



MEETING AGENDA
TUALATIN PLANNING COMMISSION

April 20, 2017; 6:30 p.m.
JUANITA POHL CENTER
8513 SW TUALATIN RD
TUALATIN, OR 97062

1. **CALL TO ORDER & ROLL CALL**
Members: Bill Beers, Chair, Kenneth Ball, Alan Aplin, Angela Demeo, Travis Stout, Mona St. Clair, and Janelle Thompson.
Staff: Aquilla Hurd-Ravich, Planning Manager
2. **APPROVAL OF MINUTES**
 - A. Approval of February 16, 2017 TPC Minutes
 - B. Approval of March 20, 2017 TPC/ARB Minutes
3. **COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA)**
Limited to 3 minutes
4. **ACTION ITEMS**
5. **COMMUNICATION FROM CITY STAFF**
 0. Consideration for Planning Commission Review of Conditional Use Permit (CUP) Applications
 - A. Planning Commission Review of Conditional Use Permits
6. **FUTURE ACTION ITEMS**
7. **ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**
8. **ADJOURNMENT**



STAFF REPORT

CITY OF TUALATIN

TO: Tualatin Planning Commissioners

FROM: Lynette Sanford, Office Coordinator

DATE: 04/20/2017

SUBJECT: Approval of February 16, 2017 TPC Minutes

ISSUE BEFORE TPC:

Attachments: [TPC Minutes 2.16.17](#)



City of Tualatin

www.tualatinoregon.gov

UNOFFICIAL

TUALATIN PLANNING COMMISSION -

MINUTES OF February 16, 2017

TPC MEMBERS PRESENT:

Bill Beers
Alan Aplin
Angela Demeo
Mona St. Clair
Janelle Thompson

STAFF PRESENT

Aquilla Hurd-Ravich
Lynette Sanford

TPC MEMBER ABSENT: Kenneth Ball, Travis Stout

GUESTS: None.

1. CALL TO ORDER AND ROLL CALL:

Beer Beers, Chair, called the meeting to order at 6:30 pm and reviewed the agenda. Roll call was taken.

2. APPROVAL OF MINUTES:

Mr. Beers asked for review and approval of the January 19, 2017 TPC minutes. MOTION by Aplin SECONDED by Thompson to approve the minutes as written. MOTION PASSED 5-0.

3. COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):

None.

4. ACTION ITEMS:

A. 2016 Annual Report of the Tualatin Planning Commission

Ms. Hurd-Ravich presented the 2016 Tualatin Planning Commission Annual Report. Every year the report is presented to Council - this year it is scheduled for March 27, 2017.

The Municipal Code states that no later than April 1 of each year, the Commission shall file with the City Council its annual report of the activities of the Commission. The annual report shall include a report of the activities by the Commission during the preceding year, in addition to specific recommendations to the City Council relating to

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

the Planning process, plan implementation measures within the City, or future activities of the Commission.

Ms. Hurd-Ravich stated that the Planning Commission is the official Committee to fulfill Goal 1: Citizen Involvement of Oregon's statewide land use planning program. The purpose of Goal 1 is to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phase of the land use planning process.

Ms. Hurd-Ravich stated that last year, the Commission made recommendations on two Plan Text Amendments, heard multiple updates from staff regarding various projects including Basalt Creek, The Capital Improvement Plan, Industrial Site Readiness, Civic Center Outreach, Southwest Corridor, and Mobile Food Units.

Ms. Hurd-Ravich added that Angela Demeo attended a Planning Commissioner Training hosted by the Oregon City Planning Director's Association in September.

5. COMMUNICATION FROM CITY STAFF:

A. Update on Basalt Creek Land Use Concept Plan Map

Ms. Hurd-Ravich stated that on January 13, 2017, the Council discussed Basalt Creek at their work session. Ultimately, the Council's direction was to make the area in question residential and work with partners to have a place holder for a WES station. Ms. Hurd-Ravich noted that staff felt the need to go to Council since we have three new Council members, additional information from Washington County, and numerous testimonies from the property owners.

Mr. Aplin asked about Washington County's views. Ms. Hurd-Ravich responded that as staff, we acknowledged that we need elected leadership with our partners. It will require the Mayor and Council reaching out to Washington County, Wilsonville, and Metro. Ms. Demeo asked if area we're referring to is the 94 acres south of Victoria Gardens. Ms. Hurd-Ravich answered affirmatively. Ms. Demeo asked if this information will be communicated to the property owners. Ms. Hurd-Ravich answered that it will be noted in the monthly update we send out to the surrounding property owners and the residents who have chosen to be on our mailing list. Ms. Hurd-Ravich added that there were many property owners in attendance at this meeting and an article regarding this was printed in the Tualatin Times.

Ms. Hurd-Ravich stated that our next steps include the City Managers of Wilsonville and Tualatin meeting with staff and the City Mayors. Depending on when the meeting will be held, we may have an update for the Commission in April.

Mr. Aplin asked if this could set us back with relation to Wilsonville. Ms. Hurd-Ravich responded that Wilsonville is concerned about clustering employment together with residential land and the marketability of that. They are also concerned about community design and trip counts.

Ms. Hurd-Ravich stated that last month we brought forth information about the code update. We have recently signed a contract with a consultant and they are currently reading through the code and auditing as needed. Hurd-Ravich encouraged the Commission members to gather input from others and return with the feedback received.

Ms. Demeo asked if the development code is in printed form. Ms. Hurd-Ravich responded that it is currently all web based. Ms. Demeo asked if the links on our web site will be corrected. Ms. Hurd-Ravich responded that if a broken link is found, please report it. When the web was updated a year ago, all the links had to be fixed.

Ms. Hurd- Ravich noted that the last steps regarding food carts include gathering input from the Chamber. We will be compiling the input, circulate the input to the community, and take the draft ordinance to Council in the spring.

6. FUTURE ACTION ITEMS

Ms. Hurd-Ravich stated that the next TPC meeting will be held jointly with the Architectural Review Board on Monday, March 20, 2017. Sean Brady, our City Attorney, will present information regarding the land use process including how to conduct land use hearings. In April, we may have an update on Basalt Creek and Food Carts.

7. ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION

None.

8. ADJOURNMENT

MOTION by Beers to adjourn the meeting at 6:58 pm.

_____ Lynette Sanford, Office Coordinator



STAFF REPORT

CITY OF TUALATIN

TO: Tualatin Planning Commissioners

FROM: Lynette Sanford, Office Coordinator

DATE: 04/20/2017

SUBJECT: Approval of March 20, 2017 TPC/ARB Minutes

ISSUE BEFORE TPC:

Attachments: [TPC/ARB Minutes March 20, 2017](#)



City of Tualatin

www.tualatinoregon.gov

UNOFFICIAL

TUALATIN PLANNING COMMISSION/ARB JOINT MEETING MINUTES OF MARCH 20, 2017

TPC MEMBERS PRESENT:

Bill Beers
Kenneth Ball
Alan Aplin
Angela Demeo
Travis Stout
Janelle Thompson

STAFF PRESENT

Aquilla Hurd-Ravich
Sean Brady
Lynette Sanford

ARB MEMBERS PRESENT:

Jeff DeHaan
John Howorth
Patrick Gaynor
Chris Goodell
Carol Bellows
Angela Niggli

TPC MEMBER ABSENT: Skip Stanaway, Mona St. Clair

GUESTS:

1. CALL TO ORDER AND ROLL CALL:

Beer Beers, Planning Commission Chair, called the meeting to order at 6:30 pm and reviewed the agenda. The Tualatin Planning Commission and Architectural Review Board members introduced themselves.

2. COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):

None

3. COMMUNICATION FROM CITY STAFF:

A. Land Use Hearings – A Briefing

Sean Brady, City Attorney, presented an informational briefing about land use hearings (legislative and quasi-judicial). He covered topics including each type of hearing and process, appeals, ex-parte contacts and communications, bias, and conflicts of interest.

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

This briefing included a PowerPoint presentation.

Mr. Brady stated that there are two types of land use hearings: Legislative and Quasi-Judicial. Legislative is where the body is sitting as a legislator and there is no requirement for the body to enact. Examples include zoning and re-zoning changes including plan map and plan text amendments. A quasi-judicial hearing is where the body sits as a judge to consider and apply evidence to criteria in the code. This is used for site-specific zoning or map changes and a written decision must be made within 120 days.

Mr. Brady discussed ex-parte contact. Forms of ex-parte contact include site visits, discussing newspaper articles, and discussions with the applicant or audience members. If this occurs, it must be announced immediately before the public hearing begins or resumes. The decision-making body allows all parties to the proceeding the opportunity to question the decision-maker to clarify the contact, and to present evidence and argument to rebut the substance of what was discussed outside of the hearing.

Mr. Beers stated that during the building of the Nyberg Rivers site, there was a sign variance for LA Fitness. Mr. Beers questioned that if a person was on the site visiting another business, is that considered ex-parte contact? Mr. Brady answered that the site visit should be disclosed.

Mr. Beers inquired about solicited contact such as emails. Mr. Brady responded that if the email is received and opened, it will need to be disclosed.

Mr. Brady stated that to cure an ex-part contact, the nature and the substance of the contact must be stated at the next public hearing immediately after the contact occurs. The decision-making body allows all parties to the proceeding the opportunity to question the decision-maker to clarify the contact, and to present evidence and argument to rebut the substance of what was discussed outside of the hearing. Mr. Brady noted that if a person does not cure, it violates the substantial rights of parties and is a basis for invalidating the decision.

Mr. Brady acknowledged that another issue that can substantially impair a party's ability to receive a full and fair hearing is bias. Actual bias is a prejudice to prejudgment of the case to such a degree that the decision-maker is incapable of making a decision of the merits. This includes personal bias, personal prejudice and interest in the outcome.

Mr. Brady discussed conflicts of interest. This includes actual conflict and potential conflict. The required action of actual conflict is to disclose the nature of the conflict and reason for abstention, refrain from discussions, and refrain from voting. The required action if potential conflict is to disclose the nature of the conflict and you may participate in discussions and voting. A person may still choose recusal, but it is not required.

Mr. Ball mentioned that he works for a company that is associated with Trimet/Max, but

works in a different sector. Mr. Ball wondered if it would be a conflict of interest if his employer is associated with the case but he isn't directly. Mr. Brady responded that if his company had an application submitted to the TPC that will be a conflict of interest. Mr. Brady added that if they have a question regarding whether conflict exists, they can consult with the Oregon Government Ethics Commission (OGEC) or the City Attorney.

Mr. Aplin asked if he receives an email after the hearing closes, does he have to disclose it even if he doesn't read it. Mr. Brady responded affirmatively.

Mr. DeHaan asked what the potential penalties are. Mr. Brady answered that they could be fined by the Ethics Commission and they would have to hire their own attorney – the City Attorney is prohibited from being involved. An ex-parte contact is a City issue.

Mr. Aplin asked if the ARB is quasi-judicial. Mr. Brady answered affirmatively. Ms. Hurd-Ravich added that the TPC handles mostly legislative matters.

Mr. Ball asked if LUBA members are appointed. Mr. Brady answered affirmatively.

Ms. Bellows asked if it would be an ex-parte conflict if she conferred with a colleague regarding landscaping. Mr. Brady stated that if it affects her decision, then yes. She asked if she can bring the colleague into the hearing. Mr. Brady answered affirmatively.

Mr. Gaynor stated that he does not live in Tualatin and may want to visit a site to become familiar with the area. Mr. Brady responded that he can visit a site as long as he discloses it. Ms. Hurd-Ravich added that if the ARB visits a site as a group, it would be considered a public meeting and a notice would need to be sent out.

4. FUTURE ACTION ITEMS

Ms. Hurd-Ravich stated that future action items for TPC include a Plan Map Amendment and a Food Cart Ordinance. There are currently no meetings planned for the ARB.

5. ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION

None.

6. ADJOURNMENT

Mr. Beers adjourned the meeting at 7:34 PM.

_____ Lynette Sanford, Office Coordinator



STAFF REPORT

CITY OF TUALATIN

TO: Tualatin Planning Commissioners

FROM: Charles Benson, Associate Planner
Aquilla Hurd-Ravich, Planning Manager

DATE: 04/20/2017

SUBJECT: Consideration for Planning Commission Review of Conditional Use Permit (CUP) Applications

ISSUE BEFORE TPC:

Introduction

The Tualatin Planning Commission was formerly the Tualatin Planning Advisory Committee. In 2011 the chair and members of what was then the advisory committee began a conversation with City Council about becoming a Planning Commission. The City Council and Planning Advisory Committee held a joint meeting to discuss what applications a newly formed Planning Commission could transfer from the Council's purview to that of the Planning Commission. Staff researched the number and type of quasi judicial applications received which Council and the Planning Advisory Committee used for discussion. Ultimately, they decided on a discrete set of quasi judicial applications including: Industrial Master Plans, Reinstatement of Use, Sign Variance, Variance and Transitional Use Permits.

At the time the Council decided that Conditional Use Permits should remain in their purview mainly because they felt responsible to surrounding property owners who could be impacted by the Conditional Use. At the Council meeting on April 10th 2017 at the conclusion of the presentation of the Planning Commission Annual Report, Chair Beers suggested the possibility of revisiting this topic. The Mayor and Council were open to discuss this transfer of purview over Conditional Use Permits.

Staff has prepared some background information to help frame the Planning Commission conversation. Depending on direction from the Planning Commission the next step could be a discussion with Council at a Work Session.

Background and Purpose

Each planning district in the Tualatin Development Code (TDC) allows for both permitted and conditional uses, the latter requiring additional discretionary review due to perceived potential impacts on neighboring properties. TDC Chapter 32 states the purpose for conditional use regulations and standards is to:

"(1) Allow, on one hand, practical latitude for utilization of land and structures, but at the same

time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community and adjacent properties; and

(2) Provide machinery for periodic review of conditional use permits to provide for further conditions to more adequately assure conformity of such uses to the public welfare."

Historically in the City of Tualatin, the City Council has the authority to approve, approve with conditions, or deny conditional use permit (CUP) applications. As shown in Attachment A, the City has granted 24 conditional use permits since 2007 with only one (1) granted since 2013. A clear majority of conditional use permits (19 total) pertain to properties in the Light Manufacturing (ML) and General Manufacturing (MG) Planning Districts.

CUP Approval Criteria

As outlined in TDC Section 32.030, to allow a conditional use, the granting authority must conclude that the applicant has demonstrated that the proposed use satisfies the following five (5) criteria:

(1) The use is listed as a conditional use in the underlying planning district.

The applicant must identify the proposed use in the corresponding planning district list of conditional uses or obtain an interpretation that the proposed use has the same characteristics of a listed conditional use.

(2) The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.

The applicant must explain how the expected physical characteristics of the proposed use will fit on the subject site. For example, for developed sites, describe what modifications to built structures will be required to accommodate the proposed use; for undeveloped sites, discuss what site preparation work (e.g., grading, tree removal) will be needed to house the proposed use.

(3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.

The applicant must detail what infrastructure improvements (e.g., water, sewer, electric, etc.) are needed for the proposed use and if the subject site contains the necessary infrastructure services, and if not, what is the estimated timeframe for when these improvements/systems will be installed and operational. This section would also include any necessary traffic and/or parking studies to ensure the surrounding street network would not be adversely affected by the proposed use.

(4) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.

The applicant must identify potential nuisances as a result of the proposed use and what on-site mitigation measures will be employed to eliminate negative impacts on the surrounding area.

(5) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

The applicant must discuss how the proposed use satisfies the applicable objectives and policies in TDC Chapters 1-30 and the purpose section of the corresponding planning district chapter.

Conditions of Approval

Conditions of approval are common for most land use approvals in the City of Tualatin, most of which are included to ensure that proposed uses comply with all applicable City policies and regulations that are not expressly discussed during the land use review process, while others are applied when specific characteristics of a proposed use do not comply with specific City policies and regulations. The standard conditions of approval for all conditional use permits are:

- (1) The applicant shall operate conditional use consistent with application materials
- (2) A CUP approval does not approve any site redevelopment or exterior building modifications and the applicant shall obtain separate approval from the City for any site and/or exterior modifications
- (3) The applicant shall comply with all applicable noise standards
- (4) The applicant shall submit any sign permits separately from the CUP application
- (5) The applicant shall comply with CUP approval period standards
- (6) The applicant shall comply with all applicable TDC policies and regulations

As noted above, conditions of approval can also be use/application specific. In the most recently-approved CUP for Calmax Technology (see Attachment B), conditions of approvals included requirements for Calmax or subsequent operator to provide evidence that it will comply with TDC parking standards. In another example for the U-Haul property at 7100 SW McEwan Road (CUP 13-05, Resolution 5177-14, see Attachment C), additional conditions of approval included landscaping improvements and screening of proposed outdoor storage areas.

Land Use Procedure Required to Change Conditional Use Permit Granting Authority

The City Council, per TDC and Tualatin Municipal Code (TMC) statutes, currently has the authority to grant conditional use permits. The transfer of this authority to the Tualatin Planning Commission requires a Plan Text Amendment (PTA), a Type IV legislative decision by the City Council with a recommendation from the Planning Commission. The PTA would include text changes to the following:

- (1) TDC Section 2.060
- (2) TDC Section 31.076
- (3) TDC Chapter 32

This proposed change will also require the City Council to approve an ordinance that modifies

TMC Chapter 11-01 to include conditional use permits to the list of land use applications heard and decided by the Planning Commission.

Attachments: Attachment A - CUP Recent History
 Attachment B - CUP 16-0001 Analysis and Findings
 Attachment C - Resolution 5177-14 for CUP 13-05

CONDITIONAL USE PERMIT (CUP) HISTORY (2007 to Present)

| Year | Resolution No. | Planning District | Conditional Use |
|------|----------------|-------------------|--|
| 2007 | 4654-07 | MG | Contractor shop and equipment storage |
| 2007 | 4730-07 | ML | K-6 school |
| 2008 | 4780-08 | ML/MG | Watchman's dwelling for self-storage facility |
| 2008 | 4814-08 | MG | Building materials and supplies, warehousing and wholesaling, home improvement materials and supplies rental |
| 2008 | 4830-08 | ML | School |
| 2009 | 4890-09 | RL | Private club use and additional building height |
| 2009 | 4921-09 | MG | Light truck rental, leasing, and associated temporary storage |
| 2009 | 4914-09 | MG | Warehousing and wholesale distribution of building materials |
| 2009 | 4949-09 | ML | Contractor shop and equipment storage |
| 2010 | 4995-10 | CG | Outdoor doggie day care |
| 2010 | 4966-10 | ML | K-8 school |
| 2010 | 4975-10 | MG | Bus maintenance and storage facility |
| 2010 | 4976-10 | ML | General auto repair |
| 2010 | 4997-10 | ML | Contractor shop and equipment storage |
| 2011 | 5031-11 | MG | Watchman's dwelling unit |
| 2011 | 5058-11 | ML | Light metal fabrication |
| 2011 | 5072-11 | MG | Composting of residential food scrap material |
| 2011 | 5086-12 | MG | Building materials and supplies, warehousing and wholesaling |
| 2012 | 5091-12 | ML | School |
| 2013 | 5140-13 | RML | Small-Lot subdivision |
| 2013 | 5138-13 | CC | Veterinary Clinic |
| 2013 | 5164-13 | CO/CC | Retail uses in CO and outdoor storage and sales in CC |
| 2013 | 5177-14 | ML | Auto and light truck rentals and leasing |
| 2016 | 5309-17 | ML | Machine shop greater than 7500 SF |

CALMAX TECHNOLOGY DEVELOPMENT PROJECT
CONDITIONAL USE PERMIT APPLICATION (CUP-16-0001)

ATTACHMENT D: ANALYSIS AND FINDINGS

The issue before the City Council is consideration of a conditional use permit for Calmax Technology, Inc., to allow a machine shop of 7,500 gross square feet or larger.

In order to grant the proposed Conditional Use Permit, the request must meet the approval criteria of Tualatin Development Code (TDC) Section 32.030. The applicant prepared a narrative that addresses the criteria, which is within the application materials (Attachment B), and staff has reviewed this and other application materials and included pertinent excerpts below.

The following materials and descriptions are based largely on the applicant's narrative; staff has made some minor edits. Staff comments, findings, and conditions of approval are in Italic font.

(1) The use is listed as a conditional use in the underlying planning district.

Applicant Response: The subject property, Tax Lot 2S1 22AD 00400, is located in the Light Manufacturing (ML) Planning District. Yes. A “machine shop, including automobile machine shop, of 7,500 gross square feet or larger” is a conditional use in the ML Planning District pursuant to TDC 60.040(1)(g).

Staff finds that Criterion 1 is met.

(2) The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements, and natural features.

Applicant Response:

Size: The minimum lot size within a ML Planning District is 20,000 SF, or approximately .046 acres (per TDC 60.060). The subject property is approximately 1.69 acres and Calmax is not proposing any changes to the site plan.

The site size is suitable for the proposed use.

Shape: The subject property is rectangular, is already developed, and Calmax is not proposing any changes to the site plan.

The lot shape is suitable for the proposed use.

Location: The subject property is located within a ML Planning District with access via two existing driveways onto SW Leveton Street.

The location is suitable for the proposed use.

Topography: The property is flat.

Staff finds that the topography is suitable for the proposed use.

Improvements: The property has been developed and includes off-street parking and loading, lighting, landscaping, frontage improvements, utility improvements and access to SW Leveton Street. There are two existing driveways onto SW Leveton Street, each approximately 30 feet wide. The site provides four loading spaces, one on the north side of the building and three on the west side of the building. There are 35 existing parking spaces, including two handicap parking spaces. There are also four loading docks.

Staff finds that generally the on-site improvements are suitable for the proposed use but will discuss parking requirements under Criterion 3.

Natural Features: Because the site is already developed, no natural features remain. On-site landscaping includes buffers along the north and west property lines and islands within the parking lot area.

Staff finds that—with the exception of on-site landscaping—there are no natural features on the subject site and the proposed use will not affect natural features.

As noted, no changes to the building exterior or site, including the existing parking and loading areas, are proposed with this application. In particular, Calmax does not propose to change the building exterior or site development such that Architectural Review (AR) would be required pursuant to TDC 73.040. Calmax may elect to complete minor repairs or restriping of existing parking and loading areas but does not plan to alter the lot to add or remove any parking or loading spaces.

Staff finds that the following condition of approval is required to meet Criterion 2:

Condition of Approval No. 1: The approval of Conditional Use Permit 16-0001 does not approve any site redevelopment or exterior building modifications, and the applicant shall obtain approval from the City for any site or exterior modifications, pursuant to TDC 73.040(1) and TDC 73.100(1) and (2).

(3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use.

Applicant Response:

Transportation Systems

Primary access to the site will continue to be provided by two 30-foot-wide driveways onto SW Leveton Drive, an established minor arterial providing direct connections to (State Highway) 99W via SW 124th Avenue and SW Tualatin/Sherwood Road and SW Herman Road via SW 108th Avenue and SW Teton Avenue. As provided in the traffic study included as Appendix H in Attachment B, "Application Materials," the proposed conditional use is anticipated to generate fewer daily trips (127 fewer) and fewer peak hour trips (7 fewer AM peak hour and 9 fewer PM peak hour trips) than the existing permitted use and will therefore not result in traffic impacts during peak hours on the adjacent street network.

Off-Street Parking

Based on Tualatin Development Code (TDC) off-street parking provisions in TDC 73.370(2), the existing building on the project site housing manufacturing uses would require 56 parking spaces, much greater than the existing 35 off-street parking spaces, signifying a potential parking shortfall. However, the operational characteristics of the proposed use would make an alternative parking ratio allowing retention of the existing 35 parking spaces appropriate in this case. Calmax's near term operations will

require less than 30 people on site per shift, making the existing 35 parking spaces sufficient to provide off-street parking for all of Calmax's needs; Calmax will reserve two (2) on-site spaces for vanpool/carpool parking to comply with TDC standards. Calmax also proposes to add four (4) covered bike parking spaces to the property, which currently does not have any bike parking, to meet the needs of employees biking to work. If Calmax increases the number of people it employs in Tualatin in the future, which would require additional parking, Calmax would have the option to add parking through a modification of existing on-site parking or providing additional parking off-site, either through shared parking or a joint use agreement with a neighboring property owner with excess parking capacity.

In order to ensure that Calmax is continuing to provide sufficient off-street parking, Calmax will, on or before the two year anniversary of the effective date of the Conditional Use Permit, provide City staff with reasonable evidence that it has, either on or off site, provided parking sufficient to meet its operational needs. Such evidence may include, but is not limited to: a parking study with employment numbers showing that the operational characteristics of the use have not materially changed (in particular, above 30 employees per shift); a survey of on-site parking showing at least 56 spaces; or evidence of agreements with neighboring landowners providing sufficient parking off-site to total at least 56 spaces when considered with on-site parking. If Calmax provides City staff with such reasonable evidence of sufficient off-street parking, a new land use review application for modification of the conditional use approval will not be required.

Public Facilities and Services

Public sewer, water, and storm connections currently exist and are adequate to serve the property and the proposed use.

Staff finds that the Tualatin Development provides some flexibility regarding parking requirement standards in the Conditional Use Permit and Architectural Review processes; TDC 73.370(1)(a) states the following:

*“At the time of establishment of a new structure or use, or change in use, or change in use of an existing structure, within any planning district of the City, off-street parking spaces, off-street vanpool and carpool parking spaces for commercial, institutional and industrial uses, off-street bicycle parking, and off-street loading berths shall be as provided in this and following sections, unless greater requirements are otherwise established by the **conditional use permit** or the Architectural Review process, based upon clear findings that a greater number of spaces are necessary at that location for protection of public health, safety and welfare or **that a lesser number of vehicle parking spaces will be sufficient to carry out the objectives of this section.**”*

As noted above, there are an existing 35 off-street parking spaces on the subject site, and Calmax reports that its near term operations will require less than 30 people on site per shift. In a conservative scenario where all employees drive to work—discounting any instances of carpooling, bicycling, or other non-vehicular means of arriving to work—the existing on-site parking is sufficient to accommodate Calmax parking demand in the near term. Staff notes that Calmax will reserve two (2) on-site spaces for vanpool/carpool parking and will also provide four (4) interior bicycle parking spaces for its employees, with the potential for further lessening parking demand.

Staff finds that minimum off-street parking provisions are included in TDC 73.730(2)(a); the uses applicable to the proposed development are summarized in this table:

| Use | Minimum Motor Vehicle Parking Requirements | Maximum Motor Vehicle Parking Requirements | Bicycle Parking Requirements | Percentage of Bicycle Parking to be Covered |
|------------------------------|--|--|---|---|
| <u>Industrial</u> | | | | |
| (i) Manufacturing | 1.60 spaces per 1,000 gross sq. ft. | None | 2, or 0.10 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |
| (ii) Warehousing | 0.30 spaces per 1,000 gross sq. ft. | <u>Zone A:</u> 0.4 spaces per 1,000 gross sq. ft. <u>Zone B:</u> 0.5 spaces per 1,000 gross sq. ft. | 2, or 0.10 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |
| (ii) Wholesale Establishment | 3.00 spaces per 1,000 gross sq. ft. | None | 2, or 0.50 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |

Based on 29,550 square feet of manufacturing use and 5,250 square feet of warehousing use (the material stocking area and shipping/receiving areas) in existing on-site building, the proposed development will require a total of 49 off-street parking spaces to meet the minimum TDC requirements. As such, the proposed use will require an additional 14 spaces to comply with TDC off-street parking standards pursuant to TDC 73.370(2)(a).

Staff finds that the following conditions of approval are required to meet Criterion 3:

Condition of Approval No. 2: To meet parking standards in TDC Chapter 73 Community Design Standards, and to ensure Calmax is continuing to provide sufficient off-street parking, Calmax or subsequent operator will, on or before the two-year anniversary date of the effective date of CUP-16-0001, provide the City with reasonable evidence that it has either provided on- or off-site parking sufficient to meet the operational needs in continuing conformance with TDC 73.370(1)(a) allowing a lesser number of parking spaces.

Condition of Approval No. 3: If operational characteristics within two (2) years of the effective date of CUP-16-0001 change and the operator can no longer provide such evidence as to conformance with TDC 73.370(1)(a) allowing a lesser number of parking spaces (e.g., number of employees has increased by more than 30 per shift), Calmax or subsequent operator shall submit one of the two following options: Option A, a Joint Use Parking Agreement that conforms to Section 73.370(1)(m), or Option B, a survey of on-site parking showing the minimum number of spaces in conformance with Section 73.370(2)(a) and that also conforms to all parking standards in Chapter 73.

- (4) The proposed use will not alter the character of the surrounding area in any manner, which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying Planning District.**

Applicant Response: The property sits on the boundary between the Light Manufacturing (ML) planning district (to the south and east) and properties for more intense industrial uses in the Manufacturing Park (MP) planning district (to the north and west). There are no residential areas adjoining the subject property. Surrounding land uses by cardinal direction and planning district are:

- North: Manufacturing Park (MP) Planning District
Lam Research Corporation (electronics manufacturer) campus at 11155 SW Leveton Drive (across SW Leveton Drive)
- East: Light Manufacturing (ML) Planning District
Ascentec Engineering (machine shop and tooling company) at 18500 SW 108th Avenue (across SW 108th Avenue); D.O.T. Inc. outdoor vehicle storage facility at 18520 SW 108th Avenue (across SW 108th Avenue); City of Tualatin Operations Department, public works yard at 10699 SW Herman Road (across SW 108th Avenue)
- South: Light Manufacturing (ML) Planning District
Northwest Metal Fab & Pipe Inc. outdoor equipment yard at 18805 SW 108th Avenue (vehicle storage and junkyard area)
- West: Manufacturing Park (MP) Planning District
Fujimi Corporation (manufacturing related to semiconductor industry) at 11200 SW Leveton Drive

There are a number of high-tech manufacturing uses already operating in the area, including Fujimi, Ascentec, and Lam Research. And notably, Ascentec Engineering, which conducts similar machine shop type work Calmax proposes, operates in the same ML planning district. As such, the proposed use will continue to build the character of this area as a high-tech manufacturing hub for Tualatin.

Staff finds that Criterion 4 is met.

- (5) The proposal will satisfy those objectives and policies of the Tualatin Community Plan which apply to the proposed use.**

Applicant Response: The objectives of the Tualatin Community Plan, provided in TDC 7.030, include the encouragement of new industrial development and providing increased local employment opportunity. Calmax is a new employer in Oregon, and, while the proposal is for the conversion of an existing building, the space will be upgraded to a higher level of industrial development. Calmax will increase local employment by employing two shifts of around 30 employees each.

The ML planning district, in particular, is addressed in TDC 7.040(2) of the Tualatin Community Plan. The purpose of the ML planning district “is to provide sites for manufacturing uses that are more compatible with adjacent commercial and residential uses and would serve to buffer heavy manufacturing uses.” In accordance with that section, Calmax’s proposed use is a non-hazardous manufacturing process that does not create undue amounts of noise, dust, odor, vibration, or smoke. Calmax’s processes are clean and very self-contained, which will buffer heavier manufacturing uses in the adjacent MP planning district.

Finally, the adjacent MP planning district also provides opportunities for industrial development, with a focus on high-tech uses. Similarly, Calmax’s Computer Numerical Control (CNC) machining and

integrated clean room assembly business supplies a variety of high-tech products for the semiconductor, aerospace, solar, and medical industries. The proposed use is consistent with plan policies.

Staff finds that the applicable Tualatin Community Plan policies and TDC regulations that apply to the proposed conditional use in the ML Planning District include:

- 1. Section 7.040 Manufacturing Planning District Objectives, Subsection (2) Light Manufacturing Planning District (ML);*
- 2. Section 32.030 Criteria for Review of Conditional Uses; and*
- 3. Section 60.010 Purpose (Light Manufacturing Planning District [ML]).*

Section 7.040 Manufacturing Planning District Objectives, Subsection (2) Light Manufacturing Planning District (ML)

Section 7.040 Manufacturing Planning District Objectives, Subsection (2) Light Manufacturing Planning District (ML) states that this planning district is “suitable for warehousing, wholesaling and light manufacturing processes that are not hazardous and that do not create undue amounts of noise, dust, odor, vibration, or smoke.”

The Calmax Technology Development project includes converting an existing industrial building formerly used by a stone fabricator into a high-tech manufacturing use for the assembly of a variety of products for semi-conductor, aerospace, solar, and medical industries. All manufacturing activities are internal and the proposed use is a non-hazardous manufacturing process that does not create undue amounts of noise, dust, odor, vibration, or smoke. The proposed use meets this standard.

Section 32.030 Criteria for Review of Conditional Uses

Section 32.030 Criteria for Review of Conditional Uses states that the “City Council may allow a conditional use, after a hearing conducted pursuant to TDC 32.070, provided that the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied.” The Analysis and Findings included in this attachment (Attachment C) address the five (5) identified criteria listed in Section 32.030 to aid in the City Council decision on whether or not a proposed conditional use meets applicable TDC requirements.

Section 60.010 Purpose (Light Manufacturing Planning District [ML])

Section 60.010 Purpose states that the “purpose of this district is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses” and that this “district serves to buffer heavy manufacturing uses from commercial and residential areas.”

The proposed conditional use permit will allow the conversion of the existing manufacturing building that is currently being used for fabrication of natural stone products to a machining and assembly facility for Calmax Technology Inc. The proposed uses in the converted building will include: a Computer Numerical Control (CNC) machining area; assembly and quality control areas, office and administrative space, material stocking and storage areas (internal), and shipping/receiving area. The conditional use permit is required for the approximately 21,000-square-foot CNC machining component of this project as ML planning districts only allow 7,500 square feet of this use without a conditional permit. All proposed uses are clean and self-contained, which will buffer heavier manufacturing uses in the adjacent MP planning district, and are consistent with adjacent uses in both the ML and MP planning districts. The proposed use meets this standard.

Staff finds that the following conditions of approval are required to meet Criterion 5:

Condition of Approval No. 4: The applicant shall operate the use consistent with all application materials submitted to the City dated October 18, 2016.

Condition of Approval No. 5: The applicant shall comply with the noise standards in TDC 60.085.

Condition of Approval No. 6: The applicant shall—separately from the CUP—submit any sign permit applications pursuant to and in compliance with TDC Chapter 38.

Condition of Approval No. 7: The approval period shall be pursuant to TDC 32.090 Automatic Termination of Conditional Use as reproduced:

- (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted unless one of the following events occur:
 - (a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.*
 - (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.**
- (2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be submitted prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.*

Condition of Approval No. 8: The applicant shall comply with all applicable TDC policies and regulations.

SUMMARY OF ANALYSIS AND FINDINGS

Based on the application materials, conditions of approval, and the analysis and findings presented above, staff finds that CUP-16-0001 meets all criteria of TDC 32.030 "Criteria for Review of Conditional Uses."

RESOLUTION NO. 5177-14

RESOLUTION APPROVING WITH CONDITIONS A CONDITIONAL USE PERMIT FOR U-HAUL TO ALLOW RENTAL AND LEASING OF AUTOS AND LIGHT TRUCKS IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT FOR U-HAUL AT 7100 SW MCEWAN ROAD (TAX MAP 2S1 13DD, TAX LOTS 900, 1000, 1100, 1200, 1600, AND 1700, AND TAX MAP 2S1 24AA, TAX LOT 5500) (CUP-13-05)

WHEREAS, U-Haul International / AMERCO Real Estate Co., submitted an application for a conditional use permit to allow rental and leasing of autos and light trucks in the Light Manufacturing (ML) planning district;

WHEREAS, a quasi-judicial public hearing was held before the City Council of the City of Tualatin on February 10, 2014, and continued to February 24, 2014, upon the request of the applicant; and

WHEREAS, the City provided notice of CUP-13-05 pursuant to the Tualatin Development Code - TDC 31.077; and

WHEREAS, the City Council heard and considered the testimony and evidence presented by the City staff, the applicant, and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing, the Council voted unanimously to approve the application.

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

Section 1. The City Council approves the Conditional Use Permit with the following Conditions:

- A. The applicant must operate the use consistent with all application materials submitted to the City on November 27, 2013, and revised December 12, 2013, and February 12, 2014, unless otherwise directed by another condition of approval.
- B. Truck rental cannot commence until there is compliance with Conditions C(1) and (2).
- C. The applicant must comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.

- (1) The applicant must provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9).
 - (2) The applicant must provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2).
- D. The applicant must screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size.
 - E. Prior to issuance of a building permit, the applicant must provide a landscaping plan.
 - F. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant must install all landscaping according to the approved landscaping plan.
 - G. The applicant must comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.
 - H. The applicant must, separately from this CUP approval, submit sign permit applications and receive approval from the City for any proposed signage.
 - I. The approval period shall be pursuant to TDC 32.090 - Automatic Termination of Conditional Use as follows:
 - (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted, unless one of the following events occur:
 - (a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.

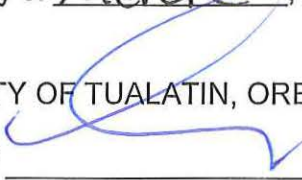
- (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.
- (2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit becoming null and void. The request for extension must be submitted prior to the expiration of the times established by Subsection A above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.
- J. This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.
- K. The applicant must comply with all applicable TDC policies and regulations.

Section 2. The City Council adopts as its Findings and Analysis the findings set forth in "Exhibit 1," which is attached and incorporated by reference.

Section 3. This Resolution is effective upon adoption.

Adopted by the City Council this 24 Day of March, 2014.

CITY OF TUALATIN, OREGON

BY 

Mayor

APPROVED AS TO FORM

BY 

City Attorney

ATTEST:

BY 

City Recorder

CUP-13-05 ATTACHMENT 101C:

ANALYSIS AND FINDINGS

The issue before the City Council is consideration of a conditional use permit to allow rental and leasing of autos and light trucks with incidental sale of vehicles for U-Haul.

In order to grant the proposed Conditional Use Permit, the request must meet the approval criteria of Tualatin Development Code (TDC) Section 32.030. The applicant prepared a narrative that addresses the criteria, which is within the application materials (Attachment 101B), and staff has reviewed this and other application materials and included pertinent excerpts below:

1. The use is listed as a conditional use in the underlying planning district.

The subject property, which comprises Tax Map 2S1 13DD, Tax Lots 900, 1000, 1100, 1200, 1600, and 1700, and Tax Map 2S1 24AA, Tax Lot 5500, is within the Light Manufacturing (ML) Planning District. "Rental and leasing of autos and light trucks, except not allowed in the Special Commercial Setback, TDC 60.035(1-3)" is a conditional use within the ML Planning District pursuant to TDC 60.040(1)(p), and the subject property is not subject to the Special Commercial Setback pursuant to TDC Map 9-5.

The criterion is met.

2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.

Size: The minimum lot size within the ML Planning District is 20,000 square feet (s.f.), approximately 0.46 acres. The site is approximately 10.08 acres and is developed with four industrial buildings vacated by NW Natural [Gas]. The tax lot exceeds the minimum lot size requirement.

The site size is suitable for the proposed use.

Shape: The site is a triangular composition of lots with access from and frontage along SW McEwan Road. The site abuts I-5 to the west/northwest and the Portland & Western Railroad (PNWR) to the south/southeast.

The lot shape is suitable for the proposed use.

Location: The site is located within the ML Planning District with access from SW McEwan Road.

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

The location is suitable.

Topography: According to City Geographic Information System (GIS) contour data, the developed site has negligible slope. The site generally slopes downward from north/northeast to south/southwest.

The topography would not interfere with the proposed use.

Improvements: The site is developed with four industrial buildings vacated by NW Natural [Gas]. The applicant proposes to re-use and convert the site and existing buildings into a self-storage, warehouse, and truck/equipment rental facility for U-Haul.

Of the adjacent public street, the Engineering Division Memorandum (Attachment 101D) identifies no needed improvements.

Asbuilts show existing sanitary sewer and water laterals to City systems. The existing water meter is in need of replacement. A replacement water meter is scheduled to have been completed by January 17, 2014. The sanitary sewer and water needs are met.

Natural Features: Staff visited the site on January 10 and 24, 2014. The developed site has several mature trees, with many in a park-like area in the northerly middle of the site, between the buildings and the northernmost parking. The applicant stated during the neighborhood/developer meeting on November 20, 2013 that there was no intention to redevelop this area.

The criterion is met.

3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

The following information is reproduced from the Engineering Division Memorandum (Attachment 101D):

Transportation: The site is east of I-5 and southwest of SW McEwan Road. The applicant has submitted a Traffic Information Report from Mackenzie dated December 12, 2013. As the Institute of Transportation Engineers (ITE) Trip Generation Manual does not have a use similar to U-Haul, a survey of a larger active U-Haul site was counted for comparison.

| TABLE 2 – U-HAUL TRIP GENERATION CHARACTERISTICS | | | | |
|--|----------------------|-----|---------------------|-----|
| Time Period | Weekday (Tues-Thurs) | | Weekend | |
| | Peak Hour | ADT | Peak Hour | ADT |
| Peak | 44 (16% in/84% out) | 365 | 39 (54% in/46% out) | 327 |
| Average | 33 (50% in/50% out) | 332 | 28 (60% in/40% out) | 218 |

Weekdays yielded higher overall peak trip generation and average peaking characteristics than the weekend days. Weekday peak and Average Daily Traffic (ADT) surpassed weekend peak and ADT, therefore weekday trip rates were evaluated to determine potential trip increases that might result in higher level of service (LOS).

| TABLE 4 – NET SITE TRIP GENERATION | | | | | | |
|------------------------------------|--------------------------------|-----------|-----------|----------------------------|----------|----------|
| Time Period | Weekday Midday Peak Hour Trips | | | Weekday PM Peak Hour Trips | | |
| | Entering | Exiting | Total | Entering | Exiting | Total |
| Proposed Site | 17 | 16 | 33 | 10 | 21 | 31 |
| Existing Site | 19 | 22 | 41 | 10 | 21 | 31 |
| Net Trip Impact | -2 | -6 | -8 | 0 | 0 | 0 |

Based on Table 4, the U-Haul development will not increase trips on the adjacent street system, and there will be no change in traffic operation during peak hours and a decrease during midday, therefore no impact to LOS at nearby intersections.

Sanitary Sewer, Stormwater, & Water: Asbuilts show existing sanitary sewer and water laterals to City systems. The existing water meter is in need of replacement. A replacement water meter is scheduled to be completed by January 17, 2014. The sanitary sewer and water needs are met.

No stormwater lines are available. Stormwater from this site will need to be addressed during redevelopment through infiltration or construction of new public stormwater lines.

Criterion 3 is met.

4. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.

The subject property is in the ML Planning District. Surrounding land uses by cardinal direction and planning district include:

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

N: CG SW McEwan Road, Legacy Medical Group
E: ML SW McEwan Road, North to south: Public Storage, Oswego
Storage, and Puremist Corp.
S: n/a Portland & Western Railroad (PNWR); outside city limits, in Lake
Oswego: industrial businesses
RMH Portland & Western Railroad (PNWR), Piper's Run Subdivision
(residential, mostly duplexes)
W: CG I-5, Providence Bridgeport medical facility, Claim Jumper restaurant

The proposed use can be conditioned to be compatible with surrounding uses including a rail line and mostly industrial businesses. The site lacks screening of outdoor storage and the west/northwest yard does not currently meet perimeter landscape standards, and a condition addresses this. Piper's Run Subdivision, across the PNWR, had co-existed with the developed industrial site, vacated by NW Natural [Gas], and can co-exist with the proposed use provided that the applicant complies with the conditions of approval. With applicant compliance with the conditions of approval, staff finds that the proposed use would not alter the character of the surrounding area in any manner which substantially limits, impairs or precludes the surrounding properties for the primary uses listed in the underlying planning districts.

The following are conditions of approval to meet Criterion 4:

3. *Condition 3: Landscaping & Outdoor Storage Screening*

(a) Provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9). Additionally, the applicant shall provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2). Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.

This condition keeps from harming surrounding properties the subject property that is subject to these landscaping standards. This condition is necessary because the site currently lacks perimeter landscaping.

(b) Screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size. Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

This condition keeps from harming surrounding properties the subject property that is subject to the screening standard. The condition is necessary because the site currently lacks adequate screening from public right-of-way (ROW).

5. The proposal is consistent with plan policies.

The applicable Tualatin Community Plan policies and TDC regulations that apply to the proposed conditional use in the ML Planning District include TDC:

- Chapter 7 "Manufacturing Planning Districts", Section 7.030 "Objectives";
- Chapter 32 "Conditional Uses", Section 32.030 "Conditional Uses – Siting Criteria";
- Chapter 38 "Signs";
- Chapter 60 "Light Manufacturing Planning District (ML)", Sections 60.010 "Purpose" and 60.041 "Restrictions on Conditional Uses";
- Chapter 63 "Environmental Regulations"; and
- Chapter 73 "Community Design Standards", Sections 73.040(1), 73.050(4), 73.160(3)(c) and (4)(b), and 73.380(6).

TDC 7.030 states that "the following are general objectives used to guide the development of the Plan and that should guide implementation of the Plan's recommendations: ... (2) Provide increased local employment opportunity."

The proposal is for truck rental use by U-Haul, a business new to Tualatin and new to the developed site that was vacated by NW Natural [Gas], and would allow for a number of jobs greater than the zero that presently exist on site, mitigating erosion of employment opportunity.

This Analysis & Findings (Attachment 101C) examines the five conditional use siting criteria within TDC 32.030, and this section addresses Criterion 5.

TDC 60.010 states that "The purpose of this district is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. ... The district is suitable for warehousing, wholesaling, and light manufacturing processes that are not hazardous and do not create undue amounts of noise, dust, odor, vibration, or smoke."

The proposal is for truck rental use by U-Haul, a use that, having both commercial and industrial character, fits well with the ML Planning District meant as a buffer or transitional district adjacent to commercial and residential districts. As examined above for Criterion 4, surrounding land uses including the commercial Legacy Medical Group site to the north and the residential Piper's Run Subdivision of mostly duplexes to the south across the Portland & Western Railroad (PNWR). The proposal threatens no inherent, imminent, or great hazard or conflict with surrounding uses, particularly none of the nuisance kind that the general public might associate with industry such as undue

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

amounts of noise, dust, odor, vibration, or smoke. As listed in Criterion 4, surrounding uses include a mini storage use similar to the U-Haul proposal.

TDC 60.041 establishes retail restrictions on conditional uses:

The following restrictions shall apply to those uses listed as conditional uses in TDC 60.040:

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

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

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

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

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

(ii) Development approved through the application of the Industrial Business Park Overlay District, as specified in TDC Chapter 69.
[Ord. 1212-06, 06/26/06]

The application materials don't suggest an inherent conflict with or inability to comply with the restrictions, but because it's unclear if the applicant is aware of and would comply with the restrictions and for other reasons examined below, the staff report lists a condition of approval referencing these restrictions, which is reproduced and examined below.

The following are conditions of approval to meet Criterion 5.

1. *Condition 1: Application: The applicant shall operate the use consistent with all application materials submitted to the City on November 27, 2013 and revised*

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

December 12, 2013 and February 12, 2014 unless otherwise directed by another condition of approval. Truck rental cannot commence until there is compliance with Conditions 3(a) and (b).

This condition ensures compliance with the TDC.

2. *Condition 2: Environmental Regulations: The applicant shall comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.*

This condition ensures compliance with the TDC by the subject property, which is subject to these standards, and draws the applicant's attention to them.

4. *Condition 4: Restrictions on Conditional Uses: The applicant shall comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.*

The proposed use is by a business of commercial character selling goods and service related to the uses of mini storage and truck rental, meaning that there will be retail with U-Haul and its land uses. Notation on the preliminary site plan also indicates square footage allocations for retail. This condition confirms that the subject property is subject to the retail restrictions and draws the applicant's attention to them in order to comply with them and indicate compliance on a revised site plan to be submitted.

5. *Condition 5: Signage: The applicant shall separately from this CUP approval submit sign permit applications for any proposed signage.*

The condition is necessary to make explicit that approval of a CUP does not automatically approve any related signage.

6. *Condition 6: Approval Period: The approval period shall be pursuant to TDC 32.090 Automatic Termination of Conditional Use as reproduced:*

(1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted unless one of the following events occur:

(a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

(b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.

(2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be submitted prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year. [Ord. 743-88, 3/28/88; Ord. 1333-11 §2, 9/12/11]

This confirms an implicit assumption for the subject property that is subject to the approval period restrictions and draws the applicant's attention to them. It would also be useful if the City later revised TDC 32.090 because it would be clear what approval period regulations applied at the time of approval of the conditional use.

7. *Condition 7: Site Improvements: This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.*

The condition is necessary to make explicit that approval of a CUP does not automatically approve any related site improvements.

8. *Condition 8: General: The applicant shall comply with all applicable TDC policies and regulations.*

This condition ensures compliance with the TDC.

The proposal including conditions of approval satisfies those objectives and policies of the TDC that are applicable to the proposed use.

The proposal including conditions of approval is consistent with plan policies.

Based on the application, the conditions of approval, and the above analysis and findings, U-Haul (CUP-13-05) meets the criteria of TDC 32.030.

For administrative reference, the conditions of approval are reproduced below in numerical order:

1. Application: The applicant shall operate the use consistent with all application materials submitted to the City on November 27, 2013 and revised December 12, 2013 and February 12, 2014 unless otherwise directed by another condition of approval. Truck rental cannot commence until there is compliance with Conditions 3(a) and (b).

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

2. Environmental Regulations: The applicant shall comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.
3. Landscaping & Outdoor Storage Screening:
 - (a) Provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9). Additionally, the applicant shall provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2). Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.
 - (b) Screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size. Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.
4. Restrictions on Conditional Uses: The applicant shall comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.
5. Signage: The applicant shall separately from this CUP approval submit sign permit applications for any proposed signage.
6. Approval Period: The approval period shall be pursuant to TDC 32.090 Automatic Termination of Conditional Use as reproduced:
 - (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted unless one of the following events occur:
 - (a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.
 - (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.

CUP-13-05: U-Haul – Truck Rental
February 10, 2014

(2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void.

The request for extension must be submitted prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year. [Ord. 743-88, 3/28/88; Ord. 1333-11 §2, 9/12/11]

7. Site Improvements: This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.
8. General: The applicant shall comply with all applicable TDC policies and regulations.