states "No grading activities will allow preserved tree roots to remain exposed per TDC 73.250(2)(f)".

B. Prior to Issuance of Public Works and Water Quality Permits:

- PFR -2 Submit final sanitary sewer plans that show location of the lines, grade, materials, and other details.
- PFR -3 Show each lot will have a separate minimum 1-inch water lateral with backflow prevention, double check valve assemblies, and control valves.

- PFR -4 Submit final water system plans that show location of the water lines, grade, materials, and other details.
- PFR-5 Obtain a NPDES Erosion Control Permit in accordance with code section TMC 3-5-060.
- PFR-6 Obtain a City of Tualatin erosion control permit in accordance with code section TMC 3-5-060.
- PFR-7 Submit final stormwater calculations that include conveyance through the development.
- PFR-8 Submit final stormwater plans.
- PFR -9 Submit plans that meet the requirements of TVF&R and show red powder coated public fire hydrants spaced to meet Public Works Construction Code.
- PFR-10 Submit a scaled tree preservation site plan and grading plan that shows preservation of trees to be retained in conformance with TDC 34.210(1&2), 73.250(2)(a) and as approved on the plans.
- PFR -11 Submit approvable plans and color elevations including all color and material specifications that show the entirety of the subject site's SW 65th Avenue frontage, the entirety of the subject site's SW Borland Road frontage, and the south side of SW Sagert Street with masonry fences with appropriate vision clearance per TDC 34.330 and 34.340 Fence Design or obtain an alternate approval through Architectural Review after the ability to issue Building Permits for lots 1, 2, 7, 8, 17, 18, 31, 32, 45, 46, 75, and 76.
- PFR –12 Submit a final site plan that demonstrates the masonry fence is located entirely along access restricted property lines parallel to SW 65th Avenue, SW Borland Road, and SW Sagert Street and located entirely outside the public right- of-way. This masonry fence site plan shall conform to all applicable sections of TDC 34.330 Fence Standards or obtain an alternate approval through Architectural Review after the ability to issue Building Permits for lots 1, 2, 7, 8, 17, 18, 31, 32, 45, 46, 75, and 76 as shown in this application.
- PFR -13 Show the proposed Tract F either as part of adjacent lots, maintained by a home owners association, or be dedicated to the City.
- PFR -14 Show the location of existing sanitary sewer septic tank for decommissioning.
- PFR -15 Submit plans that show access for lot 2 to proposed SW 61<sup>st</sup> Terrance via a flag pole at least 20 feet wide.

- PFR -16 Submit plans that show one driveway for Tualatin Professional Center and one driveway for MEI to be at least 32-feet wide extending to the back of the proposed sidewalk.
- PFR -17 Submit plans that comply with the requirements of Clackamas and Washington County memorandums.
- PFR -18 Submit plans and narrative that identify how adjacent park lands (Atfalati Park) will be restored subsequent to SW 65<sup>th</sup> Avenue and SW Sagert Street road widening (e.g., tapering grades, salvaging and replanting trees, irrigation).
- PFR -19 Submit plans that show a maintenance access from SW 65<sup>th</sup> Avenue for the proposed manhole west of the SW 65<sup>th</sup> Avenue pump station.
- PFR -20 Show that the sidewalk to SW 65<sup>th</sup> Avenue at the south end of the development is an entrance for northbound bicycles from SW 65<sup>th</sup> Avenue only, taper the approach to AASHTO code, and include a pedestrian barrier.
- PFR -21 Extend the public sidewalk on SW Borland Road west to connect to the existing sidewalk.
- PFR -22 Submit plans that show 5-foot wide public utility easements at the sides and rear of all lots.
- PFR -23 Submit plans that show public stormwater facility within the greenway tract in a separate tract for stormwater purposes.
- PFR -24 Submit plans that show concrete maintenance surfaces extending 5-feet past the sanitary sewer manholes and extend to the public water quality facilities per City Engineer direction.
- PFR -25 Submit plans that show root barriers for street trees that are within 10 feet of a public line or adjacent to a public sidewalk will need a 24-inch deep, 10-foot long root barrier centered on the tree trunk at the edge of the public easement or sidewalk.
- PFR -26 Show the accessway from proposed SW 64<sup>th</sup> Terrace to SW 65<sup>th</sup> Avenue across Tract C as concrete and 8 feet wide.
- PFR -27 Submit plans that show SW Street “E” with a City approved name.
- PFR -28 Show street name signs at each intersection of SW Sagert Street with SW 65<sup>th</sup> Avenue, proposed SW 64<sup>th</sup> Terrace, proposed SW 63<sup>rd</sup> Terrace, proposed SW 62<sup>nd</sup> Terrace, and proposed SW 61<sup>st</sup> Terrace; at each intersection of proposed SW “E” Street with proposed SW 64<sup>th</sup> Terrace,



proposed SW 63rd Terrace, proposed SW 62nd Terrace, and proposed SW 61st Terrace; and with proposed SW 61st Terrace and SW Borland Road or as amended per City Engineer direction.

- PFR -29 Show stop signs for northbound traffic intersecting with SW Sagert Street on proposed SW 64<sup>th</sup> Terrace, proposed SW 63<sup>rd</sup> Terrace, and proposed SW 62<sup>nd</sup> Terrace; southbound traffic intersecting proposed SW “E” Street on proposed SW 63<sup>rd</sup> Terrace and proposed SW 62<sup>nd</sup> Terrace; an all way stop at the intersection of SW Sagert Street and proposed SW 61<sup>st</sup> Terrace; and northbound proposed SW 61<sup>st</sup> Terrace at the intersection with SW Borland Road or as amended per City Engineer direction.
- PFR -30 Show 25-mph speed limit signs entering this subdivision from SW Borland Road on proposed SW 61<sup>st</sup> Terrace and from SW 65<sup>th</sup> Avenue on SW Sagert Street or as amended per City Engineer direction.
- PFR -31 Show traffic control signs and striping for the intersection of SW 65<sup>th</sup> Avenue and SW Sagert Street or as amended per City Engineer direction.
- PFR -32 Submit plans that show approved street trees selected for the 4-foot wide planter strips, in a planter strip between SW Sagert Street curb and sidewalk adjacent to PGE, and the planted median is shown within SW Sagert Street east of proposed SW 61<sup>st</sup> Terrace.
- PFR –33 Show extension of a public water line from within the proposed development south to adjacent undeveloped Tax Lot 21E30B 00700.
- PFR -34 Underground all utility lines with the exception of those that are 50,000 volts or above or record a Street Improvement Agreement for undergrounding.
- PFR -35 Submit plans that are sufficient to obtain a Stormwater Connection Permit Authorization Letter that complies with the submitted Service Provider Letter conditions and obtain an Amended Service Provider Letter as determined by Clean Water Services for any revisions to the proposed plans.
- PFR-36 Submit plans that minimize the impact of stormwater from the development to adjacent properties.

C. Prior to Approval of the Final Plat:

- PFR-37 Record the final plat within 24 months of the issued decision or obtain an extension per TDC 36.160(6).
- PFR-38 Obtain a Public Works Permit and Water Quality Permit.

- PFR-39 Complete all the public improvements, shown on submitted plans and corrected by conditions of approval, and have them accepted by the City or provide financial assurance.
- PFR –40 Demolish all existing structures meeting the requirements of HIST-14-01 which expires September 11, 2016 or obtain another HIST approval or extension to demolish the historic barn.
- PFR –41 Submit proof of DEQ approval of decommissioning of all wells and tanks.
- PFR -42 Record all public easements and dedications shown on submitted plans and corrected by conditions of approval.
- PFR -43 Convey Tract A and the portions of B and C excluding the public water quality facilities in separate tracts by statutory warranty deed and execute and record Greenway easements covering the connecting pathway over sanitary sewer easement between lots 69 and 70.
- PFR -44 The area shown as Tract E will be dedicated as SW Sagert Street right-of-way.
- PFR -45 Enter into an Improvement Agreement substantially like the attached draft Saum Creek Greenway Trail Improvement Agreement with City to construct the Saum Creek Greenway Trail and related improvements and provide adequate assurances in a form approved by the City Attorney.
- PFR –46 Dedicate the area shown as Tract F as Natural Area and plant in northwest native trees, shrubs, and ground cover or show it as maintained by a Home Owners Association within a conservation easement.

D. Prior to Issuance of the First House's Building Permit on the Subject Site:

- PFR -47 Decommission and salvage the pump station south of Sequoia Ridge Subdivision.
- PFR-48 Construct all public improvements shown on submitted plans and corrected by conditions of approval.
- PFR-49 Deliver a Mylar copy of the recorded plat to the City Engineer.
- PFR -50 Request and obtain SDC and TDT credits for public improvements, if desired.
- PFR-51 Construct the entirety of required masonry fences per TDC 34.330 and 34.340 and obtain a final inspection from the planning division.

E. Prior to Issuance of Each New Home Building Permit:

- PFR-52 Provide the approved tree protection plan from PFR-10 with each structure's building permit, to ensure construction is consistent with the protections provided by the approved plan. The approved plan may be amended by the project's arborist during construction if approved by the City.
- PFR -53 Show no more than 45% of any lot covered with buildings.
- PFR -54 Show plans meeting the minimum width of all setbacks for permitted uses: front yard 15 feet, unenclosed porch 12 feet, garage door 20 feet, side yard 5 feet, rear yard 15 feet; for a corner lot: one front yard 15 feet and the second 10 feet.
- PFR -55 Show structure projections into yards with a maximum of front or rear yard setback area not more than three feet and into a required side yard not more than two feet.
- PFR -56 Show structure heights a maximum of 35 feet.
- PFR -57 Show 2 onsite parking spaces per lot.
- PFR -58 Show driveways widths a minimum of 10 feet wide and with a maximum for 26 feet for one or two car garages and 37 for three or more.
- PFR -59 Submit plans that state the landscaped areas on each lot will be irrigated.
- PFR -60 Submit verification that shows adequate capacity of proposed sanitary sewer lines and the SW 65<sup>th</sup> Avenue pump station.
- PFR -61 Submit plans that show private sanitary sewer and stormwater laterals serving lot 2 from proposed SW 61<sup>st</sup> Terrace.
- PFR -62 Submit proof that shows all crawl spaces will be served by gravity drainage.

F. Prior to Issuance of a Sign Permit for Monument Signs:

- PFR-63 The applicant shall separately from this subdivision land use decision submit sign permit applications for any new signage.

**Section 2.** The Findings and Conclusions are adopted as set forth in “Exhibit 1,” which is attached and incorporated by reference.

**Section 3.** This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 8<sup>th</sup> day of February, 2016.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO LEGAL FORM

ATTEST:

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

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

**EXHIBIT 1**  
**RESOLUTION NO. 5265-16**

**FINDINGS AND CONCLUSIONS**  
**SUBDIVISION DECISION SB15-0002, SAGERT FARM**

**A. TMC TITLE 03: UTILITIES AND WATER QUALITY**

**I. TMC CHAPTER 03-02: SEWER REGULATIONS; RATES**

**1. TMC 3-2-020 APPLICATION, PERMIT AND INSPECTION PROCEDURE.**

(1) No person shall connect to any part of the sanitary sewer system without first making an application and securing a permit from the City for such connection, nor may any person substantially increase the flow, or alter the character of sewage, without first obtaining an additional permit and paying such charges therefore as may be fixed by the City, including such charges as inspection charges, connection charges and monthly service charges.

**2. TMC 3-2-030 MATERIALS AND MANNER OF CONSTRUCTION.**

(1) All building sewers, side sewers and connections to the main sewer shall be so constructed as to conform to the requirements of the Oregon State Plumbing Laws and rules and regulations and specifications for sewerage construction of the City.

(3) A public works permit must be secured from the City and other agency having jurisdiction by owners or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

**FINDING:**

The plans show proposed public sanitary sewer system construction to serve all proposed lots with gravity laterals and connect a gravity line from the existing pump station at Sequoia Ridge Subdivision to the SW 65<sup>th</sup> Avenue pump station, but have not applied for a public works permit for these improvements. The applicant will need to submit sanitary sewer plans that show location of the lines, grade, materials, and other details prior to obtaining a public works permit. This criterion is satisfied with conditions of approval PFR -2.

**II. TMC CHAPTER 03-03: WATER SERVICE**

**1. TMC 3-3-040 SEPARATE SERVICES REQUIRED.**

(1) Except as authorized by the City Engineer, a separate service and meter to supply regular water service or fire protection service shall be required for each building, residential unit or structure served. For the purposes of this section, trailer parks and multi-family residences of more than four dwelling units shall constitute a single unit unless the City Engineer determines that separate services are required.

## **2. TMC 3-3-110 CONSTRUCTION STANDARDS.**

All water line construction and installation of services and equipment shall be in conformance with the City of Tualatin Public Works Construction Code. In addition, whenever a property owner extends a water line, which upon completion, is intended to be dedicated to the City as part of the public water system, said extension shall be carried to the opposite property line or to such other point as determined by the City Engineer. Water line size shall be determined by the City Engineer in accordance with the City's Development Code or implementing ordinances and the Public Works Construction Code.

## **3. TMC 3-3-120 BACKFLOW PREVENTION DEVICES AND CROSS CONNECTIONS.**

(2) The owner of property to which City water is furnished for human consumption shall install in accordance with City standards an appropriate backflow prevention device on the premises where any of the following circumstances exist:

(4) Except as otherwise provided in this subsection, all irrigation systems shall be installed with a double check valve assembly. Irrigation system backflow prevention device assemblies installed before the effective date of this ordinance, which were approved at the time they were installed but are not on the current list of approved device assemblies maintained by the Oregon State Health Division, shall be permitted to remain in service provided they are properly maintained, are commensurate with the degree of hazard, are tested at least annually, and perform satisfactorily. When devices of this type are moved, or require more than minimum maintenance, they shall be replaced by device assemblies which are on the Health Division list of approved device assemblies.

## **4. TMC 3-3-130 CONTROL VALVES.**

The customer shall install a suitable valve, as close to the meter location as practical, the operation of which will control the entire water supply from the service. The operation by the customer of the curb stop in the meter box is prohibited.

### **FINDING:**

The plans show proposed public water system construction to serve all proposed lots consisting of 8-inch mains, 1-inch laterals, and ¾-inch meters. The system loops from existing public water mains in SW 65<sup>th</sup> Avenue, SW Borland Road, SW Sagert Street to the east, and through all the proposed local streets, creating no dead ends.

The plans show single 1-inch laterals serving pairs of lots and do not indicate backflow prevention, double check valve assemblies, or control valves. Each lot will have a separate minimum 1-inch lateral with backflow prevention, double check valve assemblies, and control valves.

The applicant has not applied for a public works permit for these improvements. The applicant will need to submit water system plans that show location of the water lines, grade, materials, and other details prior to obtaining a public works permit.

This criterion is satisfied with conditions of approval PFR-3 and 4.

### **III. TMC 3-5 ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS**

#### **1. TMC 3-5-010 POLICY.**

It is the policy of the City to require temporary and permanent measures for all construction projects to lessen the adverse effects of construction on the environment. The contractor shall properly install, operate and maintain both temporary and permanent works as provided in this chapter or in an approved plan, to protect the environment during the term of the project. In addition, these erosion control rules apply to all properties within the City, regardless of whether that property is involved in a construction or development activity. Nothing in this chapter shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority...

#### **2. TMC 3-5-050 EROSION CONTROL PERMITS.**

(1) Except as noted in subsection (3) of this section, no person shall cause any change to improved or unimproved real property that causes, will cause, or is likely to cause a temporary or permanent increase in the rate of soil erosion from the site without first obtaining a permit from the City and paying prescribed fees...

#### **3. TMC 3-5-060 PERMIT PROCESS.**

(1) Applications for an Erosion Control Permit. Application for an Erosion Control Permit shall include an Erosion Control Plan which contains methods and interim facilities to be constructed or used concurrently and to be operated during construction to control erosion. The plan shall include either:

(a) A site specific plan outlining the protection techniques to control soil erosion and sediment transport from the site to less than one ton per acre per year as calculated using the Soil Conservation Service Universal Soil Loss Equation or other equivalent method approved by the City Engineer, or

(b) Techniques and methods contained and prescribed in the Soil Erosion Control Matrix and Methods, outlined in TMC 3-5.190 or the Erosion Control Plans - Technical Guidance Handbook, City of Portland and Unified Sewerage Agency, January, 1991.

(2) Site Plan. A site specific plan, prepared by an Oregon registered professional engineer, shall be required when the site meets any of the following criteria:

- (a) greater than five acres;
- (b) greater than one acre and has slopes greater than 20 percent;
- (c) contains or is within 100 feet of a City-identified wetland or a waterway identified on FEMA floodplain maps; or
- (d) greater than one acre and contains highly erodible soils.

**FINDING:**

The applicant has submitted plans showing erosion control on sheets C116 to C119 for an area of approximately 20.9 acres. This criterion is satisfied with conditions of approval PFR -5 and 6.

**4. TMC 3-5-200 DOWNSTREAM PROTECTION REQUIREMENT.**

Each new development is responsible for mitigating the impacts of that development upon the public storm water quantity system. The development may satisfy this requirement through the use of any of the following techniques, subject to the limitations and requirements in TMC 3-5-210: Construction of permanent on-site stormwater quantity detention facilities designed in accordance with this title;...

**5. TMC 3-5-210 REVIEW OF DOWNSTREAM SYSTEM.**

For new development other than the construction of a single family house or duplex, plans shall document review by the design engineer of the downstream capacity of any existing storm drainage facilities impacted by the proposed development. That review shall extend downstream to a point where the impacts to the water surface elevation from the development will be insignificant, or to a point where the conveyance system has adequate capacity, as determined by the City Engineer. To determine the point at which the downstream impacts are insignificant or the drainage system has adequate capacity, the design engineer shall submit an analysis using the following guidelines:

- (1) evaluate the downstream drainage system for at least ¼ mile;
- (2) evaluate the downstream drainage system to a point at which the runoff from the development in a build out condition is less than 10 percent of the total runoff of the basin in its current development status. Developments in the basin that have been approved may be considered in place and their conditions of approval to exist if the work has started on those projects;
- (3) evaluate the downstream drainage system throughout the following range of storms: 2, 5, 10, 25 year;



(4) The City Engineer may modify items 1, 2, 3 to require additional information to determine the impacts of the development or to delete the provision of unnecessary information.

**6. TMC 3-5-220 CRITERIA FOR REQUIRING ON-SITE DETENTION TO BE CONSTRUCTED.**

The City shall determine whether the onsite facility shall be constructed. If the onsite facility is constructed, the development shall be eligible for a credit against Storm and Surface Water System Development Charges, as provided in City ordinance. On-site facilities shall be constructed when any of the following conditions exist:

(1) There is an identified downstream deficiency, as defined in TMC 3-5-210, and detention rather than conveyance system enlargement is determined to be the more effective solution...

**FINDING:**

The project area doesn't release into a basin that requires detention, therefore downstream conveyance will need to be evaluated to show there is no needed detention. The preliminary stormwater calculations indicate adequate conveyance of up to a 100-year storm. This criterion is satisfied with conditions of approval PFR - 7.

**IV. TMC 3-5 PERMANENT ON-SITE WATER QUALITY FACILITIES**

**1. TMC 3-5-280 PLACEMENT OF WATER QUALITY FACILITIES.**

Title III specifies that certain properties shall install water quality facilities for the purpose of removing phosphorous. No such water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action, approved by the City, is constructed to replace the area used for the water quality facility.

**FINDING:**

The two water quality facilities are shown to be located outside both wetland and associated buffer. This criterion is met.

**2. TMC 3-5-290 PURPOSE OF TITLE.**

The purpose of this title is to require new development and other activities which create impervious surfaces to construct or fund on-site or off-site permanent water quality facilities to reduce the amount of phosphorous entering the storm and surface water system.

**3. TMC 3-5-300 APPLICATION OF TITLE.**

Title III of this Chapter shall apply to all activities which create new or additional impervious surfaces, except as provided in TMC 3-5.310.

#### **4. TMC 3-5-310 EXCEPTIONS.**

(1) Those developments with application dates prior to July 1, 1990, are exempt from the requirements of Title III.

The application date shall be defined as the date on which a complete application for development approval is accepted by the City in accordance with City regulations.

(2) Construction of one and two family (duplex) dwellings are exempt from the requirements of Title III.

(3) Sewer lines, water lines, utilities or other land development that will not directly increase the amount of storm water run-off or pollution leaving the site once construction has been completed and the site is either restored to or not altered from its approximate original condition are exempt from the requirements of Title III.

#### **5. TMC 3-5-320 DEFINITIONS.**

(1) "Stormwater Quality Control Facility" refers to any structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, low impact development approaches ("LIDA"), and ponds which are maintained as stormwater quality control facilities.

(2) "Low impact development approaches" or "LIDA: means stormwater facilities constructed utilizing low impact development approaches used to temporarily store, route or filter run-off for the purpose of improving water quality. Examples include; but are not limited to, Porous Pavement, Green Roofs, Infiltration Planters/Rain Gardens, Flow-Through Planters, LIDA Swales, Vegetated Filter Strips, Vegetated Swales, Extended Dry Basins, Constructed Water Quality Wetland, Conveyance and Stormwater Art, and Planting Design and Habitats.

(3) "Water Quality Swale" means a vegetated natural depression, wide shallow ditch, or constructed facility used to temporarily store, route or filter run-off for the purpose of improving water quality.

(4) "Existing Wetlands" means those areas identified and delineated as set forth in the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, January, 1989, or as amended, by a qualified wetlands specialist.

(5) "Created Wetlands" means those wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement.

(6) "Constructed Wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from existing or created wetlands. This separation shall preclude a free and open connection to such other wetlands.

**6. TMC 3-5-330 PERMIT REQUIRED.**

Except as provided in TMC 3-5-310, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of run-off or pollution from the site without first obtaining a permit from the City and following the conditions of the permit.

**7. TMC 3-5-340 FACILITIES REQUIRED.**

For new development, subject to the exemptions of TMC 3-5-310, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan or permit approval require permanent stormwater quality control facilities in accordance with this Title III.

**8. TMC 3-5-345 INSPECTION REPORTS.**

The property owner or person in control of the property shall submit inspection reports annually to the City for the purpose of ensuring maintenance activities occur according to the operation and maintenance plan submitted for an approved permit or architectural review.

**9. TMC 3-5-350 PHOSPHOROUS REMOVAL STANDARD.**

The stormwater quality control facilities shall be designed to remove 65 percent of the phosphorous from the runoff from 100 percent of the newly constructed impervious surfaces. Impervious surfaces shall include pavement, buildings, public and private roadways, and all other surfaces with similar runoff characteristics.

**10. TMC 3-5-360 DESIGN STORM.**

The stormwater quality control facilities shall be designed to meet the removal efficiency of TMC 3-5-350 for a mean summertime storm event totaling 0.36 inches of precipitation falling in four hours with an average return period of 96 hours.

**11. TMC 3-5-370 DESIGN REQUIREMENTS.**

The removal efficiency in TDC Chapter 35 specifies only the design requirements and is not intended as a basis for performance evaluation or compliance determination of the stormwater quality control facility installed or constructed pursuant to this Title III.

**12. TMC 3-5-330 PERMIT REQUIRED.**

Except as provided in TMC 3-5-310, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of run-off

or pollution from the site without first obtaining a permit from the City and following the conditions of the permit.

### **13. TMC -5-340 FACILITIES REQUIRED.**

For new development, subject to the exemptions of TMC 3-5-310, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan or permit approval require permanent stormwater quality control facilities in accordance with this Title III.

### **14. TMC 3-5-390 FACILITY PERMIT APPROVAL.**

A stormwater quality control facility permit shall be approved only if the following are met:

(1) The plat, site plan, or permit application includes plans and a certification prepared by an Oregon registered, professional engineer that the proposed stormwater quality control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorous required by this Title III. Clean Water Services Design and Construction Standards shall be used in preparing the plan for the water quality facility; and

(2) The plat, site plan, or permit application shall be consistent with the areas used to determine the removal required in TMC 3-5-350; and

(3) A financial assurance, or equivalent security acceptable to the City, is provided by the applicant which assures that the stormwater quality control facilities are constructed according to the plans established in the plat, site plan, or permit approval. The financial assurance may be combined with our financial assurance requirements imposed by the City; and

(4) A stormwater facility agreement identifies who will be responsible for assuring the long term compliance with the operation and maintenance plan.

### **15. TMC 3-5-420 RESIDENTIAL DEVELOPMENTS.**

The permanent stormwater quality control facilities for the construction of any single family and duplex subdivision shall be adequately sized for the public improvements of the subdivision and for the future construction of single family and duplex houses on the individual lots at a rate of 2,640 square feet of impervious surface per dwelling unit.

#### **FINDING:**

The applicant has submitted plans showing two public water quality swales with preliminary stormwater calculations showing adequate treatment of impervious area. This criterion is satisfied with conditions of approval PFR 7 and 8.

## **B. CHAPTER 04-02: FIRE HYDRANT LOCATIONS AND RATES OF FLOW**

### **I. TMC 4-2-010 HYDRANTS AND WATER SUPPLY FOR FIRE PROTECTION.**

(1) Every application for a building permit and accompanying plans shall be submitted to the Building Division for review of water used for fire protection, the approximate location and size of hydrants to be connected, and the provisions for access and egress for firefighting equipment. If upon such review it is determined that the fire protection facilities are not required or that they are adequately provided for in the plans, the Fire and Life Safety Reviewer shall recommend approval to the City Building Official.

(2) If adequate provisions for such facilities are not made, the Fire and Life Safety Reviewer shall either recommend against approval of the plans or indicate to the applicant in writing where the plans are deficient or recommend approval of plans subject to conditions.

#### **FINDING:**

TVF&R has submitted an attached letter regarding their requirements. The applicant will need to address these requirements in the final plans.

The plans show proposed public fire hydrants adjacent to public streets with spacing greater than allowed by code. The public fire hydrants will need to be spaced to meet Public Works Construction Code. The fire hydrants will need to be red powder coated.

This criterion is satisfied with conditions of approval PFR -9.

## **C. TDC CHAPTER 13: SEWER SERVICE, SECTION 13.060 EXISTING SYSTEM**

(2) Except for the five areas discussed below, the City is served by gravity lines. ...The five areas currently served by pump stations are as follows:... (b) The area along Nyberg Street and Borland Road east of I-5 is served by six pump stations. The pump stations pump sewage to the Nyberg Interceptor and then into the Lower Tualatin Interceptor. One of the pump stations is temporary. It is at the south end of Sequoia Ridge Subdivision. It collects sewage through gravity flow from the Sequoia Ridge and Venetia Subdivisions and can collect from the properties east of Venetia. It pumps up the hill to a line in SW Borland Road. This station will be removed when the Sagert/Leiser Properties (2 1E 30B, 300, 600, 700) are developed. Then its sewage will gravity flow to the west to the pump station on the west side of SW 65<sup>th</sup> Avenue north of I-205 and be pumped up the hill to the north.

#### **FINDING:**

The plans show the existing line from the pump station south of Sequoia Ridge Subdivision proposed to extend with gravity flow to the existing pump station on the west side of SW 65<sup>th</sup> Avenue north of I-205. The existing pump station will need to be decommissioned and salvaged. This criterion is satisfied with conditions of approval PFR -47.

#### **D. TDC SECTION 31.063 NEIGHBORHOOD/ DEVELOPER MEETINGS.**

(2) Prior to the submittal of an application listed in TDC 31.063(1) and following a pre-application meeting held with the City, the developer shall host a meeting for the surrounding property owners located within the mailing area designated in TDC 31.064(1)(c). Notice of the meeting shall be provided to Recognized Neighborhood Associations within the Notice Area of TDC 31.064(1)(c) and to designated representatives of recognized Citizen Involvement Organizations. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(3) The Neighborhood/Developer Meeting shall be held on a weekday evening, or weekend no earlier than 10:00 a.m. and no later than 6:00 p.m., at a location within the City of Tualatin.

(4) The applicant shall at least 14 calendar days and no more than 28 calendar days prior to the meeting mail notice of the meeting pursuant to TDC 31.064(1) stating the date, time and location of the meeting and briefly discussing the nature and location of the proposal:

(6) The applicant shall, at least 14 calendar days before the meeting, post a sign pursuant to TDC 31.064(2). If the sign disappears prior to the meeting date, the applicant shall replace it within forty-eight (48) hours. The applicant shall remove the sign no later than fourteen (14) days after the meeting date.

(7) The applicant shall prepare meeting notes identifying the persons attending and the major points that were discussed and expressed.

(8) The applicant is required to hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.

(9) If an applicant fails to hold a neighborhood meeting, the application shall be deemed incomplete.

(10) The application shall include the following materials related to the Neighborhood/Developer meeting:

- (a) the mailing list for the notice;
- (b) a copy of the notice;
- (c) an affidavit of the mailing and posting;
- (d) the original sign-in sheet of participants;
- (e) the meeting notes described in TDC 31.063(7).

(11) Applications shall be submitted to the City within 180 days of the Neighborhood/Developer meeting. If an application is not submitted in this time frame, the Developer shall be required to hold a new Neighborhood/Developer meeting.

**FINDING:**

The applicant held a public meeting that met the requirements of TDC Section 31.06 on February 18, 2015 at 6 pm. The Applicant provided 21 days notice prior to the meeting and posted a sign pursuant to TDC 31.064(2). The applicant provided notes from the meeting, the mailing list, a copy of the notice, and affidavit of mailing and posting, and the original sign in sheet. This criterion is satisfied.

**E. TDC CHAPTER 34: SPECIAL REGULATIONS****I. TDC SECTION 34.210 APPLICATION FOR ARCHITECTURAL REVIEW, SUBDIVISION OR PARTITION REVIEW, OR TREE REMOVAL PERMIT.**

(1) Architectural Review, Subdivision, or Partition. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), to develop property, and the development is subject to Architectural Review, Subdivision Review, or Partition Review approval, the property owner shall apply for approval to remove trees as part of the Architectural Review, Subdivision Review, or Partition Review application process.

(a) The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; existing and proposed property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number). All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a "sensitive area" or "vegetated corridor" on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist's signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year proceeding the date the development application is deemed complete by the City.

Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located in the CWS-required easement need not be tagged.

(b) The application for tree removal shall be approved or denied based on the criteria in TDC 34.230.

(c) The approval or denial of an application to remove trees shall be a part of the Architectural Review, Subdivision Review, or Partition Review decision.

## **1. TDC SECTION 34.230 CRITERIA.**

The Community Development Director shall consider the following criteria when approving, approving with conditions, or denying a request to cut trees.

(1) An applicant must satisfactorily demonstrate that any of the following criteria are met:

- (a) The tree is diseased, and
  - (i) The disease threatens the structural integrity of the tree; or
  - (ii) The disease permanently and severely diminishes the esthetic value of the tree; or
  - (iii) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.
- (b) The tree represents a hazard which may include but not be limited to:
  - (i) The tree is in danger of falling;
  - (ii) Substantial portions of the tree are in danger of falling.
- (c) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.

(2) If none of the conditions in TDC 34.240(1) are met, the Community Development Director shall evaluate the condition of each tree based on the following criteria. A tree given a rating of one on a factor will not be required to be retained.

### **FACTOR VARIATION OF CONDITION FACTOR AWARDED**

Trunk Condition Sound and solid (5) Sections of bark missing (3) Extensive decay and hollow (1) \_\_\_\_

Crown Development Full and balanced (5) Full but unbalanced (3) Unbalanced and lacking a full crown (1) \_\_\_\_

Structure Sound (5) One major or several minor limbs dead (3) Two or more limbs dead (1) \_\_\_\_

\*For deciduous trees only

## **2. TDC SECTION 34.270 TREE PROTECTION DURING CONSTRUCTION.**



(1) Any tree required to be retained either through Architectural Review, Subdivision or Partition Review, or permit process that will be impacted by nearby construction activities must be protected in accordance with the TDC 73.250(2).

**FINDING:**

The applicant submitted a Tree Protection and Removal Plan (Sheet C105-C109) identifies the locations of all trees on site eight inches or more in diameter. The CWS required easement boundary has been identified on the tree plan. Trees proposed for removal have also been identified. A tree assessment has been prepared and provided with this application.

The trees that are being proposed for removal as a part of this Subdivision Review are being removed to accommodate the construction of the proposed improvements for the subdivision plan. All tree removal is detailed in the included Arborist's report, as well as sheets C105 through C109. All proposed tree removal is necessary to construct the proposed improvements associated with the subdivision.

Trees in the Sequoia Ridge Natural Area will be protected throughout construction. Applicant will grant a conservation easement to preserve trees along east property lines of Tract F and Lot 79. City will accept a dedication of Tract F as Natural Area, if applicant plants it in northwest native trees, shrubs, and ground cover. There would be no compensation for the dedication of Tract F.

This criterion is satisfied with conditions of approval PFR -1, 10, and 46.

**II. TDC SECTION 34.330 FENCE STANDARDS.**

The following standards are minimum requirements for fences in a RL (Low Density Residential) or a RML (Medium Low Density Residential) Planning District, where an access-restricted lot line or property line abuts a public street classified as a major arterial, minor arterial, major collector, minor collector, or expressway by the Tualatin Functional Classification Plan, or abuts a state-owned interstate highway (I-5 or I-205).

(1) Subdivision or Partition of Property in a RL or RML Planning District. Where property is the subject of a subdivision or partition application, and has an access-restricted property line(s) or lot line(s) that abuts a major arterial, minor arterial, major collector, minor collector, or expressway right-of-way or an interstate highway property line for a distance greater than 60 feet, a masonry fence shall be installed along the arterial/ collector/expressway/interstate highway frontage, in conformance with design standards set forth in TDC 34.340 and the fence standards set forth below:

(a) Required fencing shall be in-stalled along the entire length of the access-restricted property line(s) or lot line(s) abutting the arterial/collector/expressway right-of-way or interstate highway property line, except as provided in TDC 34.330(3), prior to issuance of any building permit on any parcel or lot created by the partition or subdivision.

(b) Except as provided in TDC 34.330(3), required fencing shall be located entirely outside of the public right-of-way or state-owned interstate highway property, and as close as physically possible to, approximately parallel with, either the property line or lot line abutting the arterial/collector/expressway right-of-way or interstate highway property

line, or in the case of an arterial/ collector/expressway street the ultimate right-of-way line, which-ever is located furthest from the centerline of the street right-of-way....

(c) Required fencing shall be installed such that stormwater drainage pat-terns and flow rates are not altered in a manner detrimental to property or persons.

(3) Exceptions to Fence Location or Configuration:

(a) For public streets classified as an arterial/collector/expressway, where the City Engineer determines that vehicular access is to be provided from the arterial/collector/expressway to a parcel or lot abutting the arterial/collector/expressway, the fence shall not be required along the arterial/collector/expressway frontage of that particular parcel or lot.

(b) For public streets classified as an arterial/collector/expressway, where the City Engineer determines that an opening or passage through the fence must be pro-vided, the fence shall include such required opening. The same shall be provided in fences along state-owned interstate highways when required by the state or Tualatin Valley Fire & Rescue or the City Engineer.

(c) All vision clearance requirements set forth in TDC 73.400(16) shall be met.

(d) The City Engineer, in the case of public streets classified as an arterial/collector/expressway, or the state in the case of state-owned interstate highways, may require an alternate location or configuration of the fence alignment to accommodate stormwater facilities, easements, or other requirements, such as, but not limited to, bicycle paths, multi-use paths, or for maintenance purposes.

(e) For state-owned interstate highways, where an area of vegetation at least 200 linear feet in width runs parallel to the interstate highway and forms a visual, esthetic or acoustic barrier, or land in a Natural Resource Protection Overlay (NRPO) district or other protected area as defined in TDC Chapter 72 runs parallel to the inter-state highway, AND such land is located between the interstate highway property line and the developable area of a property being developed in the RL or RML Planning District, no fence shall be required. Where the area of vegetation is less than 200 linear feet in width, the required fence shall be located entirely outside the vegetated, NRPO or other protected area and as close as physically possible to, approximately parallel with, the edge of said vegetated, NRPO or other protected area on the developable portion of the property being developed.

## **1. TDC SECTION 34.340 FENCE DESIGN.**

(1) Masonry Fence Design. (See Figure 34-2 for illustration)

(a) Material and Color. All components of fence visible from the public vantage point shall be constructed of stone, brick, stone-look or brick-look cast masonry or stone-look or brick-look cast vinyl or composite material. The color of the fence shall be that of natural stones, red clay brick, neutral brown-tones, or gray earth-tones.

(b) Finished Face. Fence shall be constructed such that the finished side of the fence faces the public right-of-way or state-owned interstate highway, and any structural components (metal brackets, etc.) are not visible from the public or highway vantage point.

(c) Slopes. Fences constructed on slopes shall be installed using a stair-step method, whereby each fence panel steps up or down the slope and remains level (zero-slope) rather than parallel to the grade of the underlying terrain.

(d) Height. For public streets classified as an arterial/collector/expressway, height of fence panels shall be six feet, and for interstate highways (I-5 or I-205) height of fence panels shall be a minimum of eight feet, measured from the underlying ground surface directly beneath the fence panels to the top edge of the cornice cap. (Any fence over six feet in height requires a building permit and engineered drawings.)

(i) For fences constructed on slopes, the height of fence measured at the up-slope end of each fence panel shall be six feet for public streets classified as an arterial/collector/expressway and a minimum of eight feet for interstate highways. (Any fence over six feet in height requires a building permit and engineered drawings.)

(ii) Pilasters, excluding pilaster caps, shall be no shorter than the shorter of the attached fence panels, including the cornice cap, and shall not extend more than six inches higher than the highest attached fence panel, including the cornice cap.

(iii) Height of pilaster caps shall be no greater than six inches, measured from the top of the underlying pilaster to the highest point on the cap.

(e) Ground Clearance. There shall be no ground clearance or gap visible between the bottom of the fence panels and the underlying ground surface. Where a pre-cast panel system is used, any gaps that result beneath panels shall be filled in with earth, rock, evergreen vegetation, or similar material. This provision does not prohibit the use of stormwater drainage holes.

(f) Pilasters. The horizontal run of fence must be broken up by pilasters, which shall be set at approximately regular intervals, no more than twenty feet apart on center. Pilasters shall be installed perpendicular to a zero-slope plane.

(g) Panels. Panels shall be 100 percent solid and opaque. The finished face shall have the appearance of a stacked or mortared stone wall or brick wall.

(h) Cornice. A cornice cap shall be installed on top of each of the fence panels. Cornice caps shall be masonry or brick in appearance, and shall match or closely compliment the colors and materials used to construct the fence panels and pilasters.

(i) Pilaster Caps. Decorative caps shall be installed on top of all pilasters such that the cap completely covers the surface area of the pilaster end. Caps shall be masonry or brick in appearance, and shall match or closely compliment the colors and materials used to construct the fence panels and pilasters. Illuminated pilaster caps are allowed, provided the lighting element is an integral internal component of the cap (i.e., no exposed light bulb) and the light is low-voltage or solar powered. Caps shall be no taller than six inches, measured from the surface of the pilaster end to the highest point on the pilaster cap.

## (2) Variance Prohibited.

(a) Development unable to meet one or more of the design standards set forth in TDC 34.340(1) may alternatively submit application for Architectural Review.

(b) Application for Architectural Review shall be made pursuant to application procedures set forth in TDC 31.071. Approval or denial shall be based upon the criteria set forth in TDC 73.050, including objectives and standards set forth in TDC 73.221 and 73.222.

## **FINDING:**

The applicant's narrative doesn't address masonry fence requirements. SW 65<sup>th</sup> Avenue, SW Borland Road, SW Sagert Street, and I-205 are all access restricted streets classified as major arterials. SW 65<sup>th</sup> Avenue has no access other than the intersection with SW Sagert Street and SW Borland Road has no access other than the

intersection with proposed SW 61<sup>st</sup> Terrace. The residential south side of SW Sagert Street has intersections with SW 64<sup>th</sup> Terrace, SW 63<sup>rd</sup> Terrace, SW 62<sup>nd</sup> Terrace, and SW 61<sup>st</sup> Terrace. SW 65<sup>th</sup> Avenue, SW Borland Road, and SW Sagert Street have lengths adjacent to lots greater than 60 feet and therefore will need a masonry fence with appropriate vision clearance for public streets and the bicycle entrance from SW 65<sup>th</sup> Avenue to the 12-foot wide sidewalk on the southwest corner of the development per TDC 34.330 and 34.340 Fence Design or obtain an alternate approval through Architectural Review after the ability to issue Building Permits for lots 1, 2, 7, 8, 17, 18, 31, 32, 45, 46, 75, and 76. The I-205 frontage does not require a masonry fence per 34.330(3)(e). This criterion is satisfied with conditions of approval PFR -11 and 12.

## **F. TDC CHAPTER 36: SUBDIVIDING, PARTITIONING AND PROPERTY LINE ADJUSTMENTS**

### **I. TDC SECTION 36.070 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS.**

(1) All land divisions shall be created by a subdivision or partition plat and must comply with ORS Chapter 92 and this Chapter.

(2) All property line adjustments shall be executed by deed and must comply with ORS Chapter 92 and this Chapter.

(3) No subsequent land division or property line adjustment shall be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded in accordance with the provisions of this Chapter, or the previous approval is withdrawn, modified or otherwise invalidated.

#### **FINDING:**

This narrative, along with drawings and other exhibits, have been provided as evidence demonstrating that the proposed development complies with the applicable regulations of the City of Tualatin and ORS Chapter 92. This land division is proposed to be created by a subdivision complying with all applicable standards. This criterion is satisfied.

### **II. TDC SECTION 36.080 APPROVAL OF STREETS AND WAYS.**

(1) The subdivision or partition plat shall provide for the dedication of all public rights-of-way, reserve strips, easements, tracts and accessways, together with public improvements therein approved and accepted for public use.

(a) The applicant shall comply with the requirements of TDC Chapter 74, Public Improvement Requirements.

(b) The applicant shall comply with the design and construction standards set forth in the Public Works Construction Code.

(c) The applicant shall provide evidence to the City that property intended to be dedicated to the public is free of all liens, encumbrances, claims and encroachments.

(2) The subdivision or partition plat shall indicate the ownership and location of private easements and tracts, and the owner-ship and location of private improvements within public rights-of-way and easements.

(3) Approval of the subdivision or partition plat by the City shall constitute acceptance of all public rights-of-way, reserve strips, easements, tracts and accessways shown thereon, as well as public facilities located therein.

**FINDING:**

This application has been submitted for preliminary plat approval. It is meant to illustrate proposed right-of-way dedication, construction of utilities and streets, and other improvements necessary to satisfy Tualatin Development Code requirements. All required improvements will be completed in conjunction with the final subdivision plat process. This criterion is satisfied.

**III. TDC SECTION 36.090 ISSUANCE OF BUILDING PERMITS.**

(1) Except as provided in subsection (5) of this section no building permit or permits to connect to City utility services shall be issued for lots within a subdivision or partition plat until the City Engineer has determined that the corresponding public improvements are substantially complete to assure that the health and safety of the citizens will not be endangered from inadequate public facilities.

(2) Subject to submittal and approval of, and compliance with, the subdivision plan, as well as sufficient security to assure completion of the public portions of the subdivision, the applicant or individual lot owners within the subdivision may receive a building permit or utility service for not more than 50 percent of the platted lots within the subdivision prior to:

(a) the completion of all required public improvements in accordance with the Public Works Construction Code; and

(b) the acceptance of the public improvements by resolution of the City Council.

(3) No building permits shall be issued or utility service approved for any lot which together with previously approved lots would exceed 50 percent of the platted lots within the subdivision until:

(a) all required public improvements have been completed in accordance with the Public Works Construction Code; and

(b) the public improvements have been accepted by resolution of the City Council.

**FINDING:**

The Applicant will comply with all requirements necessary to obtain building permits. Upon receiving a substantially complete status, the Applicant may request a number of building permits in order to initiate the construction of a series of two to four model homes. Code Section 36.090(2) allows for up to 50% of the homes, therefore 38, to be constructed after substantial completion of improvements and a recorded plat. Note: Prior to future Building Permit submittal for construction of single family residences the applicant shall obtain land use approval from the Planning Division in the form of an Architectural Review for Single Family Residence in compliance with TDC 31-071(7). This criterion is satisfied with conditions of approval PFR – 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and 58.

#### **IV. TDC SECTION 36.120 APPLICATIONS AND FILING FEE.**

(1) A request for a Subdivision shall be subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(2) The applicant shall discuss the preliminary plans with the City Engineer in a pre-application conference prior to submitting an application. An applicant for a subdivision shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall prepare and submit a City of Tualatin development application, available from the City Engineer.

(3) The application shall contain:

- (a) the proposed plat name, approved by the County Surveyor;
- (b) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;
- (c) the signatures of the property owners and applicants; and
- (d) the site location by address and current County Tax Assessor's map and tax lot numbers.
- (e) A description of the manner in which the proposed division complies with each of the expedited criterion for an Expedited Subdivision Application.
- (f) If a variance or minor variance is requested to the dimensional standards of the lots, or the minimum lot size, adequate information to show compliance with the approval criteria in TDC Chapter 33.
- (g) A "Service Provider Letter" from Clean Water Services indicating that a "Stormwater Connection Permit" will likely be issued.
- (h) The information on the Neighborhood/Developer Meeting specified in TDC 31.063(10).
- (i) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(4) The subdivision application shall be submitted to the City Engineer, along with:

- (a) the subdivision plan;
- (b) preliminary utility plans for streets, water, sanitary sewer and storm drainage;
- (c) a black and white 8½" x 11" site plan suitable for reproduction;
- (d) a completed City fact sheet;
- (e) a Clean Water Services Service Provider letter; and
- (f) other supplementary material as may be required, such as:
  - (i) deed restrictions; or
  - (ii) for all non-buildable areas or tracts to be dedicated or reserved for public use, a statement of ownership, use, covenants, conditions, limitations and responsibility for maintenance.

(5) The following general information shall be shown on the subdivision plan:

- (a) appropriate identification clearly stating the map is a subdivision plan;
- (b) proposed plat name, approved by the County Surveyor;

(c) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;

(d) the date the plan was prepared;

(e) north arrow;

(f) scale of drawing;

(g) location of the subdivision by 1/4 Section, Township and Range;

(h) existing streets (public and private), including location, name, centerline, right-of-way and pavement width on and abutting the site, and the location of existing and proposed access points;

(i) proposed streets (public and private), including location, centerline, right-of-way and pavement width, approximate radius of curves and approximate grades of proposed streets on the subject property and within three hundred feet of the site;

(j) an outline plan demonstrating that the adjacent property can be divided in the future in a manner that is consistent with the subdivision plan, and illustrating the connections to transit routes, pedestrian and bike facilities, and accessways to adjacent properties;

(k) easements, including location, width and purpose of all recorded and proposed easements in or abutting the site;

(l) public utilities, including the approximate location, size and grade of all existing and proposed sanitary sewers, the approximate location, size and grade of on-site and off-site storm drainage lines, and the approximate location and size of water lines;

(m) flood areas, including the location of any flood plain, drainage hazard areas and other areas subject to flooding or ponding;

(n) natural resources, including the location of natural features, such as rock outcroppings, wetlands, water courses, creeks, wooded areas and trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on site;

(o) approximate lot dimensions, including all existing property lines and their lengths and the approximate location and dimensions of all proposed lots;

(p) approximate area of each lot;

(q) proposed lot numbers;

(r) existing structures, including the location and present use of all structures, wells and septic tanks on the site and an indication of which structures, wells and septic tanks are to remain after platting; indicate all City-designated historic landmarks;

(s) all lots and tracts of land intended to be dedicated or reserved for public use;

(t) a vicinity map showing a minimum one- mile radius;

(u) contour lines with intervals at a minimum of two feet for slopes up to five percent and five feet for slopes over five percent; and

(v) other information required by the City Engineer.

(6) The subdivision application shall be accompanied by a nonrefundable fee as established by City Council resolution. The subdivision application shall not be accepted until the fee has been paid to the City. This fee does not apply towards any building permit or other fees that may later be required.

(7) The applicant shall submit, along with the subdivision application:

(a) A list of mailing recipients pursuant to TDC .31.064(1).

(b) Proof of sign posting pursuant to TDC 31.064(2).

(8) Unless otherwise specified in the subdivision application, or approval, or in express direction from the City Engineer, any material submitted by the applicant with a subdivision application which exceeds the TDC requirements shall be considered a part of the subdivision plan approval.

(9) The applicant has the burden of demonstrating compliance with the applicable development regulations.

(10) The applicable time period for action on the subdivision application shall not commence until the City Engineer has determined that the application is complete.

(a) If the City Engineer fails to make such determination of completeness within 30 days of the date of its submission, or re-submission, the subdivision application shall be deemed complete upon the expiration of the 30-day period for purposes of commencing the applicable time period, unless:

- (i) the application lacks information required to be submitted; or
- (ii) the required fees have not been submitted; or
- (iii) the City Engineer has notified the applicant in writing of the deficiencies in the application within 30 days of submission of the subdivision application.

(b) The City Engineer may subsequently require correction of any information found to be in error or submission of additional information not specified in this Chapter, as the City Engineer deems necessary to make an informed decision.

(11) The City Engineer shall prepare the standard form of Development Application for subdivision plans, including provisions which will best accomplish the intent of this section.

## **1. TDC SECTION 36.140 REVIEW PROCESS.**

(1) Review of subdivision applications shall be a limited land use decision process. Before approval may be granted on a subdivision application, the City Engineer shall first establish that the subdivision proposal conforms to the Tualatin Development Code and applicable City ordinances and regulations, ... Failure of the proposal to conform is sufficient reason to deny the application.

(2) After the subdivision application is deemed complete, the City Engineer shall provide written notice of the application to and invite comments from:

- (a) potentially affected governmental agencies such as the school district in which the subdivision is located, the fire district, the Oregon Department of Transportation, Tri-Met, Clean Water Services and Washington or Clackamas County;
- (b) utility companies;
- (c) City departments; and
- (d) recipients pursuant to TDC 31.064(1).

(3) The notice sent in TDC 36.140(2) shall:

- (a) state that written comments shall be submitted within 14 calendar days of the mailing date of the notice in order to be considered as a basis for a request for review;

- (b) state that issues which may provide the basis for a request for review to the City Council and Land Use Board of Appeals shall be raised in writing prior to the



expiration of the comment period. Issues shall be raised with sufficient clarity and detail to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;

(c) list the applicable criteria by code section for the decision;

(d) include the street address or other easily understood geographical reference to the subject property;

(e) state the place, date and time that comments are due, and that comments are due no later than 5:00 pm on the fourteenth calendar day after notice was sent;

(f) state that copies of all evidence relied upon by the applicant are available for review, and can be obtained at cost;

(g) state of the local government contact person and telephone number; and

(h) briefly summarize the local decision-making process for the limited land use decision being made.

(4) Failure of a person or agency to receive the notice required in TDC 36.140(2) shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(5) Comments must be received by the City Engineer within 14 calendar days of the date the notice was mailed. Signed comments shall be in writing. Comments must raise issues with sufficient detail and clarity to enable the decision-maker to respond to the issue. Requests for review may be made only by parties who submitted written comments and may be adversely affected by the decision within the 14 calendar-day period.

(6) Prior to making a decision, the City Engineer may conduct one or more review meetings with the applicant, governmental agencies, utility companies and any other interested parties.

(7) The approval of a subdivision application shall not automatically grant other approvals that may be required by the Development Code or City ordinances. However, a decision on a requested minor variance to the dimensional standards of lots or the minimum lot size, shall be included in the subdivision decision.

(8) Approval or denial of a subdivision shall be based upon and accompanied by a brief statement that

(a) explains the criteria and standards considered relevant to the decision;

(b) states the facts relied upon in making the decision; and

(c) explains the justification for the decision based on the criteria, standards and facts set forth.

(9) Notice of the decision shall be provided to the applicant, property owner, and any person who submitted written comments within the 14 calendar-day comment period. Notice of the decision shall include a description of rights to request a review of the decision.

(10) When the City Engineer determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property

owners or residents, the City Engineer may request that the City Council review the subdivision without first reaching a decision. The City Council shall hold a hearing in accordance with TDC 31.077. This applies to all subdivisions except for expedited subdivisions which shall not be the subject of a public hearing. The City Engineer shall prepare a report for presentation to the City Council, which may include recommendations on the subdivision application and requested minor variances.

#### **FINDING:**

Pre-application meeting were held on October 18, 2013, January 29, 2015, and January 28, 2015. The applicant held a public meeting that met the requirements of Section 31.06 on February 18, 2015 at 6 pm. The applicant initially submitted materials on June 4, 2015. After addressing incompleteness items it was deemed complete on September 17, 2015.

#### **Materials submitted included**

- the proposed plat name, approved by the County Surveyor
- the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor
- the signatures of the property owners and applicants
- the site location by address and current County Tax Assessor's map and tax lot numbers
- A description of the manner in which the proposed division complies with each of the expedited criterion for an Expedited Subdivision Application
- A "Service Provider Letter" from Clean Water Services indicating that a "Stormwater Connection Permit" will likely be issued
- The information on the Neighborhood/Developer Meeting specified in TDC 31.063(10)
- the subdivision plan
- preliminary utility plans for streets, water, sanitary sewer and storm drainage
- electronic black and white site plans suitable for reproduction at any size including 8½" x 11"
- a completed City fact sheet
- Title Report with deed restrictions
- (ii) for all non-buildable areas or tracts to be dedicated or reserved for public use, a statement of ownership, use, covenants, conditions, limitations and responsibility for maintenance
- A list of mailing recipients pursuant to TDC .31.064(1)
- Proof of sign posting pursuant to TDC 31.064(2)
- Additional meeting notes with the neighborhood and adjacent commercial property owners dated May 20, 2014, December 5, 2013, January 12, 2015, and February 20, 2015
- Transportation Impact Analysis dated June 2, 2015 and Borland Update dated August 6, 2015
- Preliminary Storm Drainage Report
- Tree Assessment Report
- Design Modification request for SW Borland Road Access
- Design Modification request for SW 65<sup>th</sup> Avenue

- Clackamas County Recorded Document 84-16656-7 for Tualatin Professional Center within SW Sagert Street
- Select asbuilts of SW 65<sup>th</sup> Avenue SW Borland Road to SW Sagert Street Roadway and Drainage Improvements
- Electronic copies of submittals

Notice of the subdivision was mailed to the neighborhood mailing list and emailed to CIOs and Staff September 17, 2015 with public commentary period ending October 1, 2015. Eight comments from the public were received during the comment period and one afterwards. The developer responded to the comments October 16, 2015. All comments and responses are attached in the Appendixes. The information needed for a City fact sheet was submitted in the narrative under General Information and Site Information.

All shown tracts will either be consolidated with adjacent lots or be dedicated to the City. This criterion is satisfied with conditions of approval PFR -13.

#### **V. TDC SECTION 36.410 DOUBLE FRONTAGE AND REVERSE FRONTAGE.**

(1) Double frontage and reversed front-age lots should be avoided except where essential to provide separation of residential development from railroad tracks or crossings, traffic arterials or collectors, adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

(2) Residences on double frontage lots shall be oriented towards the lower classification street adjacent to the lot:

- (a) local street instead of collector or arterial; and
- (b) collector street instead of arterial.

(3) If two local streets are adjacent to a series of adjacent double frontage lots, then residences on all such lots shall be oriented towards the same local street.

#### **FINDING:**

Lots 1 and lots 46 through 54 are double frontage lots and adjacent to major arterials and collectors. All lots are oriented with driveways towards proposed local streets. This criterion is satisfied.

#### **VI. TDC SECTION 36.420 EXISTING STRUCTURES AND APPURTENANCES.**

(1) Any existing structures proposed to be demolished shall be removed prior to the City approval of the subdivision or partition plat. Any structures determined to be a historic City landmark shall be reviewed in accordance with TDC Chapter 68.

(2) Any existing wells shall be abandoned in the manner prescribed by State and County regulations prior to the City approval of the subdivision or partition plat.

(3) Any existing underground fuel or oil tanks, septic tanks and similar underground storage tanks shall be removed or filled as required by the Department of Environmental Quality prior to the City's approval of the subdivision or partition plat.

**FINDING:**

Plan sheets C111 to C114 show demolition of existing structures plus decommissioning and removal of wells and tanks. Permission to demolish the historic barn was completed through HIST-14-01, Historic Landmark Demolition Decision Barngrover Barn Removal which expires September 11, 2016. The applicant will need to complete demolition prior to this date or obtain another HIST approval or extension to demolish the historic barn. DEQ approves the decommissioning and removal of wells and tanks. The applicant will show the location of existing sanitary sewer septic tank for decommissioning. This criterion is satisfied with conditions of approval PFR -14, 40, and 41.

**VII. TDC SECTION 36.450 SIDE LOT LINES.**

The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.

**FINDING:**

The plans show the side lines of all lots generally run at right angles to the street upon which the lots face. This criterion is satisfied.

**VIII. TDC SECTION 36.470 FRONTAGE ON PUBLIC STREETS.**

All lots created after September 1, 1979 shall abut a public street, except for the following:

- (1) Secondary condominium lots, which shall conform to TDC 73.400 and TDC 75;
- (2) Lots and tracts created to preserve wetlands, greenways, Natural Areas and Stormwater Quality Control Facilities identified by TDC Chapters 71, 72 Figure 3-4 of the Parks and Recreation Master Plan and the Surface Water Management Ordinance, TMC Chapter 3-5 respectively, or for the purpose of preserving park lands in accordance with the Parks and Recreation Master Plan;
- (3) Residential lots where frontage along a public street is impractical due to physical site restraints. Access to lots shall occur via a shared driveway within a tract. The tract shall have no adverse impacts to surrounding properties or roads and may only be approved if it meets the following criteria:
  - (a) Does not exceed 250 feet in length,
  - (b) If the tract exceeds 150 feet in length, it has a turnaround facility as approved by the Fire Marshal for fire and life safety,
  - (c) The tract does not serve more than 6 lots,
  - (d) A public street is not needed to provide access to other adjacent properties as required by TDC Chapter 74,

(e) A recorded document providing for the ownership, use rights, and allocation for liability for construction and maintenance has been submitted to the City Engineer prior to issuance of a building permit, and

(f) Access easements have been provided to all properties needing access to the driveway.

(4) Lots in the Manufacturing Park Planning District which have access to the public right-of-way in accordance with TDC 73.400 and TDC Chapter 75 via permanent access easement over one or more adjoining properties, creating uninterrupted vehicle and pedestrian access between the subject lot and the public right-of-way.

**FINDING:**

All lots shown on the applicant's subdivision plan abut public streets except Lot 2, which is adjacent to SW Borland Road, an access restricted major arterial. Access from Lot 2 to proposed SW 61<sup>st</sup> Terrace is proposed in an access easement across Lot 1. An access easement is not an acceptable means of providing access to Lot 2. Access to Lot 2 needs to be provided via flag pole with a width at least 20-feet. This criterion is satisfied with conditions of approval PFR -15.

**G. TDC 38: SIGN REGULATIONS**

**I. TDC SECTION 38.060 SIGN PERMIT REQUIRED.**

(3) A separate sign permit application shall be submitted for each sign erected, constructed, modified, relocated, replaced, face changed or structurally altered and for sign repair that includes these activities. Sign maintenance requires no permit. All proposed work on a sign shall be shown in the sign permit application.

(4) When required by the Uniform Building Code or the Building Official, a separate building permit shall be obtained from the City for the erection, construction, modification, relocation, replacement, change of sign face or alteration of a sign or sign structure.

(5) When required by the State Electrical Code or the Building Official, an electrical permit shall be obtained from the issuing authority before connecting an electrical sign to a source of electricity. The electrical components of signs shall meet the applicable electrical standards as shown by certification from those testing laboratories approved by the State of Oregon as meeting the testing standards for electrical safety as required by Oregon Revised Statutes 479.510 - 479.855 and Oregon Administrative Rule 918-330-000, as constituted on the effective date of this ordinance or as may hereafter be amended.

(6) Building and electrical permits shall be applied for in accordance with the procedures of the issuing agency, provided such permits are not issued until a sign permit has been issued.

**FINDING:**

The plans show monument signs at the entrance to the proposed subdivision at the southeast corners of the intersections of proposed SW 61<sup>st</sup> Terrace and SW Borland Road plus SW 65<sup>th</sup> Avenue and SW Sagert Street. Sign permitting is not a part of the subdivision land use decision and will require a separate permitting process. This criterion is satisfied with conditions of approval PFR -63.

**H. TDC 40: LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RL)**

**I. TDC SECTION 40.010 PURPOSE.**

The purpose of this district is to provide low density residential areas in the City that are appropriate for dwellings on individual lots, as well as other miscellaneous land uses compatible with a low density residential environment.

**FINDING:**

The Applicant is proposing the subdivision of the subject property to provide low density residential lots for single family dwellings. This criterion is satisfied.

**II. TDC SECTION 40.015 PERMITTED DENSITY.**

Housing density shall not exceed 6.4 units per net acre, except as set forth below:

(1) The maximum density for small-lot subdivisions, and partitions and subdivisions affected by TDC 40.055, shall not exceed 7.5 dwelling units per net acre.

(2) The maximum density for retirement housing in accordance with TDC 34.170(2) shall not exceed 10 dwelling units per net acre.

**1. TDC SECTION 1.020 DEFINITIONS.**

Density, Maximum Net. Maximum net density applies only to partition, subdivision, and architectural review applications reviewed through the Expedited Process set forth in House Bill 3065, Sections 6-11, 1995 Legislature, and is the land area within the lot lines of a tax lot after land has been removed for rights-of-way and tracts. House Bill 3065's reference to 80 percent of maximum net density in Section 7(1)(a)(E) is calculated by taking the gross acreage and subtracting land removed for rights-of-way and tracts and multiplying that net acreage figure by the maximum allowed density and then multiplying that figure by 80 percent.

**FINDING:**

The southern portion of the subject site has been identified as a Greenway Protected in the NRPO per The City of Tualatin Map 72-1: Natural Resources Protection Overlay District (NRPO) and Greenway Locations. Per the requirements of TDC 40.055 the proposed Greenway has been located wholly within a tract. The proposed subdivision is affected by TDC 40.055, therefore the maximum allowed density of the site is 7.5 dwelling units per acre.

The net acreage of the site (after the removal of the right-of-way, greenway tract, CWS vegetative corridor tract, and water quality tract per TDC Section 1.020 and TDC 40.055(1)(v)), ) is 11.4 acres. The proposed 79 dwelling units result in a density of 7.0 dwelling units per net residential acre which is below the maximum of 7.5 dwelling units per acre. This criterion is satisfied.

### **III. TDC SECTION 40.020 PERMITTED USES.**

- (1) Single-family dwellings, including manufactured homes.
- (2) Agricultural uses of land, such as truck gardening, horticulture, but excluding commercial buildings or structures and excluding the raising of animals other than the following:
  - (a) Normal household pets;
  - (b) Chickens as otherwise allowed by the Tualatin Municipal Code.
- (3) Home occupations as provided in TDC 34.030 to 34.050.
- (4) Public transit shelters.
- (5) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.
- (6) Residential homes.
- (7) Residential facilities for up to 15 residents, not including staff.
- (8) Family day care provider, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.
- (9) Sewer and water pump stations and pressure reading stations.
- (10) Wireless communication facility attached, provided it is not on a single-family dwelling or its accessory structures.
- (11) Accessory dwelling units as provided in TDC 34.300 to 34.310.
- (12) Transportation facilities and improvements.
- (13) Public park, public playground, and public recreation building.

#### **FINDING:**

The proposed single-family dwellings, greenways and natural areas, and transportation facilities and improvements are permitted outright in the RL zone. This criterion is satisfied.

#### **IV. TDC 40.050 LOT SIZE FOR PERMITTED USES.**

Except as otherwise provided, the lot size for a single-family dwelling shall be:

- (1) The minimum lot area shall be an average of 6,500 square feet.
- (2) The average lot width shall be at least 30 feet.
- (3) When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.
- (4) The maximum building coverage shall be 45 percent.
- (5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(7) - (12).

#### **FINDING:**

The proposed lots range in size from 5,000 square feet to 9,012 square feet. With the removal of 16 small lots from the average lot size calculation (per Section 40.055 below), the overall average lot area is 6,502 square feet, which exceeds the minimum of 6,500 square feet per the requirements of subsection (1).

All lots exceed the 30-foot minimum average width in subsection (2).

All lots will have frontage on a public street and will meet the minimum width requirement of subsection (3) of 50 feet on a street and 30 feet around a cul-de-sac bulb.

The homes will meet the lot coverage standard of subsection (4). No more than 45% of any lot will be covered with buildings. This will be verified at time of building permit submission.

Lot 1 and Lot 2 will have frontage on Borland Road, but will access proposed SW 61st Terrace, a proposed local street. Lot 2 will become a flag lot with a pole to proposed SW 61<sup>st</sup> Terrace at least 20 feet wide. This criterion is satisfied with conditions of approval PFR -15 and 53.

#### **V. TDC SECTION 40.055 LOT SIZE FOR GREENWAY AND NATURAL AREA TRACTS AND LOTS.**

(1) The decision authority for partitions and subdivisions may allow one small lot for each 6,500 square feet of Tract created in the subdivision or partition process, provided the following criteria are met:

- (a) Each Tract must be:
  - (i) wholly in the Natural Re-source Protection Overlay (NRPO) District (TDC Chapter 72), or
  - (ii) wholly in an Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan, or
  - (iii) wholly in a Clean Water Services Vegetated Corridor.



- (b) The ownership of each Tract must be one of the following:
  - (i) dedicated to the City at the City's option, or
  - (ii) dedicated in a manner approved by the City to a non-profit conservation organization, or
  - (iii) retained in private ownership by the developer.
- (c) The small lot:
  - (i) Shall be no less than 5,000 square feet and no more than 5,999.99 square feet.
  - (ii) The average lot width shall be at least 30 feet.
  - (iii) The minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.
  - (iv) The maximum building coverage for lots less than 6,000 square feet shall be 45 percent.
  - (v) The subdivision's or partition's density, net of the Tracts, shall not exceed 7.5 dwelling units per acre.

(2) The decision authority for partitions and subdivisions shall consider, but is not limited to, the following factors when determining if TDC 40.055(1)(b)(i - iii) are allowed:

- (a) Does the Park and Recreation Master Plan designate the Tract for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the Tract include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the Tract provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the Tract connect publicly owned or publicly accessible properties;
- (e) Does the Tract abut an existing park, greenway, natural area or other public facility;
- (f) Does the Tract provide a public benefit or serve a public need;
- (g) Does the Tract contain environmental hazards;
- (h) Geologic stability of the Tract; and
- (i) Future maintenance costs for the Tract.

(3) The following shall apply to small lots included in a partition or subdivision pursuant to (1) above:

(a) When a small lot abuts an existing lot in an approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the abutting lot. For example, a new small lot shall be no less than 5,500 square feet if it abuts an existing lot of 6,000 square feet; 5,600 square feet if it abuts an existing lot of 6,100 square feet; 5,700 square feet if it abuts an existing lot of 6,200 square feet; and so on, up to 5,999 square feet if it abuts an existing lot of 6,499 square feet.

(b) When a small lot is directly across a local street from an existing lot in a City approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the lot directly across the street. For purposes of this section, a small lot is directly across the street if one or more of its lot lines, when extended in a straight line across the local street, intersect the property line of the lot across the street.

(c) When a Tract or easement is between a small lot and an existing lot in a City approved and recorded subdivision or partition the small lot shall be separated from the existing lot by at least 50 feet.

(d) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase.

**FINDING:**

The Applicant has proposed a 2.91 acre (127,760 square feet) tract which is wholly in the Natural Resource Overlay District. The Applicant has additionally proposed a 0.96 acre (41,818 square feet) tract for the purpose of the Saum Creek Greenway Trail. The two proposed tracts are to be dedicated to the City at the City's option. For the 168,578 square foot tract dedication, the Applicant is allowed 25 total small lots (168,578 square feet/6,500 square feet = 25.93 lots).

The Applicant has provided 16 small lots with a minimum square footage of 5,000 square feet and a maximum of 5,951 square feet. The average width of the proposed lots will meet the minimum average width of 30 feet. All proposed lots will have street frontage and will meet the minimum frontage requirement of 50 feet on a street and 30 feet around a cul-de-sac bulb. The maximum building coverage will not exceed 45 percent.

The lots proposed for the small lot allowance are lots 10, 33, 36, 41-43, 47-53 and 63-65.

The proposed 79 dwelling units result in a density of 7.0 dwelling units per net residential acre which is below the maximum of 7.5 dwelling units per acre.

The Park and Recreation Master Plan designates the area shown as Tract A as a greenway per subsection (a).

The Park and Recreation Master Plan designates the area shown as Tract B as a pedestrian path per subsection (a).

The applicant understands that based on the criteria of this section, ownership of Tracts A and B shall be determined by the City.

The Applicant is not proposing to locate any small lots abutting an existing lot in an approved or recorded subdivision or partition per subsection (a).

The Applicant is not proposing to locate any small lots directly across a local street from an existing lot in a City approved and recorded subdivision or partition per subsection (b).

The Applicant is not proposing to locate a tract or easement between any small lots and a City approved and recorded subdivision or partition per subsection (c)

The Applicant is not proposing a phased construction of the proposed subdivision (d).

This criterion is satisfied with conditions of approval PFR -43 and 53.

## **VI. TDC SECTION 40.070 SETBACK REQUIREMENTS FOR PERMITTED USES.**

Except as otherwise provided, the setbacks for permitted uses shall be:

- (1) The front yard setback shall be a minimum of 15 feet, except to an unenclosed porch, which shall be 12 feet.
- (2) The setback to a garage door shall be a minimum of 20 feet.
- (3) The side yard setback shall be a minimum of five feet.
- (4) For a corner lot, the following provisions shall apply:
  - (a) one front yard setback shall be a minimum of 15 feet; it shall be determined by the orientation of the structure based on the location of the front door.
  - (b) the second front yard setback shall be a minimum of 10 feet.
- (5) The rear yard setback shall be a minimum of 15 feet.

### **FINDING:**

The plans show general possible footprints of structures with setbacks of 15 feet to the front and rear and 5 for the sides. All setback standards will be met at the time of building permit submittal. This criterion is satisfied with conditions of approval PFR 54.

## **VII. TDC SECTION 40.090 PROJECTIONS INTO REQUIRED YARDS.**

Cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may extend or project into a required front or rear yard setback area not more than three feet and into a required side yard not more than two feet, or into the required open space as established by coverage standards in this chapter.

### **FINDING:**

Future structure projections into yards will be maximum of front or rear yard setback area not more than three feet and into a required side yard not more than two feet. This criterion is satisfied with conditions of approval PFR -55.

## **VIII. TDC SECTION 40.100 STRUCTURE HEIGHT.**

Except as otherwise provided, the maximum structure height is 35 feet.

### **FINDING:**

Future structure heights will be a maximum of 35 feet. This criterion is satisfied with conditions of approval PFR -56.

**I. TDC CHAPTER 72: NATURAL RESOURCE PROTECTION OVERLAY DISTRICT (NRPO)**

**I. TDC SECTION 72.010 PURPOSE.**

(1) To identify and protect by preservation and conservation the designated significant natural resources and Other Natural Areas. The designated significant natural resources are greenways and natural areas, which include the riparian areas and scenic areas of the Tualatin River and certain creeks and drainage swales, wetlands, upland forests, meadows, fish and wildlife resources, and the geologic features of the Tonquin Scablands. Significant Natural Resources are identified on the Significant Natural Resource List and Map TDC 72.013 and Map 72-3, TDC). The significant natural resources designated for protection are shown on Map 72-1, TDC. Other Natural Areas are identified on Figure 3-4 of the Parks and Recreation Master Plan.

(3) To provide public access to scenic and riparian areas, where appropriate, by designating pedestrian and bicycle path locations.

(4) To provide specific design standards for development adjacent to, and within, greenways and natural areas in order to preserve and conserve them, and provide mechanisms for the granting of easements or dedications for Greenways, and Natural Areas while allowing reasonable economic development of property adjacent to the greenways and natural areas.

**FINDING:**

A portion of the project site has been identified in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) Wetland and Natural Areas Inventory Environmental and Social Value Assessment as the location of a portion of Wetland W9. The wetland located on site is a Significant Natural Resource categorized as “high” in Fish Habitat Value, Hydrologic Control, and Water Quality.

The Wetland has been determined to be Significant. This criterion is satisfied.

**II. TDC SECTION 72.013 SIGNIFICANT NATURAL RESOURCES.**

The following natural resource sites identified in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) are Significant Natural Resources:

Unit #	Resource #	Assessors Map and Tax Lot		
S	F9	Interstate 5 Hwy ROW		
S2	F5	21E30A01300 21E30B00200	21E30A01600 21E30B00600	21E30A01700 21E30B00100

**FINDING:**

The project site, tax lot 21E30B00600, has been identified as a natural resource site in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory. This criterion is satisfied.

**III. TDC SECTION 72.020 LOCATION OF GREEN-WAYS AND NATURAL AREAS.**

(1) The designated significant natural resources are the Greenways and Natural Areas on Map 72-1, which shows the general location of the NRPO District. The general locations of Other [n] Natural Areas are shown on the Recreation Resources Map (Figure 3-4) of the Parks and Recreation Master Plan.

(2) Lands in the Wetland Protection District (WPD) are subject to Chapter 71, and other applicable regulations, but not Chapter 72.

**FINDING:**

The southern portion of the project site has been identified on Map 72-1: Natural Resource Protection Overlay District (NRPO) and Greenway Locations as the location of the Saum Creek Greenway, a greenway protected in the NRPO. This criterion is satisfied.

**IV. TDC SECTION 72.030 GREENWAYS.**

(1) Greenways can exhibit diverse characteristics. Those along the Tualatin River and Hedges, Nyberg and Saum Creeks can be natural in some sections and have pedestrian and bike paths in other sections. Greenways in built-up areas such as in subdivisions are typically landscaped with lawn and often include concrete pedestrian/bike paths.

(3) Creek Greenways (NRPO-GC).

(a) Except as provided in Subsections (b-d), the NRPO-GC District shall have a width of 50 feet centered on the centerline of Hedges Creek from SW Ibach Street to the western boundary of the Wetlands Protection District and from the eastern boundary of the Wetlands Protection District to the Tualatin River, and centered on Nyberg Creek from SW Tonka Street to the Tualatin River.

(b) The NRPO-GC District shall have a width of 30 feet centered on the centerline of Nyberg Creek from SW Boones Ferry Road to SW Tonka Street.

(c) Property owners on opposite sides of a creek may enter into a written agreement to allow the NRPO-GC District to be off-center, but in no case shall it be less than 15 feet on one side of the creek. Such agreement shall be binding on property owners, their heirs and assigns; shall be approved by City Council and shall be placed on permanent file with the City Recorder.

(d) The NRPO-GC District shall have a width of 50 feet extending out from the top of the stream bank or from the upland edge of wetlands within the stream riparian area on the following creek sections:

(i) Hedges Creek from SW 105th Avenue downstream to the private driveway culvert at the upper end of the fire pond at Tri-County Industrial Park,

(ii) Hedges Creek from the fire pond dam's outlet at Tri-County Industrial Park downstream to SW Tualatin-Sherwood Road, and

(iii) Saum Creek beginning east of I-5, just north of I-205 extending downstream to the Tualatin River, except:

(A) a width of 25 feet extending out from the upland edge of wetlands in the stream riparian area for the severely constrained properties shown on Map 72-1, and

(B) to the upland edge of the wetland in the stream riparian area adjacent to existing developed residential properties west of Atfalati Park shown on Map 72-1.

**FINDING:**

This site contains a portion of the area designated as the Saum Creek Greenway. This criterion is satisfied.

**V. TDC SECTION 72.060 DEVELOPMENT RESTRICTIONS IN GREENWAYS AND NATURAL AREAS.**

(1) Except as provided in Subsection (2), no building, structure, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development shall occur within Riverbank, Creek and Other Greenways, and Wetland and Open Space Natural Areas.

(2) The following uses, activities and types of development are permitted within Riverbank, Creek and Other Greenways, and Wetland and Open Space Natural Areas provided they are designed to minimize intrusion into riparian areas:

(a) Public bicycle or pedestrian ways, subject to the provisions of TDC 72.070.

(b) Public streets, including bridges, when part of a City approved transportation plan, and public utility facilities, when part of a City approved plan and provided appropriate restoration is completed.

(c) Except in Wetland Natural Areas, private driveways and pedestrian ways when necessary to afford access between portions of private property that may be bisected by a Greenway or Open Space Natural Area.

(d) Except in Creek Greenways and Wetland Natural Areas, outdoor seating for a restaurant within the Central Urban Renewal District, but outside of any sensitive area or its vegetated corridor.

(e) Public parks and recreational facilities including, but not limited to, boat ramps, benches, interpretive stations, trash receptacles and directional signage, when part of a City-approved Greenway or Natural Area enhancement plan.

(f) Landscaping, when part of a landscape plan approved through the Architectural Review process. City initiated landscape projects are exempt from the Architectural Review process. Landscaping in Greenways and Natural Areas shall comply with the approved Plant List in the Parks and Recreation Master Plan. When appropriate, technical advice shall be obtained from the Oregon Department of Fish and Wildlife, U.S. Soil Conservation Service, or similar agency, to ensure the proposed landscaping will enhance the preservation of any existing fish or wildlife habitats in the vicinity.

(g) Wildlife protection and enhancement, including the removal of non-native vegetation and replacement with native plant species.

(h) Except in Wetland Natural Areas, public boating facilities, irrigation pumps, water-related and water-dependent uses including the removal of vegetation necessary

for the development of water-related and water-dependent uses, and replacement of existing structures with structures in the same location that do not disturb additional riparian surface.

(i) In Wetland Natural Areas, perimeter mowing and other cutting necessary for hazard prevention.

(3) The City may, through the subdivision, conditional use, architectural review, or other development approval process, attach appropriate conditions to approval of a development permit. Such conditions may include, but are not limited to:

- (a) Use of Greenways and Natural Areas for storm drainage purposes;
- (b) Location of approved landscaping, pedestrian and bike access areas, and other non-building uses and activities in Greenways and Natural Areas;
- (c) Setback of proposed buildings, parking lots, and loading areas away from the Greenway and Natural Area boundary.

(4) Greenways and Natural Areas in which an access easement is owned by the City, but retained in private ownership, shall be maintained by the property owner in their natural state and may only be modified if a landscape and maintenance plan complies with the approved Plant List in the Parks and Recreation Master Plan, and has been approved through the Architectural Review process or by the Parks and Recreation Director when Architectural Review is not required.

(5) The Parks and Recreation Director shall be included as a commentor when a development application proposes dedication of Greenway or Natural Area property to the City or when development is proposed on Greenway or Natural Areas property maintained by the Parks and Recreation Department.

#### **FINDING:**

The Applicant is not proposing any buildings, structures, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development within the Greenway and Wetland. There are no proposed pedestrian ways that connect to the trail across wetlands or open space. The wetland and associate buffer is shown in a separate tract than the one for greenway and trail purposes.

In order to minimize intrusion into the riparian area, the proposed pathway will be constructed as detailed in Section 72.070, below. This criterion is satisfied.

#### **VI. TDC SECTION 72.070 GENERAL GUIDELINES FOR PEDESTRIAN AND BIKE PATHS IN GREENWAYS.**

To construct bike and pedestrian paths in greenways, the developer of the path shall adhere to the following guidelines, wherever practicable:

- (1) Incorporate trails into the surrounding topography.
- (2) Provide viewing opportunities for special vistas, wetlands, and unique natural features.

(3) Protect existing vegetation to the greatest extent possible. In wooded areas meander paths through the woods to avoid significant trees. An arborist should be consulted to determine methods for minimizing impact of construction of paths near trees greater than 5 inch caliper as measured 4 feet above-grade.

(4) Replant trees in the vicinity where they were removed. Use native species as outlined in the approved plant list incorporated in the Parks and Recreation Master Plan.

(5) Minimize impact on wetland environments. Build paths above wetlands wherever possible. Use boardwalks, bridges or other elevated structures when passing through a wetland. Direct trails away from sensitive habitat areas such as nesting or breeding grounds.

(6) Provide interpretive opportunities along the trail. Use interpretive signage and displays to describe plant and animal species, nesting areas, wildlife food sources, and geologic, cultural and historic features.

(7) Provide amenities along the trail. Place benches, picnic tables, trash receptacles and interpretive signage where appropriate.

(8) Where paths are placed in utility corridors, path design should be coordinated with the City's Engineering and Building Department and Operations Department to allow utility maintenance.

(9) Mitigate surface water drainage near wetlands and streams. Where hard surface trails occur adjacent to wetlands or creeks, provide, when appropriate, an open water system through swales, trench percolation, or on-site detention ponds to prevent erosion and negative impacts.

(10) Incorporate signage. Place properly scaled and sited regulatory and guide signs to instruct users on accessibility, local conditions, safety concerns and mileage information.

#### **FINDING:**

The City's Parks and Transportation System plans indicate that an extension of the Saum Creek trail will ultimately be constructed adjacent to Saum Creek, along the Southern boundary of the property. The applicant has created a tract on the preliminary plat which would provide a location and alignment for the extension of the trail and will enter into an Improvement Agreement substantially like the attached draft Saum Creek Greenway Improvement Agreement. This criterion is satisfied with conditions of approval PFR -45.

#### **VII. TDC SECTION 72.080 SHIFT OF DENSITY FOR RESIDENTIAL DEVELOPMENT ADJACENT TO GREENWAYS OR NATURAL AREAS.**

(2) Small lots may be allowed in subdivisions and partitions in accordance with TDC 40.055 (RL District).



**FINDING:**

The applicant has provided responses for Section 40.055 (RL District) as a part of this narrative and the requirements are addressed in this decision. Sixteen (16) small lots are proposed in accordance with Section 40.055. This criterion is satisfied.

**VIII. TDC SECTION 72.100 PARKS SYSTEMS DEVELOPMENT CHARGE (SDC) CREDIT.**

Ordinance 833-91 establishes a System Development Charge for Parks in residential planning districts. The ordinance contains provisions for credits against the Parks SDC, subject to certain limitations and procedures. Credit may be received up to the full amount of the Parks SDC fee. Dedication of NRPO District Areas, Other Natural Areas or vegetated corridors located within or adjacent to the NRPO District listed in the SDC capital improvement list are eligible for a SDC credit. Dedication and improvement of bicycle and pedestrian paths may also be eligible for a SDC credit.

**FINDING:**

The Applicant may seek Parks SDC credits if required to construct a portion of the proposed Saum Creek Greenway pedestrian path.

This criterion is satisfied with conditions of approval PFR -50.

**IX. TDC SECTION 72.110 EASEMENTS FOR PEDESTRIAN AND BICYCLE ACCESS.**

In any portion of the NRPO District, the City may, through the subdivision, partition, conditional use, architectural review, or other applicable development approval process, require that easements for pedestrian and bicycle access and maintenance uses be granted as a condition of approval when said easements are necessary to achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan, or Bikeways Plan.

**FINDING:**

As the NRPO is within a designated tract, further easements are unnecessary to achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan and Bikeways Plan. The applicant will convey Tracts A and B by statutory warranty deed and execute and record Greenway easements covering the connecting pathway over the public sanitary sewer easement between Lots 69 and 70 prior to final plat approval.

This criterion is satisfied with conditions of approval PFR -43.

**J. TDC CHAPTER 73: COMMUNITY DESIGN STANDARDS**

**I. TDC SECTION 73.250 TREE PRESERVATION.**

(1) Trees and other plant materials to be retained shall be identified on the landscape plan and grading plan.

(2) During the construction process:

(a) The owner or the owner's agents shall provide above and below ground protection for existing trees and plant materials identified to remain.

(b) Trees and plant materials identified for preservation shall be protected by chain link or other sturdy fencing placed around the tree at the drip line.

(c) If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist as defined in TDC 31.060.

(d) Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.

(e) Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment shall only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met.

(f) Tree root ends shall not remain exposed.

(3) Landscaping under preserved trees shall be compatible with the retention and health of said tree.

(4) When it is necessary for a preserved tree to be removed in accordance with TDC 34.210 the landscaped area surrounding the tree or trees shall be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, nearby landscape materials. Native trees are encouraged

(5) Pruning for retained deciduous shade trees shall be in accordance with National Arborist Association "Pruning Standards For Shade Trees," revised 1979.

(6) Except for impervious surface areas, one hundred percent (100%) of the area preserved under any tree or group of trees retained in the landscape plan (as approved through the Architectural Review process) shall apply directly to the percentage of landscaping required for a development.

**FINDING:**

The applicant submitted a Tree Protection and Removal Plan (Sheet C105-C109) that identifies the locations of all trees on site eight inches or more in diameter. The CWS required easement boundary has been identified on the tree plan. Trees proposed for removal have also been identified. A tree assessment has been prepared and provided with this application.

The trees that are being proposed for removal as a part of this Subdivision Review are being removed to accommodate the construction of the proposed improvements for the subdivision plan. All tree removal is detailed in the included Arborist's report, as well as sheets C105 through C109. All proposed tree removal is necessary to construct the proposed improvements associated with the subdivision.

Trees in the Sequoia Ridge Natural Area shall be protected throughout construction. Applicant shall grant a conservation easement to preserve trees along east property lines of Tract F and Lot 79. City will accept a dedication of Tract F as Natural Area, if applicant plants it in northwest native trees, shrubs, and ground cover. There would be no compensation for the dedication of Tract F.

This criterion is satisfied with conditions of approval PFR -1, 10, and 46.

## **II. TDC SECTION 73.270 GRADING.**

(1) After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.

(2) All planting areas shall be graded to provide positive drainage.

(3) Neither soil, water, plant materials nor mulching materials shall be allowed to wash across roadways or walkways.

(4) Impervious surface drainage shall be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas except where the landscape area is a water quality facility.

### **FINDING:**

The applicant has submitted plans showing erosion control on sheets C116 to C119 for an area of approximately 20.9 acres. This criterion is satisfied with conditions of approval PFR -5 and 6.

## **III. TDC SECTION 73.280 IRRIGATION SYSTEM REQUIRED.**

Except for townhouse lots, landscaped areas shall be irrigated with an automatic underground or drip irrigation system.

### **FINDING:**

The plans indicate a water meter and splitting the water service in the planter strip for each lot, but don't clearly indicate that the landscaped areas will be irrigated. Irrigation is needed per TDC. This criterion is met with conditions of approval PFR -59.

## **TDC Section 73.370 Off-Street Parking and Loading.**

(2) Off-Street Parking Provisions.

(a) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City

USE	MINIMUM MOTOR VEHICLE PARKING REQUIREMENT	MAXIMUM MOTOR VEHICLE PARKING REQUIREMENT	BICYCLE PARKING REQUIREMENT	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
<u>Residential Uses:</u>				
(i) Detached single-family dwelling, residential home, residential facilities (located in low density (RL) planning districts) Townhouse	2.00 vehicle parking spaces per dwelling unit, residential home or residential facility (stalls or spaces within a residential garage not included, except as approved in Architectural Review).	None	None Required	N/A

#### **FINDING:**

Future permits for building construction will show 2 onsite parking spaces per lot. This criterion is met with conditions of approval PFR -57.

#### **IV. TDC SECTION 73.400 ACCESS.**

(2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designated in this code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.

##### **(3) Joint and Cross Access.**

(b) A system of joint use driveways and cross access easements may be required and may incorporate the following:

(i) a continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.

(ii) a design speed of 10 mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;

(iii) stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive;

(iv) a unified access and circulation system plan for coordinated or shared parking areas.

(c) Pursuant to this section, property owners may be required to:

(i) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

(ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

(iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners;

(5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Engineer.

**FINDINGS:**

Lot 1 and Lot 2 will have frontage on SW Borland Road, a minor arterial. Motor vehicle access for lot 2 will be provided via a flag pole at least 20 feet wide to proposed SW 61st Terrace, a proposed local road. The 20-foot width will allow for a minimum 10-foot wide driveway with 5-foot setbacks to the property lines. This criterion is satisfied with conditions of approval PFR -15.

(6) Except as provided in TDC 53.100, all ingress and egress shall connect directly with public streets.

**FINDINGS:**

All lots shown on the Applicants plan have vehicular and pedestrian ingress and egress from private property to the public streets. This criterion is met.

(8) To afford safe pedestrian access and egress for properties within the City, a sidewalk shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design and in a manner approved by the City Engineer. Sidewalks approved by the City Engineer may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.

**FINDINGS:**

The proposed development will provide sidewalks along all street frontages, as shown on the attached Site Plan (Sheet C200). All proposed sidewalks will be constructed to City Standards. All shown sidewalks are of widths that meet standards, within right-of-way, and connect to any existing adjacent sidewalks. This criterion is satisfied.

(9) The standards set forth in this Code are minimum standards for access and egress, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

(10) Minimum access requirements for residential uses:

(a) Ingress and egress for single-family residential uses, including townhouses, shall be paved to a minimum width of 10 feet. Maximum driveway widths shall not exceed 26 feet for one and two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths shall be measured at the property line....

**FINDINGS:**

Future building permits for each lot will show driveways widths a minimum of 10 feet wide and with a maximum for 26 feet for one or two car garages and 37 for three or more. This criterion is satisfied with conditions of approval PFR -58.

(11) Minimum Access Requirements for Commercial, Public and Semi-Public Uses.

...In all other cases, ingress and egress for commercial uses shall not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, Etc.
1-99	1	32 feet for first 50 feet from ROW, 24' thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24' thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Engineer	As required by City Engineer	As required by City Engineer

(13) One-way Ingress or Egress.

When approved through the Architectural Review process, one-way ingress or egress may be used to satisfy the requirements of Subsections (7), (8), and (9). However, the hard surfaced pavement of one-way drives shall not be less than 16 feet for multi-family residential, commercial, or industrial uses.

**FINDINGS:**

No one way ingress or egress is shown. This criterion is satisfied.

(14) Maximum Driveway Widths and Other Requirements.

(a) Unless otherwise provided in this chapter, maximum driveway widths shall not exceed 40 feet.

(b) Except for townhouse lots, no driveways shall be constructed within 5 feet of an adjacent property line, except when two adjacent property owners elect to provide joint access to their respective properties, as provided by Subsection (2).

(c) There shall be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Engineer.

(15) Distance between Driveways and Intersections.

Except for single-family dwellings, the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection.

(a) At the intersection of collector or arterial streets, driveways shall be located a minimum of 150 feet from the intersection.

(b) At the intersection of two local streets, driveways shall be located a minimum of 30 feet from the intersection.

(c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line as required by TDC 73.400(14)(b).

(d) When considering a public facilities plan that has been submitted as part of an Architectural Review plan in accordance with TDC 31.071(6), the City Engineer may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision. The written approval shall be incorporated into the decision of the City Engineer for the utility facilities portion of the Architectural Review plan under the process set forth in TDC 31.071 through 31.077.

### **FINDINGS:**

The Applicant is not proposing commercial use as a part of this development. The Applicant understands and acknowledges that the standards in this code are minimum standards for access and egress and they may be increased through the Architectural Review process. With construction of SW Sagert Street two 24-foot wide driveways for Tualatin Professional Center and one 24-foot wide driveway for MEI, both commercial uses, with access easement over Tract E are shown on the plan sheet C121. The west access for Tualatin Professional Center is approximately 75 feet from the intersection of SW 65<sup>th</sup> Avenue and SW Sagert Street and therefore access restricted to right-in/right-out as supported by the submitted Transportation Impact Analysis by Kittelson and Associates. The other two accesses are greater than 150 feet from the intersection and are not restricted. All accesses are greater than 30 feet from a intersection with a local street. For both lots, one access to each lot will need to be at least 32-feet wide. The access easement for MEI will need to match the width of the access. This criterion is satisfied with conditions of approval PFR -16.

#### **(16) Vision Clearance Area.**

(a) Local Streets - A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 10 feet from the intersection point of the right-of-way lines, as measured along such lines (see Figure 73-2 for illustration).

(b) Collector Streets - A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area shall be 10 feet (see Figure 73-2 for illustration).

(c) Vertical Height Restriction - Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular

parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction shall be permitted between 30 inches and 8 feet above the established height of the curb in the clear vision area (see Figure 73-2 for illustration).

**FINDINGS:**

The Applicant has illustrated the required vision clearance area triangle for each proposed intersection on the submitted plans and Figure 1 and Figure 2 submitted under Appendix F. All required vision clearance areas will be maintained. This criterion is satisfied.

(17) Major driveways, as defined in 31.060, in new residential and mixed-use areas are required to connect with existing or planned streets except where prevented by topography, rail lines, freeways, pre-existing development or leases, easements or covenants, or other barriers.

**FINDINGS:**

No major driveways are proposed. This criterion is satisfied.

**K. TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS**

**I. TDC SECTION 74.120 PUBLIC IMPROVEMENTS.**

(1) Except as specially provided, all public improvements shall be installed at the expense of the applicant. All public improvements installed by the applicant shall be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. No work shall be undertaken on any public improvement until after the construction plans have been approved by the City Engineer and a Public Works Permit issued and the required fees paid.

**FINDINGS:**

A conceptual land use plan set has been submitted to show the proposed public water, sanitary sewer, and storm drainage facilities meeting City requirements to serve the proposed development. The public improvements additionally include public streets and trail with connections to public streets. This criterion is satisfied with conditions of approval PFR -39 and 48.

**TDC Section 74.130 Private Improvements.**

All private improvements shall be in-stalled at the expense of the applicant. The property owner shall retain maintenance responsibilities over all private improvements.

**FINDINGS:**

Onsite improvements related to relocating Tualatin Professional Center's parking lot out of public right-of-way as well as the masonry fences required in TDC 34.32-340 are private improvements. This criterion is satisfied with conditions of approval PFR -16 and 51.



## **II. TDC SECTION 74.140 CONSTRUCTION TIMING.**

(1) All the public improvements required under this chapter shall be completed and accepted by the City prior to the issuance of a Certificate of Occupancy; or, for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

(2) All private improvements required under this chapter shall be approved by the City prior to the issuance of a Certificate of Occupancy; or for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

### **FINDINGS:**

The Applicant acknowledges the procedural requirements of this section. This criterion is satisfied with conditions of approval PFR -49.

## **III. TDC SECTION 74.210 MINIMUM STREET RIGHT-OF-WAY WIDTHS.**

The width of streets in feet shall not be less than the width required to accommodate a street improvement needed to mitigate the impact of a proposed development. In cases where a street is required to be improved according to the standards of the TDC, the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G.

(1) For subdivision and partition applications, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G shall be shown on the final subdivision or partition plat prior to approval of the plat by the City. This right-of-way dedication shall be for the full width of the property abutting the roadway and, if required by the City Engineer, additional dedications shall be provided for slope and utility easements if deemed necessary.

(3) For development applications that will impact existing streets not adjacent to the applicant's property, and to construct necessary street improvements to mitigate those impacts would require additional right-of-way, the applicant shall be responsible for obtaining the necessary right-of-way from the property owner. A right-of-way dedication deed form shall be obtained from the City Engineer and upon completion returned to the City Engineer for acceptance by the City. On subdivision and partition plats the right-of-way dedication shall be accepted by the City prior to acceptance of the final plat by the City. On other development applications the right-of-way dedication shall be accepted by the City prior to issuance of building permits. The City may elect to exercise eminent domain and condemn necessary off-site right-of-way at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.

(4) If the City Engineer deems that it is impractical to acquire the additional right-of-way as required in subsections (1)-(3) of this section from both sides of the center-line in equal amounts, the City Engineer may require that the right-of-way be dedicated in a manner that would result in unequal dedication from each side of the road. This

requirement will also apply to slope and utility easements as discussed in TDC 74.320 and 74.330. The City Engineer's recommendation shall be presented to the City Council in the preliminary plat approval for subdivisions and partitions, and in the recommended decision on all other development applications, prior to finalization of the right-of-way dedication requirements.

#### **FINDINGS:**

The submitted plans show a modified collector section for SW Sagert Street between proposed SW 63rd Avenue and the Sequoia Ridge including 32 feet of paved width, 6 foot planter strip and 5 foot sidewalks in either direction. The modified collector section is designed to transition SW Sagert Street to the residential uses found within the proposed development and within Sequoia Ridge to the east. The right-of-way width varies from 70.5 to 50 feet, narrowing to assist in traffic speed reduction and match existing street cross-sections. The transition and meander of SW Sagert Street south of PGE's lot is due to high power transmission line guy wires for existing poles. Relocation of guy wires to continue a wider and straighter path would require replacement of existing poles with new steel poles. The applicant worked towards a successful solution of PGE proposing to dedicate adequate right-of-way to include a planter strip and sidewalk to resemble our standard cross-section in exchange of continuing to allow PGE interim access to SW Borland Avenue for their maintenance vehicles.

The Tualatin TSP designates SW 65th Avenue as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 29 foot ROW dedication along 65th, for a total half-street width of 47 feet. Proposed improvements include construction of a 12 foot center turn lane, as well as improving the east side of the street by widening the travel lane to 12 feet, constructing a 6 foot bike lane, a 7 foot planter strip, a 12 foot sidewalk and a 6 foot shoulder. The City Engineer determined this as an acceptable cross-section as it allows for construction of a modified cross-section south of SW Sagert Street to not adversely affect Atfalati Park and greenway to the south of the park. The cross-section reduces the major arterial cross-section from 5 to 3 lanes, but includes a 12-foot wide sidewalk on the east side as part of the connectivity between the Saum Creek Greenway Path to Tualatin River. The City believes this modification will not reduce Levels Of Service below code standards per the submitted traffic impact analysis.

The Tualatin TSP designates SW Borland Street as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 24 foot right-of-way dedication along Borland, for a total half-street width of 40.9 feet. Proposed improvements include widening the center turn lane to 11.7 feet, as well as improving the south side of the street by maintaining a 10 foot travel lane, constructing a 4.2 foot bike lane, 5 foot planter strip, 5 foot sidewalk and 14.7 foot landscaping area. The City Engineer determined this as an acceptable cross-section as it matches the width of right-of-way and street construction adjacent to Sequoia Ridge subdivision to the east, which doesn't encroach on a row of protected sequoia trees. The City believes this modification will not reduce Levels Of Service below code standards per the submitted traffic impact analysis.

In each of these cross-sections, unequal dedication is needed. This criterion is met.

(5) Whenever a proposed development is bisected by an existing or future road or street that is of inadequate right-of-way width according to TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G, additional right-of-way shall be dedicated from both sides or from one side only as determined by the City Engineer to bring the road right-of-way in compliance with this section.

**FINDINGS:**

The Tualatin TSP designates SW 65th Avenue as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 29 foot ROW dedication along 65th, for a total half-street width of 47 feet. Proposed improvements include construction of a 12 foot center turn lane, as well as improving the east side of the street by widening the travel lane to 12 feet, constructing a 6 foot bike lane, a 7 foot planter strip, a 12 foot sidewalk and a 6 foot shoulder. The City Engineer determined this as an acceptable cross-section as it allows for construction of a modified cross-section south of SW Sagert Street to not adversely affect Atfalati Park and greenway to the south of the park. The cross-section reduces the major arterial cross-section from 5 to 3 lanes, but includes a 12-foot wide sidewalk on the east side as part of the connectivity between the Saum Creek Greenway Path to Tualatin River. The City believes this modification will not reduce Levels of Service below code standards per the submitted traffic impact analysis.

The Tualatin TSP designates SW Borland Street as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 24 foot right-of-way dedication along Borland, for a total half-street width of 40.9 feet. Proposed improvements include widening the center turn lane to 11.7 feet, as well as improving the south side of the street by maintaining a 10 foot travel lane, constructing a 4.2 foot bike lane, 5 foot planter strip, 5 foot sidewalk and 14.7 foot landscaping area. The City Engineer determined this as an acceptable cross-section as it matches the width of right-of-way and street construction adjacent to Sequoia Ridge subdivision to the east, which doesn't encroach on a row of protected sequoia trees. The City believes this modification will not reduce Levels Of Service below code standards per the submitted traffic impact analysis.

(6) When a proposed development is adjacent to or bisected by a street proposed in TDC Chapter 11, Transportation Plan (Figure 11-3) and no street right-of-way exists at the time the development is proposed, the entire right-of-way as shown in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G shall be dedicated by the applicant. The dedication of right-of-way required in this subsection shall be along the route of the road as determined by the City.

**FINDINGS:**

The 2013 Tualatin Transportation System Plan designates SW Sagert Street as a "Minor Arterial" west SW 65th Avenue and as a "Minor Collector" where it extends through the property. According to the TSP Figure 2 and Table 3, the preferred width for a Collector Street is a 76-foot wide right-of-way.

The existing ROW of Sagert Street between SW 65th Avenue and SW Wampanoag Drive is 78 feet in width. As shown on the submitted plans, proposed improvements between SW 65th Avenue and Wampanog Drive include widening the center turn lane to 12 feet, providing a 12 foot travel lanes in each direction, a 5 foot bike lane on the south side and a 4.9 foot wide bike lane on the north side, a 5.5 foot sidewalk on both sides of the street, 3.5 feet of landscaping on the south side and 17.5 feet of landscaping on the north side.

The Tualatin TSP designates the necessity to extend Sagert Street through the proposed development from SW 65th Avenue to the Sequoia Ridge subdivision to the east.

As shown on the submitted plans, the roadway improvements for SW Sagert Street between SW 65th Avenue and the proposed SW 63rd Terrace include a 12 foot center turn lane, 12 foot travel lanes in either direction, 6 foot bike lanes in either direction, 6 foot planter strip and 5 foot sidewalks in either direction. Right-of-way width varies due to existing development constraints north of the proposed development from 70.5 feet to 75 feet.

The Tualatin TSP designates SW 65th Avenue as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 29 foot ROW dedication along 65th, for a total half-street width of 47 feet. Proposed improvements include construction of a 12 foot center turn lane, as well as improving the east side of the street by widening the travel lane to 12 feet, constructing a 6 foot bike lane, a 7 foot planter strip, a 12 foot sidewalk and a 6 foot shoulder.

The Tualatin TSP designates SW Borland Street as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 24 foot right-of-way dedication along Borland, for a total half-street width of 40.9 feet. Proposed improvements include widening the center turn lane to 11.7 feet, as well as improving the south side of the street by maintaining a 10 foot travel lane, constructing a 4.2 foot bike lane, 5 foot planter strip, 5 foot sidewalk and 14.7 foot landscaping area.

New public streets within the development will have a 50-foot right-of-way with 32 feet of improvements from curb to curb. A 5 foot sidewalk and a 4 foot wide planter strip will be provided from the edge of the curb.

Washington County has jurisdiction of the west half of SW 65<sup>th</sup> Avenue. Clackamas County has jurisdiction of the east half of SW 65<sup>th</sup> Avenue and the entirety of SW Borland Road. SW Sagert Street plus all the proposed local streets are the jurisdiction of the City of Tualatin. Clackamas and Washington County submitted attached memorandums with requirements dated October 1, 2015 and October 8, 2015, respectively. The applicant will need to complete the requirements of both County's memorandums.

The plans show a 12-foot wide sidewalk on the east side SW 65<sup>th</sup> Avenue at the south end of the development extending to SW 65<sup>th</sup> Avenue. It is not clear that this is only for

bicycle entrance from SW 65<sup>th</sup> Avenue as there is no crosswalk for pedestrian safety. The plans will show that this is for a bicycle entrance from SW 65<sup>th</sup> Avenue only and include a pedestrian barrier with appropriate tapering per AASTO code. The sidewalk should extend as far south to the property line as possible.

The plans show a sidewalk for SW Borland Road. On the west side it connects to the street which is unsafe. The sidewalk should connect across PGE's lot to the existing sidewalk to the west for safe connectivity.

This criterion is satisfied with conditions of approval PFR – 17, 18, 19, 20, and 21.

#### **IV. TDC SECTION 74.310 GREENWAY, NATURAL AREA, BIKE, AND PEDESTRIAN PATH DEDICATIONS AND EASEMENTS.**

(1) Areas dedicated to the City for Greenway or Natural Area purposes or easements or dedications for bike and pedestrian facilities during the development application process shall be surveyed, staked and marked with a City approved boundary marker prior to acceptance by the City.

(2) For subdivision and partition applications, the Greenway, Natural Area, bike, and pedestrian path dedication and easement areas shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

#### **FINDINGS:**

The areas proposed as dedication to the City for Greenway or Natural Area purposes have been surveyed, and will be staked and marked with a City approved boundary marker, per the requirements of subsection (1).

The areas proposed as dedication to the City for Greenway, Natural Area, bike and pedestrian path dedication and easement areas have been shown to be dedicated to the City on the final subdivision plat, per the requirements of subsection (2). This criterion is satisfied with conditions of approval PFR -42 and 43.

#### **V. TDC SECTION 74.330 UTILITY EASEMENTS.**

(1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities shall be granted to the City.

(2) For subdivision and partition applications, the on-site public utility easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; and

(3) For subdivision and partition applications which require off-site public utility easements to serve the proposed development, a utility easement shall be granted to the City prior to approval of the final plat by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.

(5) The width of the public utility easement shall meet the requirements of the Public Works Construction Code. All subdivisions and partitions shall have a 6-foot public utility easement adjacent to the street and a 5-foot public utility easement adjacent to all side and rear lot lines.

**FINDINGS:**

A 6-ft wide public utility easement (PUE) is indicated on the submitted plat along the frontage of each lot. A 15-foot wide sanitary sewer and public access easement is shown between lots 69 and 70 to provide access to an existing sanitary manhole. An access and utility easement is shown on lot 1 access and utility service for lot 2 will not be needed as there will be a flag for lot 2 to proposed SW 61<sup>st</sup> Terrace. All easements will meet city dimensional requirements and be shown on the final recorded plat.

5-foot wide public utility easements will be needed at the sides and rear of all lots. 15-foot wide public easements are needed for public sanitary sewer and/or stormwater lines over private property. This criterion is satisfied with conditions of approval PFR -22 and 42.

**VI. TDC SECTION 74.340 WATERCOURSE EASEMENTS.**

(1) Where a proposed development site is traversed by or adjacent to a watercourse, drainage way, channel or stream, the applicant shall provide a storm water easement, drainage right-of-way, or other means of preservation approved by the City Engineer, conforming substantially with the lines of the watercourse. The City Engineer shall determine the width of the easement, or other means of preservation, required to accommodate all the requirements of the Surface Water Management Ordinance, existing and future storm drainage needs and access for operation and maintenance.

(2) For subdivision and partition applications, any watercourse easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, any watercourse easement shall be executed on a dedication form submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the easement by the City.

(4) The storm water easement shall be sized to accommodate the existing water course and all future improvements in the drainage basin. There may be additional requirements as set forth in TDC Chapter 72, Greenway and Riverbank Protection District, and the Surface Water Management Ordinance. Water quality facilities may require additional easements as described in the Surface Water Management Ordinance.

**FINDINGS:**

Tracts are provided which contain a portion of Saum Creek, as well as the associated buffer area and future pedestrian path. Easements are not necessary as the tracts provide the necessary protection and preservation of the watercourse. This criterion is satisfied with conditions of approval PFR -43.

## **VII. TDC SECTION 74.350 TRACTS.**

A dedicated tract or easement will be required when access to public improvements for operation and maintenance is required, as determined by the City Engineer. Access for maintenance vehicles shall be constructed of an all-weather driving surface capable of carrying a 50,000-pound vehicle. The width of the tract or easement shall be 15-feet in order to accommodate City maintenance vehicles. In subdivisions and partitions, the tract shall be dedicated to the City on the final plat. In any other development, an access easement shall be granted to the City and recorded prior to issuance of a building permit.

### **FINDINGS:**

A proposed Water Quality Tract is located adjacent to SW 65th Avenue, in the southwest corner of the Subject Property. Because it can be accessed directly from a public street, no easement is required to allow access for operation and maintenance.

An additional public water quality facility is shown within Tract B, intended to be provided for a greenway trail. The public water quality facility will be in a separate tract, and will be accessible from a public street via Tract D and B. No public stormwater easement is needed to cross the greenway tract for maintenance activities. Tract D will be dedicated for stormwater maintenance access.

The driving surface for maintenance vehicles are shown to be of asphalt and extend appropriately to be 5-feet beyond the public sanitary sewer manhole at the southwest corner of the project, but made of concrete end prior to the stormwater manholes prior to the public water quality facilities. Surfaces need to extend to the public water quality facilities. These surfaces will be concrete and constructed according to the Public Works Construction Code. This criterion is satisfied with conditions of approval PFR -23, 24, and 42.

## **VIII. TDC SECTION 74.410 FUTURE STREET EXTENSIONS.**

(1) Streets shall be extended to the proposed development site boundary where necessary to:

- (a) give access to, or permit future development of adjoining land;
- (b) provide additional access for emergency vehicles;
- (c) provide for additional direct and convenient pedestrian, bicycle and vehicle circulation;
- (d) eliminate the use of cul-de-sacs except where topography, barriers such as railroads or freeways, existing development, or environmental constraints such as major streams and rivers prevent street extension.
- (e) eliminate circuitous routes. The resulting dead end streets may be approved without a turnaround. A reserve strip may be required to preserve the objectives of future street extensions.

(2) Proposed streets shall comply with the general location, orientation and spacing identified in the Functional Classification Plan (Figure 11-1), Local Streets Plan (TDC 11.630 and Figure 11-3) and the Street Design Standards (Figures 74-2A through 74-2G).

(a) Streets and major driveways, as defined in TDC 31.060, proposed as part of new residential or mixed residential/commercial developments shall comply with the following standards:

(i) full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers;

(ii) bicycle and pedestrian accessway easements where full street connections are not possible, with spacing of no more than 330 feet, except where prevented by barriers;

(iii) limiting cul-de-sacs and other closed-end street systems to situations where barriers prevent full street extensions; and

(iv) allowing cul-de-sacs and closed-end streets to be no longer than 200 feet or with more than 25 dwelling units, except for streets stubbed to future developable areas.

(3) During the development application process, the location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. The arrangement of streets in a subdivision shall either:

(a) provide for the continuation or appropriate projection of existing streets into surrounding areas; or

(b) conform to a street plan approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.

(4) The City Engineer may require the applicant to submit a street plan showing all existing, proposed, and future streets in the area of the proposed development.

(5) The City Engineer may require the applicant to participate in the funding of future off-site street extensions when the traffic impacts of the applicant's development warrant such a condition.

#### **FINDINGS:**

The Applicant proposes an east-west extension of SW Sagert Street that will extend between SW 65th Avenue and the Sequoia Ridge neighborhood to the east to provide connectivity. The Applicant also proposes the creation of a new north-south connection that will extend onto Borland Road to provide additional connectivity. A traffic study is included with this application detailing the proposed street extensions. The proposed streets all comply with the general location, orientation and spacing identified in the Functional Classification Plan, Local Streets Plan and Street Design Standards.

Full street connections are spaced less than 530 feet between connections. In addition to meeting this requirement, two bicycle and pedestrian accessways within Tracts will be dedicated to the City at the southeast and southwest corners of the development for access to the Saum Creek Greenway Trail. No cul-de-sacs or dead end streets are proposed and the extension of SW Sagert Street eliminates an existing dead end street.

This criterion is satisfied.



## **IX. TDC SECTION 74.420 STREET IMPROVEMENTS.**

When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under TDC 74.220, the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan (TDC Chapter 11), TDC 74.425 (Street Design Standards), and the City's Public Works Construction Code, subject to the following provisions:

(1) For any development proposed within the City, roadway facilities within the right-of-way described in TDC 74.210 shall be improved to standards as set out in the Public Works Construction Code.

(2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.

(3) The required improvements may include the construction or rebuilding of off-site improvements which are identified to mitigate the impact of the development.

(4) Where development abuts an existing street, the improvement required shall apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Engineer to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement shall connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.

(5) If additional improvements are required as part of the Access Management Plan of the City, TDC Chapter 75, the improvements shall be required in the same manner as the half-street improvement requirements.

(6) All required street improvements shall include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.

(7) For subdivision and partition applications, the street improvements required by TDC Chapter 74 shall be completed and accepted by the City prior to signing the final subdivision or partition plat, or prior to releasing the security provided by the applicant to assure completion of such improvements or as otherwise specified in the development application approval.

(10) Streets within, or partially within, a proposed development site shall be graded for the entire right-of-way width and constructed and surfaced in accordance with the Public Works Construction Code.

(11) Existing streets which abut the pro-posed development site shall be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).

(12) Sidewalks with appropriate buffering shall be constructed along both sides of each internal street and at a minimum along the development side of each external street in accordance with the Public Works Construction Code.

(13) The applicant shall comply with the requirements of the Oregon Department of Transportation (ODOT), Tri-Met, Washington County and Clackamas County when a proposed development site is adjacent to a roadway under any of their jurisdictions, in addition to the requirements of this chapter.

(14) The applicant shall construct any required street improvements adjacent to parcels excluded from development, as set forth in TDC 74.220 of this chapter.

(15) Except as provided in TDC 74.430, whenever an applicant proposes to develop land with frontage on certain arterial streets and, due to the access management provisions of TDC Chapter 75, is not allowed direct access onto the arterial, but instead must take access from another existing or future public street thereby providing an alternate to direct arterial access, the applicant shall be required to construct and place at a minimum street signage, a sidewalk, street trees and street lights along that portion of the arterial street adjacent to the applicant's property. The three certain arterial streets are S.W. Tualatin-Sherwood Road, S.W. Pacific Highway (99W) and S.W. 124th Avenue. In addition, the applicant may be required to construct and place on the arterial at the intersection of the arterial and an existing or future public non-arterial street warranted traffic control devices (in accordance with the Manual on Uniform Traffic Control Devices, latest edition), pavement markings, street tapers and turning lanes, in accordance with the Public Works Construction Code.

(16) The City Engineer may determine that, although concurrent construction and placement of the improvements in (14) and (15) of this section, either individually or collectively, are impractical at the time of development, the improvements will be necessary at some future date. In such a case, the applicant shall sign a written agreement guaranteeing future performance by the applicant and any successors in interest of the property being developed. The agreement shall be subject to the City's approval.

(17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.

(18) Pursuant to requirements for off-site improvements as conditions of development approval in TDC 73.055(2)(e) and TDC 36.160(8), proposed multi-family residential, commercial, or institutional uses that are adjacent to a major transit stop will be required to comply with the City's Mid-Block Crossing Policy.

**FINDINGS:**

The Applicant's submitted plans show public street, storm drainage and sidewalk improvements in the SW 65th Avenue right-of-way, in compliance with these requirements.

SW Sagert Street will be fully constructed to meet applicable City street standards, extending east from the existing intersection and terminated at the existing stub that connects with SW Sequoia Drive.

SW Borland Road will be constructed in accordance with city standards.

All street improvements are detailed in the plan sheets submitted with this subdivision application. This criterion is satisfied.

**X. TDC SECTION 74.425 STREET DESIGN STANDARDS.**

(1) Street design standards are based on the functional and operational characteristics of streets such as travel volume, capacity, operating speed, and safety. They are necessary to ensure that the system of streets, as it develops, will be capable of safely and efficiently serving the traveling public while also accommodating the orderly development of adjacent lands.

(2) The proposed street design standards are shown in Figures 72A through 72G. The typical roadway cross sections comprise the following elements: right-of-way, number of travel lanes, bicycle and pedestrian facilities, and other amenities such as landscape strips. These figures are intended for planning purposes for new road construction, as well as for those locations where it is physically and economically feasible to improve existing streets.

(3) In accordance with the Tualatin Basin Program for fish and wildlife habitat it is the intent of Figures 74-2A through 74-2G to allow for modifications to the standards when deemed appropriate by the City Engineer to address fish and wildlife habitat.

(4) All streets shall be designed and constructed according to the preferred standard. The City Engineer may reduce the requirements of the preferred standard based on specific site conditions, but in no event will the requirement be less than the minimum standard. The City Engineer shall take into consideration the following factors when deciding whether the site conditions warrant a reduction of the preferred standard:

(a) Arterials:

- (i) Whether adequate right-of-way exists
- (ii) Impacts to properties adjacent to right-of-way
- (iii) Current and future vehicle traffic at the location
- (iv) Amount of heavy vehicles (buses and trucks).

(b) Collectors:

- (i) Whether adequate right-of-way exists
- (ii) Impacts to properties adjacent to right-of-way
- (iii) Amount of heavy vehicles (buses and trucks)
- (iv) Proximity to property zoned manufacturing or industrial.

(c) Local Streets:

(i) Local streets proposed within areas which have environmental constraints and/or sensitive areas and will not have direct residential access may utilize the minimum design standard. When the minimum design standard is allowed, the City Engineer may determine that no parking signs are required on one or both sides of the street.

#### **FINDINGS:**

All local street construction is proposed according to the street design standards for the functional classification of the street. Right-of-way dedication and construction of improvements is proposed per the required standards.

The Tualatin TSP designates SW 65th Avenue as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 29 foot ROW dedication along 65th, for a total half-street width of 47 feet. Proposed improvements include construction of a 12 foot center turn lane, as well as improving the east side of the street by widening the travel lane to 12 feet, constructing a 6 foot bike lane, a 7 foot planter strip, a 12 foot sidewalk and a 6 foot shoulder. The City Engineer determined this as an acceptable cross-section as it allows for construction of a modified cross-section south of SW Sagert Street to not adversely affect Atfalati Park and greenway to the south of the park. The cross-section reduces the major arterial cross-section from 5 to 3 lanes, but includes a 12-foot wide sidewalk on the east side as part of the connectivity between the Saum Creek Greenway Path to Tualatin River. The right-of-way width will be 88 feet, greater than the minimum of 70 feet. This criterion is satisfied.

The Tualatin TSP designates SW Borland Street as a Major Arterial with a right-of-way width of 98 feet, therefore a half street requirement of 49 feet from centerline. The submitted plans show a 24 foot right-of-way dedication along Borland, for a total half-street width of 40.9 feet. Proposed improvements include widening the center turn lane to 11.7 feet, as well as improving the south side of the street by maintaining a 10 foot travel lane, constructing a 4.2 foot bike lane, 5 foot planter strip, 5 foot sidewalk and 14.7 foot landscaping area. The City Engineer determined this as an acceptable cross-section as it matches the width of right-of-way and street construction adjacent to Sequoia Ridge subdivision to the east, which doesn't encroach on a row of protected sequoia trees. The right-of-way width will be 88 feet, greater than the minimum of 70 feet. This criterion is satisfied.

The submitted plans show a modified collector section for SW Sagert Street between proposed SW 63rd Avenue and the Sequoia Ridge including 32 feet of paved width, 6 foot planter strip and 5 foot sidewalks in either direction. The modified collector section is designed to transition SW Sagert Street to the residential uses found within the proposed development and within Sequoia Ridge to the east. The right-of-way width varies from 70.5 to 50 feet, narrowing to assist in traffic speed reduction and match existing street cross-sections. The transition and meander of SW Sagert Street south of PGE's lot is due to high power transmission line guy wires for existing poles. Relocation of guy wires to continue a wider and straighter path would require replacement of existing poles with new steel poles. PGE and the applicant worked towards a successful solution of PGE proposing to dedicate adequate right-of-way to include a planter strip and sidewalk to resemble our standard cross-section in exchange of continuing to allow

PGE interim access to SW Borland Avenue for their maintenance vehicles. The right-of-way width will vary from 70.5 down to 50 feet, less than the minimum of 62 feet to connect to the existing width of SW Sagert Street to the east within Sequoia Ridge Subdivision. This criterion is satisfied.

The submitted plans show a modified arterial section for SW Sagert Street to the west of SW 65<sup>th</sup> Avenue adjacent to Atfalati Park. This section will be improved to add bike lanes from the intersection of SW 65<sup>th</sup> Avenue and SW Sagert Street to the existing bike lanes to the west. The cross section width will be 78 feet, greater than the minimum of 70 feet to not adversely affect Atfalati Park. The plans do not clearly show how the existing hedge at the north property line will remain. The applicant will need to show on plans and in narrative how adjacent park lands (Atfalati Park) will be restored subsequent to 65th Ave. and Sagert St. road widening (e.g., tapering grades, salvaging and replanting trees, irrigation). This criterion is met with conditions of approval PFR – 18.

#### **XI. TDC SECTION 74.430 STREETS, MODIFICATIONS OF REQUIREMENTS IN CASES OF UNUSUAL CONDITIONS.**

(1) When, in the opinion of the City Engineer, the construction of street improvements in accordance with TDC 74.420 would result in the creation of a hazard, or would be impractical, or would be detrimental to the City, the City Engineer may modify the scope of the required improvement to eliminate such hazardous, impractical, or detrimental results. Examples of conditions requiring modifications to improvement requirements include but are not limited to horizontal alignment, vertical alignment, significant stands of trees, fish and wildlife habitat areas, the amount of traffic generated by the proposed development, timing of the development or other conditions creating hazards for pedestrian, bicycle or motor vehicle traffic. The City Engineer may determine that, although an improvement may be impractical at the time of development, it will be necessary at some future date. In such cases, a written agreement guaranteeing future performance by the applicant in installing the required improvements must be signed by the applicant and approved by the City.

(2) When the City Engineer determines that modification of the street improvement requirements in TDC 74.420 is warranted pursuant to subsection (1) of this section, the City Engineer shall prepare written findings of modification. The City Engineer shall forward a copy of said findings and description of modification to the applicant, or his authorized agent, as part of the Utility Facilities Review for the proposed development, as provided by TDC 31.072. The decision of the City Engineer may be appealed to the City Council in accordance with TDC 31.076 and 31.077.

(3) To accommodate bicyclists on streets prior to those streets being upgraded to the full standards, an interim standard may be implemented by the City. These interim standards include reduction in motor vehicle lane width to 10 feet [the minimum specified in AASHTO's A Policy on Geo-metric Design of Highways and Streets (1990)], a reduction of bike lane width to 4-feet (as measured from the longitudinal gutter joint to the centerline of the bike lane stripe), and a paint-striped separation 2 to 4 feet wide in lieu of a center turn lane. Where available roadway width does not provide for these minimums, the roadway can be signed for shared use by bicycle and motor vehicle

travel. When width constraints occur at an intersection, bike lanes should terminate 50 feet from the intersection with appropriate signing.

### **FINDINGS:**

Approved modifications to the cross-section of SW Sagert Street east of the intersection of proposed SW 61<sup>st</sup> Terrace include a median to help identify a separation with the existing Sequoia Ridge subdivision and to encourage traffic to turn north to SW Borland Road and a reduced cross-section from west to east to transition into the existing width of SW Sagert Street.

The Applicant has submitted a design modification request to Clackamas County regarding the proposed access of a local street on SW Borland Road, an arterial. The Applicant has also submitted a design modification request to Clackamas County regarding the sidewalk at the intersection of SW Sagert Street and SW 65th Avenue. This criterion is satisfied with conditions of approval PFR -17.

## **XII. TDC SECTION 74.440 STREETS, TRAFFIC STUDY REQUIRED.**

(1) The City Engineer may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City Engineer determines that such a study is necessary in connection with a proposed development project in order to:

(a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or

(b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.

(2) The required traffic study shall be completed prior to the approval of the development application.

(3) The traffic study shall include, at a minimum:

(a) an analysis of the existing situation, including the level of service on adjacent and impacted facilities.

(b) an analysis of any existing safety deficiencies.

(c) proposed trip generation and distribution for the proposed development.

(d) projected levels of service on adjacent and impacted facilities.

(e) recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered.

(f) The City Engineer will determine which facilities are impacted and need to be included in the study.

(g) The study shall be conducted by a registered engineer.

(4) The applicant shall implement all or a portion of the improvements called for in the traffic study as determined by the City Engineer.

**FINDINGS:**

A traffic study conducted by Kittleson and Associates, Inc. has been provided as a part of this Subdivision Application. The study included analysis of the level of service at intersections determined by the City Engineer with existing and future development, safety, trip distribution, and recommendations of improvements. This criterion is satisfied.

**XIII. TDC SECTION 74.450 BIKEWAYS AND PEDESTRIAN PATHS.**

(1) Where proposed development abuts or contains an existing or proposed bikeway, pedestrian path, or multi-use path, as set forth in TDC Chapter 11, Transportation Figure 11-4, the City may require that a bikeway, pedestrian path, or multi-use path be constructed, and an easement or dedication provided to the City.

(2) Where required, bikeways and pedestrian paths shall be provided as follows:

(a) Bike and pedestrian paths shall be constructed and surfaced in accordance with the Public Works Construction Code.

(b) The applicant shall install the striping and signing of the bike lanes and shared roadway facilities, where designated.

**FINDINGS:**

The site includes a tract which will be created to contain a public pathway along the Saum Creek Greenway. The Applicant will work with the City to provide a tract to contain the proposed pedestrian pathway. The Applicant may also work with the City regarding the construction of the proposed pathway, subject to the availability of credits for System Development Charges.

The applicant shall construct on the Saum Creek Greenway Trail from 65th Ave. to the Venetia development property with connections as shown on the attached Saum Creek Greenway Trail Alignment Plan, an historical interpretive display, required vegetative enhancement and mitigation, and related greenway signage. Final design and construction standards for the pathway and related facilities shall be approved by the Community Services Director.

Applicant shall enter into an Improvement Agreement substantially like the attached draft Saum Creek Greenway Trail Improvement Agreement with City to construct the Saum Creek Greenway Trail and related improvements in accordance with the attached Deal Points summary no later than final plat approval.

Show the required maintenance access for 65th Ave. pump station on site plans.

This criterion is satisfied with conditions of approval PFR -19, 43, and 45.

**XIV. TDC SECTION 74.460 ACCESSWAYS IN RESIDENTIAL, COMMERCIAL AND INDUSTRIAL SUBDIVISIONS AND PARTITIONS.**

(1) Accessways shall be constructed by the applicant, dedicated to the City on the final residential, commercial or industrial subdivision or partition plat, and accepted by the City.

(2) Accessways shall be located between the proposed subdivision or partition and all of the following locations that apply:

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

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

(c) adjoining undeveloped residential, commercial or industrial properties;

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

(3) In designing residential, commercial and industrial subdivisions and partitions, the applicant is expected to design and locate accessways in a manner which does not restrict or inhibit opportunities for developers of adjacent property to connect with an accessway. The applicant is to have reasonable flexibility to locate the required accessways. When developing a parcel which adjoins parcels where accessways have been constructed or approved for construction, the applicant shall connect at the same points to provide system continuity and enhance opportunities for pedestrians and bicyclists to use the completed accessway.

(4) Accessways shall be as short as possible, but in no case more than 600 feet in length.

(5) Accessways shall be as straight as possible to provide visibility from one end to the other.

(6) Accessways shall be located and improved within a right-of-way or tract of no less than 8 feet.

(7) Where possible, accessways shall be combined with utility easements.

(8) Accessways shall be constructed in accordance with the Public Works Construction Code.

(9) Curb ramps shall be provided wherever the accessway crosses a curb and shall be constructed in accordance with the Public Works Construction Code.

(10) The Federal Americans With Disabilities Act (ADA) applies to development in the City of Tualatin. Accessways shall comply with the Oregon Structural Specialty Code's (OSSC) accessibility standards.



(11) Fences and gates which prevent pedestrian and bike access shall not be allowed at the entrance to or exit from any accessway.

(12) Final design and location of accessways shall be approved by the City.

(13) Outdoor Recreation Access Routes shall be provided between a subdivision or partition and parks, bikeways and greenways where a bike or pedestrian path is designated.

**FINDINGS:**

Accessways have been planned for and will be located according to the standards of this section. The Applicant intends to work with the City regarding the construction of the trail through the construction documentation process.

The 15-foot wide public sanitary sewer and access easement with 12-foot wide maintenance path between lots 69 and 70 is shown in the location that the access is provided for the residents of the subdivision and the public to access the future public path along Saum Creek to the southeast. The 12-foot width exceeds the 8-foot minimum requirement, is less than 600 feet in length, is straight.

Tract C is shown to contain a public stormwater facility and will be dedicated to the City. A 12-foot wide concrete stormwater maintenance path will extend from the local street to the facility and serve as the beginning of an accessway connecting to SW 65<sup>th</sup> Avenue to the west. The accessway is shown as a 6-foot wide gravel trail. This accessway will be concrete and 8 feet wide. This criterion is satisfied with conditions of approval PFR – 26 and 45.

**XV. TDC SECTION 74.470 STREET LIGHTS.**

(1) Street light poles and luminaries shall be installed in accordance with the Public Works Construction Code.

(2) The applicant shall submit a street lighting plan for all interior and exterior streets on the proposed development.

**FINDINGS:**

The project plan shows street lights. This criterion is satisfied.

**XVI. TDC SECTION 74.475 STREET NAMES.**

(1) No street name shall be used which will duplicate or be confused with the names of existing streets in the Counties of Washington or Clackamas, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

(2) The City Engineer shall maintain the approved list of street names from which the applicant may choose. Prior to the creation of any street, the street name shall be approved by the City Engineer.

**FINDINGS:**

Proposed street names, as shown on the plat, are unique to this subdivision, except for the extension of existing streets. The street names and numbers conform to the established pattern in the surrounding area. Street name "E" is a placeholder for a street name from the approved list. The applicant will select a street name from the approved list. This criterion is satisfied with conditions of approval PFR -27.

**XVII. TDC SECTION 74.480 STREET SIGNS.**

(1) Street name signs shall be installed at all street intersections in accordance with standards adopted by the City.

(2) Stop signs and other traffic control signs (speed limit, dead-end, etc.) may be required by the City.

(3) Prior to approval of the final subdivision or partition plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street signs, traffic control signs and street name signs. The location, placement, and cost of the signs shall be determined by the City.

**FINDINGS:**

The plans show signalization of SW 65<sup>th</sup> Avenue and SW Sagert Street plus a stop control plan on sheet C015. Street name, speed limit, and traffic control signs are not indicated on the plans. The applicant will show street name, speed limit, and traffic control signs on final plans provide appropriate funds for signs. This criterion is satisfied with conditions of approval PFR –28, 29, 30, 31, and 39.

**XVIII. TDC SECTION 74.485 STREET TREES.**

(1) Prior to approval of a residential subdivision or partition final plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street trees. The location, placement, and cost of the trees shall be determined by the City. This sum shall be calculated on the interior and exterior streets as indicated on the final subdivision or partition plat.

(3) The Street Tree Ordinance specifies the species of tree which is to be planted and the spacing between trees.

**FINDINGS:**

The Applicant has provided a street tree planting plan along with the proposed development plans. The Applicant will provide appropriate funds for street trees in accordance with this Section.

The plans show Autumn Blaze Maple, Crimson King Maple, Scarlet Oak, and Greenspipe Linden within 4-foot wide planter strips, which are not approved. Approved street trees from the Street Tree Ordinance are required. Proposed street trees must be compatible with the 4-foot wide planter strips. Root barriers are required to be installed for trees that are within 10 feet of a public line or adjacent to a public sidewalk. Root

barriers shall be 24-inch deep, 10-foot long root barrier centered on the tree trunk at the edge of the public easement or sidewalk. This criterion is satisfied with conditions of approval PFR -25 and 32.

#### **XIX. TDC SECTION 74.610 WATER SERVICE.**

(1) Water lines shall be installed to serve each property in accordance with the Public Works Construction Code. Water line construction plans shall be submitted to the City Engineer for review and approval prior to construction.

(2) If there are undeveloped properties adjacent to the subject site, public water lines shall be extended by the applicant to the common boundary line of these properties. The lines shall be sized to provide service to future development, in accordance with the City's Water System Master Plan, TDC Chapter 12.

(3) As set forth in TDC Chapter 12, Water Service, the City has three water service levels. All development applicants shall be required to connect the proposed development site to the service level in which the development site is located. If the development site is located on a boundary line between two service levels the applicant shall be required to connect to the service level with the higher reservoir elevation. The applicant may also be required to install or provide pressure reducing valves to supply appropriate water pressure to the properties in the proposed development site.

#### **FINDINGS:**

The Applicant has submitted a Sanitary Sewer and Water Plan (Sheet Set C400-C404) showing how water lines will be installed to serve the proposed lots. Detailed plans will be submitted for review and approval prior to construction, in accordance with subsection (1). Water service connections will be made as directed by the City Engineer, in accordance with subsection (3). Extension of the water service to undeveloped properties is not proposed, per subsection (2).

The plans show pairs of lots served by a single connection to a public water main that splits near the property line. Each lot must have a separate direct lateral to the public water main. Each lateral must be 1-inch in diameter. If needed, the applicant will need to install double check valve assemblies to meet the requirements of TMC 3-3.120(4).

The plans do not show extension of a public water line from within the proposed development south to adjacent undeveloped Tax Lot 21E30B 00700. This line will be extended to serve this undeveloped lot.

A Technical Memorandum for Hydraulic Modeling from Murray, Smith, and Associates dated July 12, 2015 evaluated the water service for this proposed subdivision and determined the proposed subdivision water distribution piping improvements are adequately sized and no recommended upsizing for system transmission needs are recommended.

This criterion is satisfied with conditions of approval PFR -3 and 33.

## **XX. TDC SECTION 74.620 SANITARY SEWER SERVICE.**

(1) Sanitary sewer lines shall be installed to serve each property in accordance with the Public Works Construction Code. Sanitary sewer construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.

(2) If there are undeveloped properties adjacent to the proposed development site which can be served by the gravity sewer system on the proposed development site, the applicant shall extend public sanitary sewer lines to the common boundary line with these properties. The lines shall be sized to convey flows to include all future development from all up stream areas that can be expected to drain through the lines on the site, in accordance with the City's Sanitary Sewer System Master Plan, TDC Chapter 13.

### **FINDINGS:**

The applicant has submitted a Sanitary Sewer and Water Plan (Sheet Set C400-C404) showing how sanitary sewer lines will be installed to serve the proposed lots. Detailed plans and calculations will be submitted for review and approval prior to construction, in accordance with subsection (1). Extension of the sanitary sewer service to the SW 65<sup>th</sup> Avenue pump station extends past the south property line to serve undeveloped Tax Lot 21E30B 00700. Sanitary sewer calculations will be required to show adequate capacity of lines and the SW 65<sup>th</sup> Avenue pump station.

The project will construct a gravity sanitary sewer main from the existing off-site pump station at Sequoia Ridge Subdivision, through the proposed subdivision, and discharging to the existing off-site pump station on the west side of SW 65<sup>th</sup> Avenue south of Atfalati Park. The gravity main serving the upstream offsite development will be sized to accommodate the upstream areas. The existing pump station will need to be decommissioned and salvaged.

The plans show a public sanitary sewer line from proposed SW 61<sup>st</sup> Terrace to lot 2. In this specific instance a private lateral is required instead of a public line. This criterion is satisfied with conditions of approval PFR -47, 60, and 61.

## **XXI. TDC SECTION 74.630 STORM DRAINAGE SYSTEM.**

(1) Storm drainage lines shall be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.

(2) The storm drainage calculations shall confirm that adequate capacity exists to serve the site. The discharge from the development shall be analyzed in accordance with the City's Storm and Surface Water Regulations.

(3) If there are undeveloped properties adjacent to the proposed development site which can be served by the storm drainage system on the proposed development site, the applicant shall extend storm drainage lines to the common boundary line with these properties. The lines shall be sized to convey expected flows to include all future development from all up stream areas that will drain through the lines on the site, in accordance with the Tualatin Drainage Plan in TDC Chapter 14.

**FINDINGS:**

The Applicant has submitted a Street and Storm Plan (Sheet Set C210-C214) showing how storm drainage lines and a storm water management facility will be installed to serve each proposed lots. Detailed plans will be submitted for review and approval prior to construction, in accordance with subsection (1).

The Applicant has provided a detailed stormwater management report including calculations detailing the preliminary design for the system which will serve this site in accordance with subsection (2). The stormwater management plan and report has been designed to meet the requirements of this section.

Extension of the stormwater system is not proposed, per subsection (3). Undeveloped Tax Lot 21E30B 00700 topography will allow it to directly outfall into Saum Creek.

The plans show a public stormwater line from proposed SW 61<sup>st</sup> Terrace to lot 2. In this specific instance a private lateral is required instead of a public line. This criterion is satisfied with conditions of approval PFR -61.

**XXII. TDC SECTION 74.640 GRADING.**

(1) Development sites shall be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.

(2) A development applicant shall submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Engineer may require the applicant to remove all excess material from the development site.

**FINDINGS:**

The Applicant has prepared a site plan which illustrates the extent of the proposed development over the site. The proposed footprint of the development has been minimized to the greatest extent possible to provide access and utility services to the proposed lots and to avoid disturbances to natural topography and vegetation in accordance with subsection (1).

The Applicant has submitted a Grading and Erosion Control Plan (Sheet Set C115-119 and Sheet Set C120-C124) showing the proposed grading which will be primarily limited to street construction and the water quality facility. Grading on individual lots will be minimal. Drainage for new structures will be routed to the street with connections to the storm drainage system.

Grading on lots adjacent to the existing residential lots to the east and to the east side of PGE's lot are shown to end 15 feet from the property line retaining existing drainage patterns within this buffer. General site grading is shown to direct stormwater south to the two proposed public water quality facilities that release into Saum Creek wetland buffer via a public stormwater system within proposed right-of way including laterals for each lot. No narrative or profile of the stormwater system was provided to show that all crawl spaces will be served by gravity service. The applicant will submit plans and calculations that show all crawl spaces will be served by gravity stormwater service. This criterion is satisfied with conditions of approval PFR 5, 6, 36, and 62.

### **XXIII. TDC SECTION 74.650 WATER QUALITY, STORM WATER DETENTION AND EROSION CONTROL.**

The applicant shall comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from Clean Water Services; or

(3) For on-site private and regional non-residential public facilities, the applicant shall submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant shall submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site shall occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

### **FINDINGS:**

The Applicant has provided a Storm Drainage Report to demonstrate the feasibility of constructing a storm water quality treatment and detention pond within the Water Quality Tract, as indicated in the submitted plans.

The applicant has submitted a Service Provider Letter from Clean Water Services indicating that Sensitive Areas do not exist on-site. A CWS Memorandum was received dated September 30, 2015 for development on this site. The applicant will need to submit plans that are sufficient to obtain a Stormwater Connection Permit Authorization Letter that complies with the submitted Service Provider Letter conditions, for review and approval. This criterion is satisfied with conditions of approval PFR -35.

#### **XXIV. TDC SECTION 74.660 UNDERGROUND.**

(1) All utility lines including, but not limited to, those required for gas, electric, communication, lighting and cable television services and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets may be placed above ground. Temporary utility service facilities, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with all utility companies to provide the underground services. The City reserves the right to approve the location of all surface-mounted transformers.

(2) Any existing overhead utilities may not be upgraded to serve any proposed development. If existing overhead utilities are not adequate to serve the proposed development, the applicant shall, at their own expense, provide an underground system. The applicant shall be responsible for obtaining any off-site deeds and/or easements necessary to provide utility service to this site; the deeds and/or easements shall be submitted to the City Engineer for acceptance by the City prior to issuance of the Public Works Permit.

#### **FINDINGS:**

The Applicant acknowledges and will comply with the underground requirements of the Development Code and Public Works Code in constructing improvements for the proposed subdivision.

Aboveground utilities are only shown within SW Sagert Street and SW Borland Road right-of-way. PGE transmission lines exist north of proposed SW Sagert Street and within right-of-way south of Tualatin Professional Center. Two transmission lines are shown adjacent to this development within SW Borland Road right-of-way, one at the curb line on the south side and one crossing SW Borland Road from west of this development to east of this development. The lines shown are not shown to be undergrounded and no narrative identified the operation at 50,000 volts or above. The applicant will identify the operation voltage to be sufficient to remain aboveground or record a Street Improvement Agreement for undergrounding.

This criterion is satisfied with conditions of approval PFR -34.

## **XXV. TDC SECTION 74.670 EXISTING STRUCTURES.**

(1) Any existing structures requested to be retained by the applicant on a proposed development site shall be connected to all available City utilities at the expense of the applicant.

(2) The applicant shall convert any existing overhead utilities serving existing structures to underground utilities, at the expense of the applicant.

(3) The applicant shall be responsible for continuing all required street improvements adjacent to the existing structure, within the boundaries of the proposed development site.

### **FINDINGS:**

The Applicant is not proposing to retain any existing structures currently located on the site; therefore the standards of this section do not apply.

## **XXVI. TDC SECTION 74.700 REMOVAL, DESTRUCTION OR INJURY OF TREES.**

It is unlawful for a person, without a written permit from the Operations Director, to remove, destroy, break or injure a tree, plant or shrub, that is planted or growing in or upon a public right-of-way within the City , or cause, authorize, or procure a person to do so, authorize or procure a person to injure, misuse or remove a device set for the protection of any tree, in or upon a public right-of-way.

### **FINDINGS:**

Trees in the Sequoia Ridge Natural Area will be protected throughout construction. The Applicant will obtain any necessary Tree Removal Permits per City requirements and provide fees to the City for planting of street trees pursuant to Section 74.485. The applicant will need to show on plans and in narrative how adjacent park lands (Atfalati Park) will be restored subsequent to 65th Ave. and Sagert St. road widening (e.g., tapering grades, salvaging and replanting trees, irrigation). This criterion is satisfied with conditions of approval PFR – 10 and 18.

## **XXVII. TDC SECTION 74.720 PROTECTION OF TREES DURING CONSTRUCTION.**

(1) During the erection, repair, alteration or removal of a building or structure, it is unlawful for the person in charge of such erection, repair, alteration or removal to leave a tree in or upon a public right-of-way in the vicinity of the building or structure without a good and sufficient guard or protectors to prevent injury to the tree arising out of or by reason of such erection, repair, alteration or removal.



(2) Excavations and driveways shall not be placed within six feet of a tree in or upon a public right-of-way without written permission from the City Engineer. During excavation or construction, the person shall guard the tree within six feet and all building material or other debris shall be kept at least four feet from any tree.

**FINDINGS:**

The above provisions will apply to ongoing care and maintenance of street trees following final plat recording and planting of street trees by the City of Tualatin.

Tree protection will be required during construction of the new public streets, utilities, and site grading. This criterion is satisfied with conditions of approval PFR -1 and 10.

**XXVIII. TDC SECTION 74.740 PROHIBITED TREES.**

It is unlawful for a person to plant a tree within the right-of-way of the City of Tualatin that is not in conformance with Schedule A. Any tree planted subsequent to adoption of this Chapter not in compliance with Schedule A shall be removed at the expense of the property owner.

**XXIX. TDC SECTION 74.765 STREET TREE SPECIES AND PLANTING LOCATIONS.**

All trees, plants or shrubs planted in the right-of-way of the City shall conform in species and location and in accordance with the street tree plan in Schedule A. If the Operations Director determines that none of the species in Schedule A is appropriate or finds appropriate a species not listed, the Director may substitute an unlisted species.

**FINDINGS:**

The plans show a street tree and landscape planting plan on sheets L100-L103. The plans show Autumn Blaze Maple, Crimson King Maple, Scarlet Oak, and Greenspire Linden within 4-foot wide planter strips, which are not approved. Approved street trees from the Street Tree Ordinance are required. Proposed street trees must be compatible with the 4-foot wide planter strips.

A narrow planted median is shown within SW Sagert Street east of proposed SW 61<sup>st</sup> Terrace to designate an entrance to the existing Sequoia Ridge Subdivision. The trees and shrubs must consist of unlisted species determined by the Operations Director.

Root barriers are required to be installed for trees that are within 10 feet of a public line or adjacent to a public sidewalk. Root barriers shall be 24-inch deep, 10-foot long root barrier centered on the tree trunk at the edge of the public easement or sidewalk.

Shrubs are shown within right-of-way on SW Borland Road. SW Borland Road is Clackamas County's jurisdiction. The applicant will obtain approval from Clackamas County for plantings in SW Borland Road right-of-way

This criterion is satisfied with conditions of approval PFR 25 and 32.

## **L. TDC CHAPTER 75: ACCESS MANAGEMENT**

### **I. TDC SECTION 75.010 PURPOSE.**

The purpose of this chapter is to promote the development of safe, convenient and economic transportation systems and to preserve the safety and capacity of the street system by limiting conflicts resulting from uncontrolled driveway access, street intersections, and turning movements while providing for appropriate access for all properties.

### **II. TDC SECTION 75.030 FREEWAYS AND ARTERIALS DEFINED.**

This section shall apply to all City, County and State public streets, roads and highways within the City and to all properties that abut these streets, roads and highways.

(1) Access shall be in conformance with TDC Chapter 73 unless otherwise noted below.

(2) Freeways and Arterials Designated. For the purposes of this chapter the following are freeways and arterials: ...

- (i) 65th Avenue from its intersection with Nyberg Street south to City limits;
- (j) Borland Road from 65th Avenue east to Saum Creek;...

(3) Applicability

(a) This chapter applies to all developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City Council or any administrative officer of the City pertaining to property abutting any road or street listed in TDC 75.030. In addition, any parcel not abutted by a road or street listed in TDC 75.030, but having access to an arterial by any easement or prescriptive right, shall be treated as if it did abut the arterial and this chapter applies. This chapter shall take precedence over any other TDC chapter and over any other ordinance of the City when considering any development, land use approval or other proposal for property abutting an arterial or any property having an access right to an arterial.

### **III. TDC SECTION 75.060 EXISTING DRIVEWAYS AND STREET INTERSECTIONS.**

(1) Existing driveways with access onto arterials on the date this chapter was originally adopted shall be allowed to remain. If additional development occurs on properties with existing driveways with access onto arterials then this chapter applies and the entire site shall be made to conform with the requirements of this chapter.

(2) The City Engineer may restrict existing driveways and street intersections to right-in and right-out by construction of raised median barriers or other means.

**FINDINGS:**

SW Sagert Street east of SW 65<sup>th</sup> Avenue includes a median to restrict right-in/right-out movement approximately 220 feet long including taper to provide safety for turning movements within 150 feet of the intersection and adequate queue lengths for westbound left turning vehicles of 125 feet. This median restricts the west access from Tualatin Professional Center and proposed SW 64<sup>th</sup> Terrace. This restriction is identified in the Transportation Impact Analysis. This criterion is met.

**IV. TDC SECTION 75.070 NEW INTERSECTIONS.**

Except as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), all new intersections with arterials shall have a minimum spacing of ½ mile between intersections.

**FINDINGS:**

A new intersection with SW Borland Road is shown with proposed local street proposed SW 61<sup>st</sup> Terrace. This intersection is approximately 430 feet west of SW 60<sup>th</sup> Avenue and 940 feet east of SW 65<sup>th</sup> Avenue, both less than ½ mile spacing, but in a location similar to Figure 11-3. This criterion is met.

**V. TDC SECTION 75.080 ALTERNATE ACCESS.**

Except as provided in 75.090 all properties which abut two roadways shall have access on the lowest classification road-way, preferable on a local street.

**FINDINGS:**

All proposed lots are shown to have access to a local street, including those that abut higher classified SW 65<sup>th</sup> Avenue, SW Borland Road, and SW Sagert Street. This criterion is met.

**VI. TDC SECTION 75.110 NEW STREETS.**

(1) New streets designed to serve as alternatives to direct, parcel by parcel, access onto arterials are shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3). These streets are shown as corridors with the exact location determined through the partition, subdivision, public works permit or Architectural Review process. Unless modified by the City Council by the procedure set out below, these streets will be the only new intersections with arterials in the City. See map for changes

(2) Specific alignment of a new street may be altered by the City Engineer upon finding that the street, in the proposed alignment, will carry out the objectives of this chapter to the same, or a greater degree as the described alignment, that access to adjacent and nearby properties is as adequately maintained and that the revised alignment will result in a segment of the Tualatin road system which is reasonable and logical.

**FINDINGS:**

A new intersection with SW Borland Road is shown with proposed local street SW 61<sup>st</sup> Terrace. This intersection is approximately 430 feet west of SW 60<sup>th</sup> Avenue and 940 feet east of SW 65<sup>th</sup> Avenue, both less than ½ mile spacing, but in a location similar to Figure 11-3. The location on Figure 11-3 would be slightly offset from the Meridian Park Hospital's emergency access and necessitate right-in/right-out restriction. This would encourage residents from the Sagert Farm Subdivision to make use of local streets within Sequioa Ridge Subdivision when driving to/from the east. The point of connection shown proposed is slightly east of the center of the lot. This location allows for a full access intersection as it opposes the Meridian Park Hospital's emergency access which will allow residents to directly use SW Borland Road. This criterion is met.

**VII. TDC SECTION 75.120 EXISTING STREETS.**

The following list describes in detail the freeways and arterials as defined in TDC 75.030 with respect to access. Recommendations are made for future changes in accesses and location of future accesses. These recommendations are examples of possible solutions and shall not be construed as limiting the City's authority to change or impose different conditions if additional studies result in different recommendations from those listed below....

**(9) 65TH AVENUE ...**

(b) Borland Road to south city limits: A street connection will be constructed across from Sagert Street to serve property to the east of 65th Avenue.

**(10) BORLAND ROAD****(a) Between 65th and the Entrance to Bridgeport School:**

In this section of roadway, as the residential properties develop, all accesses to Borland shall be limited to street intersections. These street intersections shall be spaced a minimum of 500 feet apart. All development in this area shall be interconnected so there are no dead-end entrances from Borland Road....

**FINDINGS:**

A new intersection with SW Borland Road is shown with proposed local street SW 61<sup>st</sup> Terrace. This intersection is approximately 430 feet west of SW 60<sup>th</sup> Avenue and 940 feet east of SW 65<sup>th</sup> Avenue, both less than ½ mile spacing, but in a location similar to Figure 11-3. The location on Figure 11-3 would be slightly offset from the Meridian Park Hospital's emergency access and necessitate right-in/right-out restriction. This would encourage residents from the Sagert Farm Subdivision to make use of local streets within Sequioa Ridge Subdivision when driving to/from the east. The point of connection shown proposed is slightly east of the center of the lot. This location allows for a full access intersection as it opposes the Meridian Park Hospital's emergency access which will allow residents to directly use SW Borland Road. This criterion is met.

## **M. Findings Related To Tualatin Professional Center.**

### **I. TMC Chapter 75.140**

The Subdivision Complies with TDC 75.140.

TDC 75.140 provides:

Access Management for Collectors.

(a) Major Collectors. Direct access from newly constructed single family homes, duplexes or triplexes shall not be permitted. As major collectors in residential areas are fully improved, or adjacent land redevelops, direct access should be relocated to the nearest local street where feasible.

(b) Minor Collectors. Residential, commercial and industrial driveways where the frontage is greater or equal to 70 feet are permitted. Minimum spacing at 100 feet. Uses with less than 50 feet of frontage shall use a common (joint) access where available.

(c) If access is not able to be relocated to the nearest local street, the City Engineer may allow interim access in accordance with 75.090 of this chapter to provide for the eventual implementation of the overall access plan.

Sagert Street is a minor collector and as such, subsection 75.140(b) applies.

None of the proposed homes or lots within the subdivision will take direct access from Sagert Street. As such, the subdivision complies with TDC 75.140.

TDC 75.140 does not apply to the Tualatin Professional Center site because it is not part of the subdivision application. However, even applying TDC 75.140 to the Tualatin Professional Center site, the Subdivision still complies.

TDC 75.140 allows direct access to minor collector streets, which Sagert Street is, if the abutting property has 70 or more feet of frontage. The Tualatin Professional Center site has 230 feet of frontage and will retain their driveway access from Sagert Street to their site.

Tualatin Professional Center currently has four driveway accesses to their site: two north accesses from Borland Road and two south accesses off of Sagert Street. The subdivision application with the proposed conditions does not modify the Borland Road accesses. On the Sagert Street accesses, the street improvements required as part of the subdivision decision provide two south accesses to Sagert Street. In order to ensure the safety of all traveling public, the western driveway would be for right-in / right-out movements. To improve safety, left turns into or out of the driveway would be prohibited by a raised median on Sagert Street as allowed by TDC 75.060. The eastern driveway will remain a full access driveway. The street improvements required of the subdivision provide substantially the same access to the Tualatin Professional Center site as its

current configuration. With the addition of a signalized intersection and other street improvements required of the subdivision, there will be greater access to the Tualatin Professional Center site. The raised median will be traversable by emergency vehicles, which will be able to make all movements into and out of the both access during an emergency.

## **II. TDC Chapter 75 and Transportation System Plan.**

Tualatin Professional Center claims the subdivision approval violates several unspecified goals and objectives of TDC Chapter 75 and the City's Transportation System Plan.

Tualatin Professional Center's Request for Review makes reference to consolidating joint driveways. TDC 75.130 requires joint driveways for multiple properties when appropriate driveway spacing cannot be accomplished, consistent with the access control goals of Chapter 75. The term "joint access" as used in TDC Chapter 75 refers to an access or driveway shared by multiple properties. Tualatin Professional Center is a single property and therefore joint access is irrelevant.

TDC Chapter 75 accomplishes the City's stated goals of providing safe, convenient and economic transportation systems by regulating the locations of driveways relative to intersections and other driveways, by limiting driveway access to certain roadway classifications, and by allowing safety provisions such as medians to restrict access to right-in / right-out only configurations. Driveway access is subservient to the primary rights of the public to the free use of the streets for the purposes of travel and other incidental purposes. The proposed bike lane and sidewalks will provide a safe connection for those traveling from the eastern neighborhoods to and from Atfalati Park.

The proposed preliminary plat, with the proposed conditions, meets the requirements of TDC 75.140(b), which requires extension of Sagert Street when development occurs.

The Transportation System Plan (TSP) does not contain approval criteria for making land-use decisions - especially limited land use decisions pursuant to ORS 197.195(1), which is the type of land use decision this subdivision application represents. Therefore, an alleged failure of this application to comply with certain goals or objectives contained in the TSP does not provide a basis on which to deny the application. Even so, in an effort to be responsive to Tualatin Professional Center, the Sagert Street alignment that was proposed with the Sagert Farm subdivision is consistent with the goals of the TSP, as those goals are implemented by approval criteria that *do* apply to the application, because that alignment serves the needs of all roadway users, including bicyclists, pedestrians, and drivers on Sagert Street. The City would also note that Tualatin Professional Center failed to specify which TSP or TDC Chapter 75 goals or objectives it believed the application violated.

Condition of Approval Nos. 16 and 48 require Sagert Farm Subdivision to construct the Sagert Street improvements and provide two driveways for access to two parking lots that serve Tualatin Professional Center. In order to ensure the safety of the traveling public, the western driveway would be configured for only right-in / right-out movements. To improve safety, left turns into or out of the driveway would be prohibited by a raised

median on Sagert Street as allowed by TDC 75.060. The City is also persuaded by, among other evidence in the record and Code requirements, the testimony of the Applicant's traffic engineer at the appeal hearing in which the traffic engineer explained why left in/left out movements at Tualatin Professional Center's western driveway onto to Sagert Street would be a safety hazard. One of those reasons is the likelihood that there will be vehicles stopped in the eastbound Sagert Street travel lane waiting for a gap in oncoming traffic in order to complete the left turn. Those stopped vehicles would likely cause vehicles behind them to back up into the intersection and remain there even after the light allowing for the turn had turned red.

The existing and proposed driveway configuration for Tualatin Professional Center meets spacing requirements between driveways and both driveways serve a single property. However, the western driveway is less than 150-feet from the intersection, so TDC 73.400(15)(d) and 75.060(2) allow the City to restrict turning movements to right-in / right-out only to improve safety for all roadway users.

TDC 75.060 allows such a configuration when a driveway is located too close to an intersection. The purpose of limiting turning movements to right in/right-out is to eliminate the danger from vehicles stacking into the SW 65th/Sagert Street intersection while waiting to turn left into Tualatin Professional Center's western driveway, as also identified by the Applicant's traffic engineer.

Tualatin Professional Center's proposal is to eliminate one of their driveway accesses to Sagert Street. The Sagert Street improvements with the proposed conditions of approval provide at least one full access driveway and one right-in/right-out driveway access onto Sagert Street. The street improvements with the proposed conditions of approval provide one additional driveway access as compared to what Tualatin Professional Center proposes and provides the additional benefit of a bike lane.

The bike lane is needed to connect the existing neighborhood and the new subdivision to the Atfalati Park that is located immediately west of the Sagert Street and 65<sup>th</sup> intersection. The bike lane is required by City standards and provides an important bicycle traffic connection to kids and adults alike to access the park.

Tualatin Professional Center was developed with two driveways to each of their two parking lots because the parking lots are not internally connected due to elevation differences between the two parking lots and the configuration of buildings on the site. Those on-site restrictions have no bearing on access to Sagert Street pursuant to TDC Chapter 75. Tualatin Professional Center will have substantially similar access as compared to its current condition. Tualatin Professional Center's access is not restricted, constitutes reasonable access, and there is no violation of TDC Chapter 75 or the TSP.

### **III. Tualatin Professional Center's Private Driveway Improvements are in City Right-of-Way.**

Tualatin Professional Center's driveway improvements, were constructed in City right-of-way and are blocking the City's use and expansion of Sagert Street. The agreement

that allowed the temporary improvements to be located in City right-of-way expired in 1989 (Record Exhibit 105B). After that date Tualatin Professional Center has no legal right to locate their driveway improvements within the City's right-of-way. Furthermore, as evidenced by the 1984 agreement (Record Exhibit 105B), Tualatin Professional Center has known since 1984 that the driveway improvements are temporary and similarly knew the City's intent to extend Sagert Street west from 65th Avenue within the existing right-of-way. Tualatin Professional Center dedicated the Sagert Street right-of-way as part of the development of its property over 30 years ago, so Sagert Street could ultimately be extended. With the improvements to Sagert, Tualatin Professional Center is still allowed two driveway accesses on to Sagert Street and has two additional driveways off of Borland Road. The Tualatin Professional Center's on-site circulation issues was caused by a poor design or construction of their parking lot, which is unrelated to the City's right-of-way and the requirements to improve Sagert.

#### **IV. Tualatin Professional Center's Proposed Alignment is Less Safe and Violates the City's Standards.**

Tualatin Professional Center requests that instead of the conditions of approval, that Sagert Street should be shifted south "a few feet" to allow Tualatin Professional Center's encroachments to remain in the City's right-of-way.

The proposed change that Tualatin Professional Center submitted was not supported by evidence as to its safety or feasibility from a professional engineer and there is no evidence that the proposed design changes submitted by Tualatin Professional Center are safe or consistent with City roadway design standards. The Applicant's engineer did prepare engineered drawings showing how the proposed change could be accommodated by eliminating the westbound bike lane and making other provisions described above. The drawings from the Applicant's engineer clearly demonstrate that the Tualatin Professional Center's proposal is less safe than what was approved by staff and would violate City code.

The changes to Sagert Street proposed by Tualatin Professional Center would result in less public access and safety when compared to the subdivision condition of approval Nos. 16 and 48. The design change proposed by Tualatin Professional Center would result in a roadway section on Sagert Street that does not meet current standards for minor collectors and does not provide access for all roadway users.

In order to accommodate Tualatin Professional Center's proposed changes, Sagert would need to be constructed with minimum width lanes for westbound and eastbound left-turn lanes, without a westbound bicycle lane, without a planter strip on the north side of the street, and it would require vacation of City right-of-way or the City would have to accept a misaligned intersection at Sagert Street and 65th, which would jeopardize the safety of people using that busy intersection. The request by Tualatin Professional Center's proposal would not meet the City's minimum design standards for a minor collector.

Shifting the location of Sagert Street south a few feet is not easy to accomplish. The center line of the intersection is effectively fixed by the western leg of the intersection that abuts Atfalati Park. Safe alignment of the intersection includes aligning opposing



legs of the intersection and avoiding offset lanes. Shifting the eastern leg of the intersection south would require the western leg to also be shifted south. Shifting the whole roadway south adjacent to Tualatin Professional Center would require shifting the roadway south into the Park. Tualatin's charter, TMC CHAPTER XI Protection of City Owned Parks and Open Spaces, requires that vacations and major change in use of Tualatin park property for non-park uses requires a vote and approval by Tualatin's registered voters.

Recommended Conditions of Approval No. 16 and 48 will provide the safest configuration for all roadway users and will not "potentially endanger visitors to Tualatin Professional Center", as claimed by the Appellant.

#### **V. Traffic Circulation to the Tualatin Professional Center Site.**

In their Request for Review, Tualatin Professional Center provided a figure (Attachment 103) showing one possible traffic circulation scenario that they claim could result from the proposed improvements to Sagert Street. Their claim is made in response to the proposed median that would limit the western driveway to right-in / right-out. The traffic pattern was not submitted by a traffic engineer, but merely sketched. There is no reasonable basis to rely on this sketch.

City staff and the Applicant's traffic engineer, Kittelson and Associates, testified the right-in / right-out restrictions do not result in the traffic patterns claimed by Tualatin Professional Center. Tualatin Professional Center's claim focused only on the southern two driveways that access Tualatin Professional Center's development. Tualatin Professional Center did not consider the two existing driveways on Borland Road or the new north south roadway (SW 61st Terrace) that will connect Sagert Street and Borland Road after it is constructed as part of the Sagert Farm subdivision.

Record Exhibit 104, prepared by a professional traffic engineer from Kittelson, which shows the most likely traffic flow to Tualatin Professional Center. The traffic flow will utilize the two driveways on Sagert Street, the two existing driveways on Borland Street, and the new local roadway (SW 61 st Terrace) that will connect Sagert Street to Borland Street. The traffic pattern submitted by the Applicant and testimony of Kittelson and Associates is the traffic pattern that will most likely occur.

The configuration for Sagert Street proposed with conditions Nos. 16 and 48 does not remove the western driveway or remove access between lots. The configuration leaves the existing driveways in their current locations and controls access to the western driveway to right-in /right-out because the driveway is located too close to the intersection. Prohibiting left turns (northbound) into the western driveway and prohibiting left turns (eastbound) out of the western driveway does change how some vehicles will enter or exit Tualatin Professional Center. Vehicles that want to turn left into Tualatin Professional Center's western driveway will now need to travel north on 65th Avenue, turn right on Borland Road, and turn right into Tualatin Professional Center's eastern parking lot. Similarly, vehicles who want to turn left from the western driveway will now turn right on Sagert, right on 65 th, right on Borland, and right into the eastern lot.

The traffic circulation patterns identified by Kittelson demonstrate that trip length is not unreasonably increased for visitors to Tualatin Professional Center; access for emergency vehicles is not impacted by the mountable curbs proposed for the channelization median at the western driveway; and the proposed configuration provides for safe transportation for all roadway users. The traffic circulation pattern prepared by Kittelson shows that there are multiple opportunities for people to safely access and exit Tualatin Professional Center's parking lots.



# 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:** 02/08/2016

**SUBJECT:** Consideration of Approval of a New Liquor License Application for Tualatin Home Brew Supply

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

The issue before the Council is to approve a new liquor license application for Tualatin Home Brew Supply.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Tualatin Home Brew Supply.

### **EXECUTIVE SUMMARY:**

Tualatin Home Brew Supply has submitted a new liquor license application under the category of limited on-premises and off premises sales. This would permit them to sell factory-sealed malt beverages, wine, and cider at retail to individuals in Oregon for consumption on and off the licensed premises. They would also be eligible to provide sample tastings of malt beverages, wine, and cider for consumption on the premises. The business is located at 18799 SW Martinazzi Avenue. The application is in accordance with provisions of Ordinance No.680-85 which established a procedure for review of liquor licenses by the Council. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed the new liquor license application and recommended approval. According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### **FINANCIAL IMPLICATIONS:**

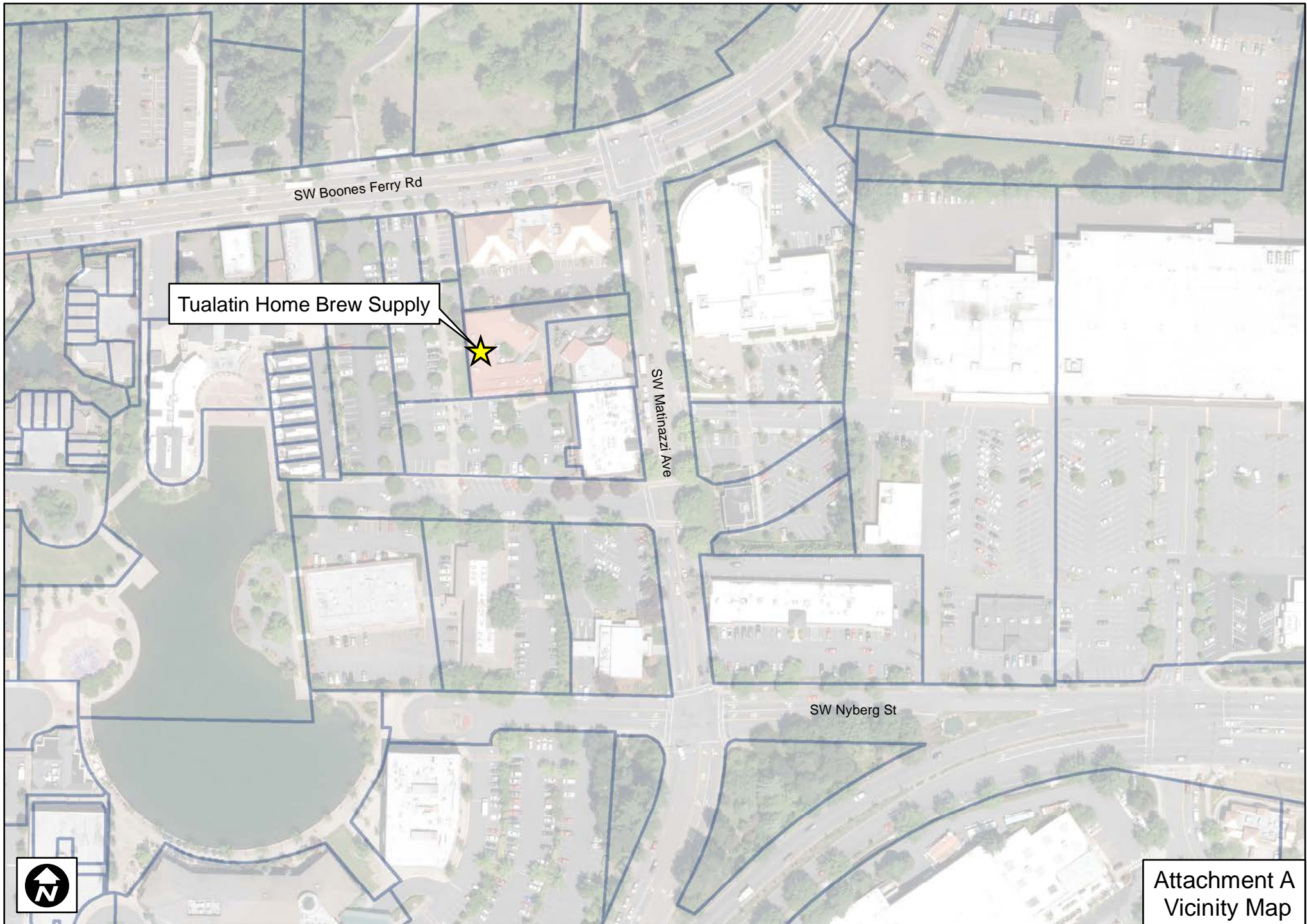
A fee has been paid by the applicant.

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**Attachments:** Attachment A -Vicinity Map

Attachment B- License Types

Attachment C- Application



## OREGON LIQUOR CONTROL COMMISSION

### LICENSE TYPES

#### FULL ON-PREMISES SALES

- **Commercial Establishment**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location (*this is the license that most “full-service” restaurants obtain*). Sell malt beverages for off-site consumption in securely covered containers provided by the customer. Food service required. Must purchase distilled liquor **only** from an Oregon liquor store, or from another Full On- Premises Sales licensee who has purchased the distilled liquor from an Oregon liquor store.
- **Caterer**  
Allows the sale of distilled spirits, malt beverages, wine, and cider by the drink to individuals at off-site catered events. Food service required.
- **Passenger Carrier**  
An airline, railroad, or tour boat may sell and serve distilled spirits, malt beverages, wine, and cider for consumption on the licensed premises. Food service required.
- **Other Public Location**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, where the predominant activity is not eating or drinking (for example an auditorium; music, dance, or performing arts facility; banquet or special event facility; lodging fairground; sports stadium; art gallery; or a convention, exhibition, or community center). Food service required.
- **Private Club**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, but only for members and guests. Food service required.

#### LIMITED ON-PREMISES SALES

Sell and serve malt beverages, wine, and cider for onsite consumption. Allows the sale of malt beverages in containers (kegs) for off-site consumption. Sell malt beverages for off-site consumption in securely covered containers provided by the customer.

#### OFF-PREMISES SALES

Sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises. Eligible to provide sample tastings of malt beverages, wine, and cider for consumption on the premises. Eligible to ship manufacturer-sealed containers of malt beverages, wine, or cider directly to an Oregon resident.

#### BREWERY PUBLIC HOUSE

Make and sell malt beverages. Import malt beverages into and export from Oregon. Distribute malt beverages directly to retail and wholesale licensees in Oregon. Sell malt beverages made at the business to individuals for consumption on or off-site.

#### WINERY

Must principally produce wine or cider in Oregon. Manufacture, store, and export wine and cider. Import wine or cider *If bottled, the brand of wine or cider must be owned by the licensee*. Sell wine and cider to wholesale and retail licensees in Oregon. Sell malt beverages, wine, and cider to individuals in Oregon for consumption on or off-site.





# CITY OF TUALATIN

## LIQUOR LICENSE APPLICATION

Date 1-4-16

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

### SECTION 1: TYPE OF APPLICATION

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

### SECTION 2: DESCRIPTION OF BUSINESS

Name of business (dba): Tualatin Home Brew Supply  
Business address 18799 SW Martinez City Tualatin State OR Zip Code 97062  
Mailing address P.O. Box 636 City Tualatin State OR Zip Code 97062  
Telephone # 503-310-5159 Fax # 503-885-1187  
Name(s) of business manager(s) First Matt Middle W Last Brazelton  
Date of birth [REDACTED] Social Security # [REDACTED] ODL# [REDACTED] M ☒ F ☐  
Home address [REDACTED] City [REDACTED] State [REDACTED] Zip Code [REDACTED]  
(attach additional pages if necessary) ✓  
Type of business Home Brew Supplies  
Type of food served From the hot seat or Birra Deli  
Type of entertainment (dancing, live music, exotic dancers, etc.) N/A.  
Days and hours of operation 8am-1am 8am to 1am  
Food service hours: Breakfast 8am-1am Lunch 8am-1am Dinner 8pm-1am  
Restaurant seating capacity 10 Outside or patio seating capacity 24  
How late will you have outside seating? 10pm How late will you sell alcohol? 1am

How many full-time employees do you have? one Part-time employees? three

### SECTION 3: DESCRIPTION OF LIQUOR LICENSE

Name of Individual, Partnership, Corporation, LLC, or Other applicants G-MAN LLC

Type of liquor license (refer to OLCC form) Limited on-Premises Sales + off-premises sales

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

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

Full name \_\_\_\_\_ Date of birth \_\_\_\_\_

Residence address \_\_\_\_\_

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

Full name \_\_\_\_\_ Date of birth \_\_\_\_\_

Residence address \_\_\_\_\_

Full name \_\_\_\_\_ Date of birth \_\_\_\_\_

Residence address \_\_\_\_\_

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

(a) Name and business address of registered agent.

Full name \_\_\_\_\_

Business address \_\_\_\_\_

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

Full name \_\_\_\_\_ Date of birth \_\_\_\_\_

Residence address \_\_\_\_\_

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

Full name of president: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of treasurer: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

Full name of secretary: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

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

Full name: Gary Haberman Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_



Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

☐ **OTHER:** If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

#### SECTION 4: APPLICANT SIGNATURE

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

[Redacted Signature]

1-4-16  
Date

#### For City Use Only

Sources Checked:

☒ DMV by BS      ☒ LEDS by BS      ☒ TuPD Records by BS  
☒ Public Records by BS

☒ Number of alcohol-related incidents during past year for location.  
☒ Number of Tualatin arrest/suspect contacts for \_\_\_\_\_

It is recommended that this application be:

☒ Granted

☐ Denied

Cause of unfavorable recommendation: \_\_\_\_\_

[Redacted Signature]

1/22/16  
Date

Kent W. Barker  
Chief of Police  
Tualatin Police Department





# STAFF REPORT

## CITY OF TUALATIN

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

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 02/08/2016

**SUBJECT:** Consideration of **Resolution No. 5264-16** Agreeing to Share Transient Room Tax Revenue with Washington County as Provided in Washington County Code Chapter 3.08 and Authorizing the City Manager to Execute an Intergovernmental Agreement

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### ISSUE BEFORE THE COUNCIL:

Whether or not to approve the attached resolution and continue the revenue sharing agreement included in Washington County Code Chapter 3.08

### RECOMMENDATION:

Staff recommends that the City Council pass the attached resolution and authorize the City Manager to enter into an updated intergovernmental agreement with Washington County

### EXECUTIVE SUMMARY:

The City of Tualatin was recently contacted by Washington County regarding an intergovernmental agreement (IGA) related to Transient Room Tax revenue sharing. In researching the apparent lack of an IGA between the City and the County, it was determined that one was signed in 1974, but is now outdated due to changes in the countywide room tax since the original IGA was signed. The County desires a new IGA be signed, which is attached for your review.

The City has been receiving its share of the revenues since the original IGA was signed in 1974, when the tax rate was 5%. Since then, the rate has been increased by countywide vote on two different occasions. The rate was raised to 7% in 1985, with 1% of the increase going to the County Fair and 1% going towards regional tourism. The rate was increased an additional 2% in 2006, also allocated for regional tourism. Of the current 9% rate, the City receives 2.5% (half of the original 5%) of revenues generated in Tualatin, or \$259,675 in FY 14/15. The allocation of revenues is included in County Code Chapter 3.08.170, and the attached IGA will ensure that the City continues to receive its share of the revenues.

This action by the Council is a housekeeping item to update the IGA with Washington County to better reflect current process.



RESOLUTION NO. 5264-16

A RESOLUTION AGREEING TO SHARE TRANSIENT ROOM TAX REVENUE  
WITH WASHINGTON COUNTY AS PROVIDED IN WASHINGTON COUNTY  
CODE CHAPTER 3.08 AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE AN INTERGOVERNMENTAL AGREEMENT

WHEREAS, Washington County Code Chapter 3.08, the "Transient Room Tax" is  
a county-wide tax on hotel-motel occupancy;

WHEREAS, Chapter 3.08.170 provides that tax receipts allocable to hotels and  
motels in a city may be shared with the city, provided the city adopts a resolution  
declaring that, in lieu of adoption of its own tax, it agrees to certain terms of Chapter  
3.08; and

WHEREAS, the City wishes to forego its own transient occupancy tax and enter  
into an Intergovernmental Agreement (IGA) with Washington County for revenue  
sharing.

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

**Section 1.** In lieu of the in lieu of adoption of its own transient occupancy tax,  
the City of Tualatin agrees to the terms in Washington County Code Chapter 3.08 for all  
transient lodging within the City of Tualatin.

**Section 2.** The City Manager is authorized to execute the attached IGA with  
Washington County to share Transient Room Taxes, under Washington County Code  
Chapter 3.08.

**Section 3.** This resolution is effective upon adoption.

Adopted by the City Council this 8th Day of February, 2016.

CITY OF TUALATIN, OREGON

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

APPROVED AS TO FORM

ATTEST:

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

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

## **INTERGOVERNMENTAL AGREEMENT**

### **Transient Room Tax**

This Agreement is entered into by and between Washington County, a political subdivision of the State of Oregon (County) and the City Tualatin, a municipal corporation (City).

#### **WHEREAS:**

1. Washington County Code Chapter 3.08, the “Transient Room Tax” is a county-wide tax on hotel-motel occupancy;
2. Chapter 3.08.170 provides that tax receipts allocable to hotels and motels in a city may be shared with the city, provided the city adopts a resolution declaring that, in lieu of adoption of its own tax, it agrees to certain terms of Chapter 3.08; and
3. City, by Resolution No. 5264-16, has so declared and the parties desire to enter into an Agreement to implement the terms of Chapter 3.08; now, therefore, it is

#### **AGREED:**

1. City, in lieu of adopting its own transient room tax, and in consideration of an allocation of tax receipts arising from hotels and motels in City, hereby consents to the following:
  - a. The administration and enforcement of the transient room tax shall remain with Washington County, acting by and through its Director of Support Services;
  - b. The total amount of transient room tax imposed in City shall not exceed nine percent (9%) of the rent as provided in Section 3.08.080 of the County Code; and
  - c. The amount distributed to City shall be calculated as provided for in Section 3.08.170 C. of the County Code.
2. County shall calculate the amount, if any due to City in accordance with Section 3.08.170 C and shall distribute any amount due to City within 30 days of receipt of the taxes.
3. If the County Code referenced in this Agreement is amended after the effective date of this Agreement, such amendment will not apply to the provisions in Section 1 and 2 of this Agreement unless the City provides its written consent to modify those provisions or the parties otherwise amend this Agreement.
4. County and City, by and through their respective finance officers shall cooperate in ensuring that the tax is effectively and efficiently enforced within City. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

5. County will maintain all financial and performance records relating to this Agreement in accordance with applicable public records retentions schedules. City may have access to all records and documents related to this Agreement and County's performance under this Agreement, whether in paper, electronic, or other form. With prior reasonable notice to County, City may perform examinations and audits and make copies, excerpts, and transcripts of records and documents related to this Agreement and County's performance under this Agreement. Any such examinations, audits, copies, excerpts, or transcripts will be at City's sole cost.

6. This Agreement may be terminated by either party upon 30 days written notice. Any amounts due City for receipts prior to the effective date of termination shall be paid within 30 days of termination.

7. Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability.

8. This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

9. This Agreement is for the benefit of the parties only. Each Party agrees to indemnify and hold harmless the other Party, and its officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and will not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300).

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

**CITY OF TUALATIN**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address: 18880 SW Martinazzi Ave.  
Tualatin, Oregon 97062

**WASHINGTON COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address:     155 N First Avenue; MS 25; 270 Public Services Building  
                 Hillsboro OR 97124