



MEETING AGENDA
TUALATIN PLANNING COMMISSION

May 18, 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, Janelle Thompson, Mona St. Clair, Angela DeMeo, and Travis Stout.
Staff: Aquilla Hurd-Ravich, Planning Manager
- A. **APPROVAL OF MINUTES**
3. **COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA)**
Limited to 3 minutes
4. **ACTION ITEMS**
 - A. Consideration for Planning Commission Review of Conditional Use Permit Applications
 - B. Plan Map Amendment 16-01 proposal to change the designation of 0.64 acres from General Commercial to High Density Residential
5. **COMMUNICATION FROM CITY STAFF**
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: 05/18/2017

SUBJECT: **APPROVAL OF MINUTES**

ISSUE BEFORE TPC:

Attachments: [TPC Minutes April 20, 2017](#)



City of Tualatin

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UNOFFICIAL

TUALATIN PLANNING COMMISSION -

MINUTES OF April 20, 2017

TPC MEMBERS PRESENT:

Bill Beers
Kenneth Ball
Angela Demeo
Travis Stout
Mona St. Clair
Janelle Thompson

STAFF PRESENT

Aquilla Hurd-Ravich
Charles Benson
Lynette Sanford

TPC MEMBER ABSENT: Alan Aplin

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 February 16, 2017 TPC minutes. MOTION by Demeo SECONDED by St. Clair to approve the minutes as written. MOTION PASSED 6-0.

Mr. Beers asked for review and approval of the March 20, 2017 TPC/ARB minutes. MOTION by Stout SECONDED by Thompson to approve the minutes as written. MOTION PASSED 6-0.

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

None

4. ACTION ITEMS:

None

5. COMMUNICATION FROM CITY STAFF:

A. Consideration for the Planning Commission Review of Conditional Use Permit

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.

(CUP) Applications.

Mr. Beers stated that at the Council meeting on April 10, 2017 at the conclusion of the presentation of the Planning Commission Annual Report, he suggested the opportunity of transferring the purview over Conditional Use Permits (CUP's). The Mayor and Council were open to discuss this transfer.

Ms. Hurd-Ravich stated that back in 2011, the City Council and the Planning Advisory Committee held a joint meeting to discuss what applications a newly formed Planning Commission could transfer from the Council's purview. They decided on a discrete set of quasi-judicial applications including: Industrial Master Plans, Reinstatement of Use, Sign Variance, Variance and Transitional Use Permits. The Council decided that Conditional Use Permits should remain in their purview.

Charles Benson, Associate Planner, stated that research and background information was conducted regarding previous Conditional Use Permit (CUP) history. Mr. Benson stated that from 2007-2016 there has been 24 CUP's but only one in the past couple years.

Mr. Benson noted that the CUP approval criterion includes:

- The use is listed as a condition use in the underlying planning district
- The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.
- 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 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 proposal satisfied those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

Mr. Benson stated that conditions of approval are common for most land use approvals, and the applicant has two years to begin the use.

Mr. Beers asked if the criterion has to be met by the applicant before it gets forwarded to Council. Ms. Hurd-Ravich responded staff works with applicant to make sure they meet the criteria. If we feel they can't be met, we recommend conditions of approval then forward to Council to make a decision. Mr. Beers inquired about the CUP history and if all of the applications submitted were approved. Mr. Benson responded that he hasn't seen a denial, but sometimes applicants withdraw their application.

Ms. Demeo asked if the City staff conducts reviews on-site or if they rely on maps.

Ms. Hurd-Ravich responded that staff makes site visits but rely on the applicant to produce a complete application. Ms. Hurd-Ravich added that public testimony can also be a factor in determining the conditions.

Mr. Ball asked if CUP's cover temporary buildings. Ms. Hurd-Ravich responded that it does not cover structures.

Ms. Thompson asked if two meetings are necessary in the Conditional Use process. Ms. Hurd-Ravich responded that this can be accomplished in one meeting and since this is quasi-judicial, a decision has to be made during the meeting.

Ms. St. Clair asked if it will be helpful to the City Council if the Planning Commission assumes responsibility over the CUP's. Ms. Hurd-Ravich responded that it is unusual for a City Council to make decisions on CUP's – other cities typically do not get involved with quasi-judicial land use. If the Planning Commission assumes the decision making of CUP's, it will allow the Council to focus on other items.

Mr. Beers noted that if the Planning Commission is the approving authority and an appeal is made, it will go to City Council. Currently an appeal goes to the Land Use Board of Appeals (LUBA).

Mr. Benson stated that complete CUP applications are posted on our web site.

Mr. Stout asked if there are any negatives to taking on these decisions. Ms. Hurd-Ravich responded that the meetings and decision making process can become contentious. Another difference is that the meetings can last longer than the usual Planning Commission meetings since a decision has to be made immediately.

Mr. Ball asked if the State of Oregon allows non-citizens to conduct legislative activities. Ms. Hurd-Ravich responded that this is quasi-judicial and as long as it's in the code it's allowed. Ms. St. Clair added that other sections of our government have unelected citizens making decisions.

Ms. Hurd-Ravich stated that our next step is that the City Council would like to know where the Commission stands on this issue and if the Commission wants to take over the process.

Mr. Beers acknowledged that it would be helpful for the Commission members to consider it and have a discussion at our next meeting when all the members are present. The other Commission members agreed.

6. FUTURE ACTION ITEMS

Ms. Hurd-Ravich stated in May, a Plan Map Amendment regarding the former RV Park of Portland will be brought before them. There is currently 0.64 acres zoned general commercial, with the rest of the site (approximately 10 acres) is zoned high-density

residential. The Commission members will make a recommendation to Council regarding that small piece of land. In June, there will be an update on the development code.

7. **ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**

None

8. **ADJOURNMENT**

MOTION by Demeo to adjourn the meeting at 7:12 p.m.

_____ Lynette Sanford, Office Coordinator



STAFF REPORT

CITY OF TUALATIN

TO: Tualatin Planning Commissioners

FROM: Lynette Sanford, Office Coordinator
Aquilla Hurd-Ravich, Planning Manager

DATE: 05/18/2017

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

ISSUE BEFORE TPC:

The Planning Commission discusses this topic at their meeting on April 20, 2017 but did not reach a conclusion. The Planning Commission decided to bring the topic back at the May meeting after having time to review materials and prepare for another discussion about changing approval authority of the Conditional Use Permits from the City Council to the Planning Commission.

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 CUP13-05

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

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.

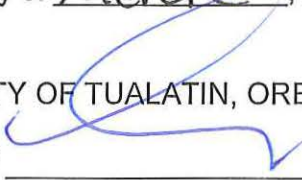
- (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.
- (2) The applicant may submit a written request to the City Council for an extension of time on the conditional 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.

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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:

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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.

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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

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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*

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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.

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(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).

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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.

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(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.



STAFF REPORT

CITY OF TUALATIN

TO: Tualatin Planning Commissioners

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

DATE: 05/18/2017

SUBJECT: Plan Map Amendment 16-01 proposal to change the designation of 0.64 acres from General Commercial to High Density Residential

ISSUE BEFORE TPC:

Consideration of Plan Map Amendment 16-01, to change the designation of two tax lots totaling 0.64 acres from General Commercial to High Density Residential located at 6645 SW Nyberg Lane. This amendment will revise Community Plan Map 9-1. The Tualatin Planning Commission serves as the City's advisory body to fulfill Statewide Planning Goal 1 – Citizen Involvement and provide recommendations to City Council. PMA 16-01 is scheduled to be heard at the June 12th City Council meeting.

RECOMMENDATION:

Staff asks that the Planning Commission consider the analysis and findings, application materials, and proposed maps to provide a recommendation to City Council.

EXECUTIVE SUMMARY:

PROJECT DESCRIPTION

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

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

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

SITE DESCRIPTION

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

PLAN AMENDMENT CRITERIA

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

OUTCOMES OF DECISION:

A recommendation to approve PMA 16-01 would result in the following:

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

A recommendation to deny PMA 16-01 would result in the following:

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

ALTERNATIVES TO RECOMMENDATION:

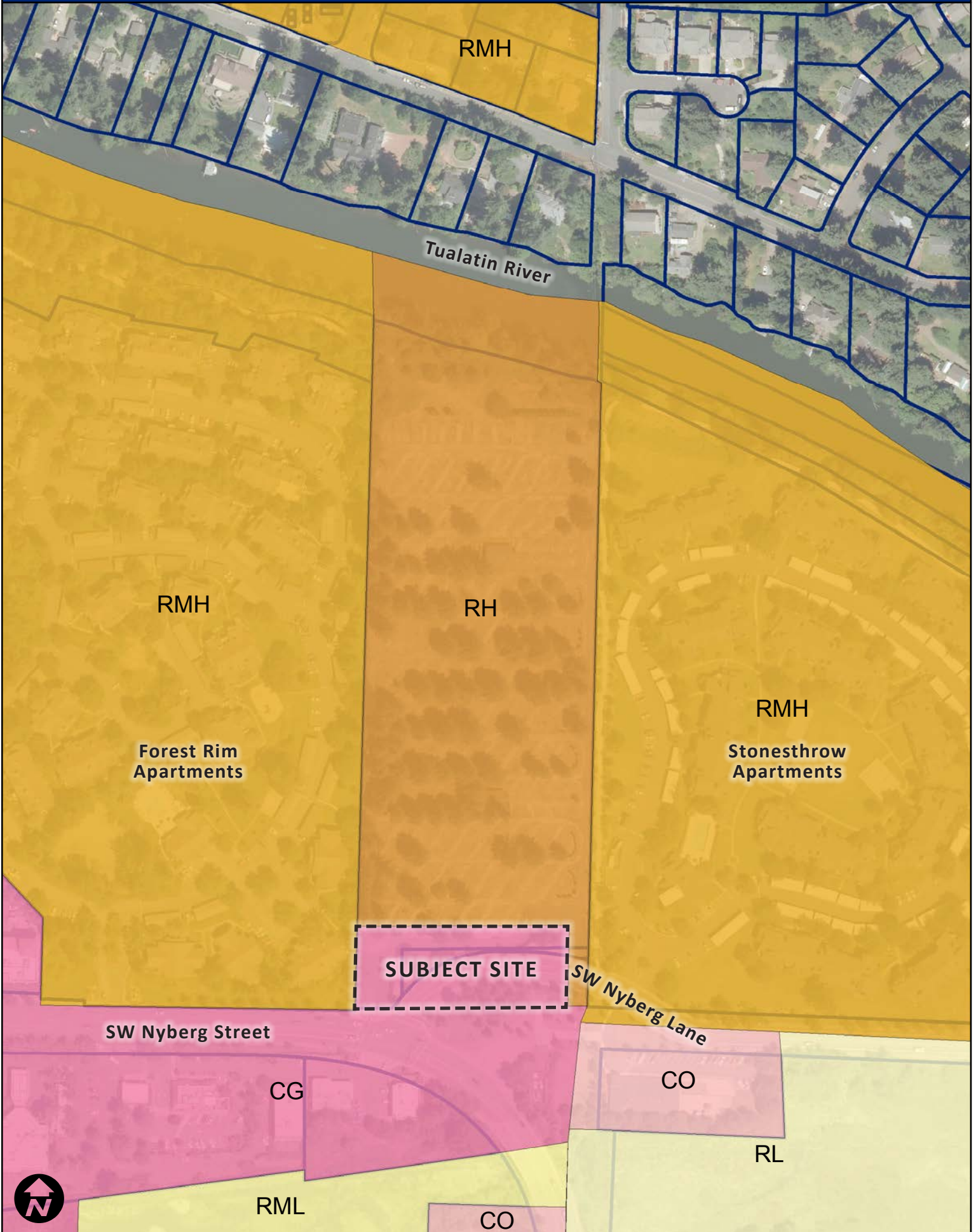
The alternative recommendations for the Planning Commission include:

- Recommend the Council approve the proposed Plan Map Amendment with alterations
- Recommend the Council deny the request
- Continue the discussion of the proposed Map Amendment and return to the matter at a later date

FINANCIAL IMPLICATIONS:

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

- Attachments:** [101 - Background](#)
[102- Analysis and Findings](#)
[103- Application](#)
[104 - Existing Plan District](#)
[105 - Proposed Plan Districts](#)
[106 - Eng Div Memo](#)
[107 - School Dist Memo](#)
[108 - TPC Presentation](#)



**PMA16-0001 Attachment 101:
BACKGROUND**

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

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

Adjacent planning districts and land uses are clockwise:

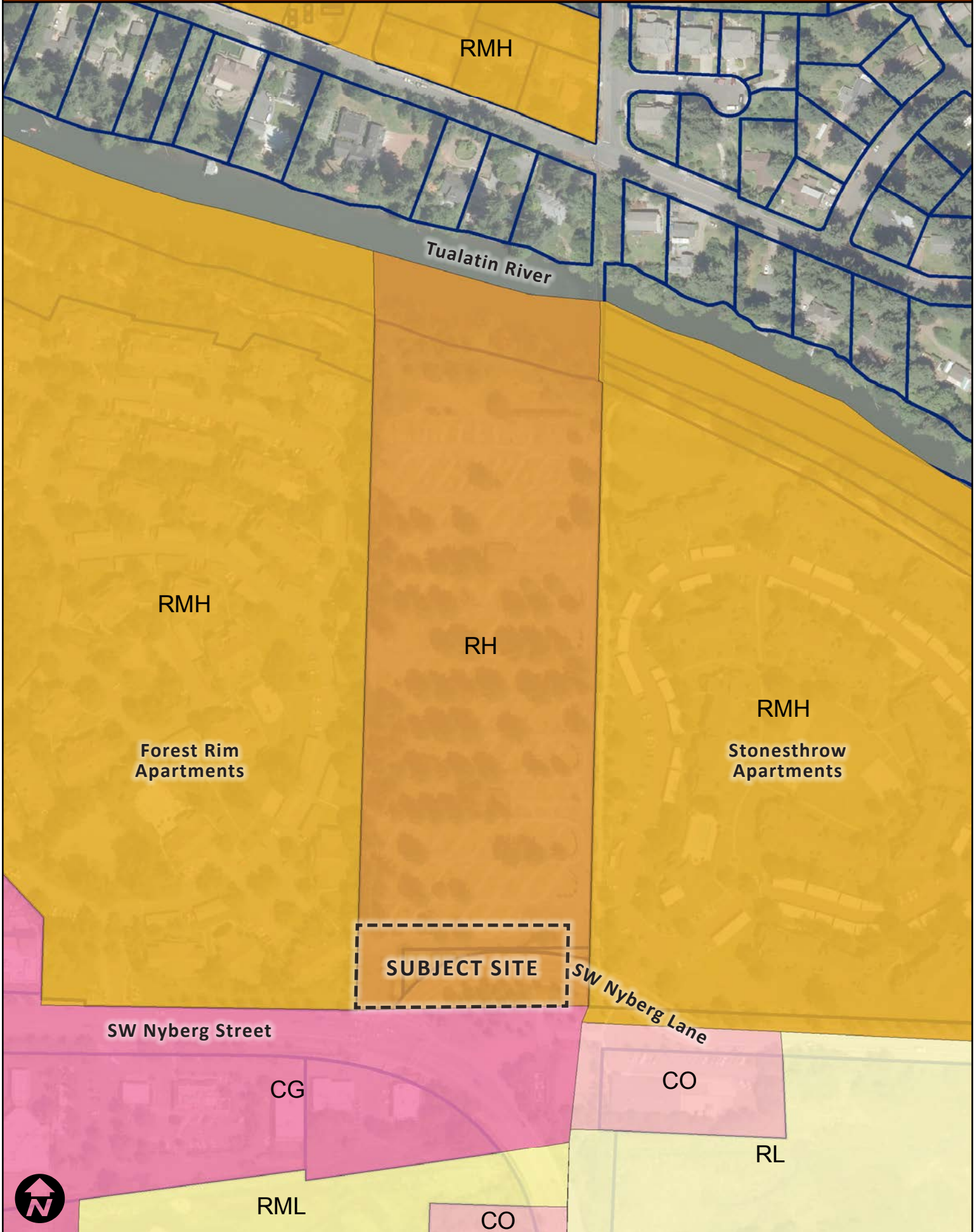
<u>North:</u>	N/A	Tualatin River, City of Rivergrove and Lake Oswego jurisdictions
<u>East:</u>	Residential Medium-High Density (RMH)	Stonethrow Apartments
<u>South:</u>	General Commercial (CG)	Nyberg Lane, 7 Eleven, Willamette Valley Animal Hospital
<u>West:</u>	Residential Medium-High Density (RMH)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

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

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

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

Proposed Planning Districts



PMA 16-0001 Attachment 102: ANALYSIS AND FINDINGS

Proposal

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

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

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

1. Granting the amendment is in the public interest.

Applicant Response: Please see Attachment 103 for full response.

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

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

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

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

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

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

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

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

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

Granting the amendment is in the public interest. Criterion "1" is met.

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

Applicant Response: Please see Attachment 103 for full response.

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

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

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

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

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

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

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

Applicant Response: Please see Attachment 103 for full response.

Staff has paraphrased the findings below for brevity.

Chapter 4 Community Growth Section 4.040 General Growth Assumptions:

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

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

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

Chapter 4 Community Growth Section 4.050 Objectives:

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

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

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

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

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

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

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

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

Chapter 5 Residential Planning Growth Section 5.030 General Objectives:

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

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

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

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

Chapter 10 Community Design Section 10.020 Design Objectives:

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

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

Chapter 11 Transportation Section 11.610 Goals and Objectives:

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

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

Chapter 15 Parks and Recreation Section 15.020 Objectives

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

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

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

4. The following factors were consciously considered:

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

Staff has paraphrased the findings below for brevity.

The various characteristics of the areas in the City:

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

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

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

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

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

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

Trends in land improvement and development:

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

help address a market demand for housing.

Property values:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff notes that the applicant sufficiently addressed the factors in this Criterion. Criterion “4” is met.

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

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

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

Criterion “5” is met.

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

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

Goal 1 Citizen Involvement

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

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

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

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

Goal 2 Land Use Planning

Applicant Response: Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."

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

Goal 3 Agricultural Lands

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

Goal 4 Forest Lands

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

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

forest.

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

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

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

Goal 6 Air, Water and Land Resources Quality

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

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

Goal 7 Areas Subject to Natural Hazards

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

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



Goal 8 Recreational Needs

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

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

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

Goal 9 Economic Development

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

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

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

Goal 10 Housing

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

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

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

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

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

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

Goal 11 Public Facilities and Services

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

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

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

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

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

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

Sanitary Sewer, Stormwater, & Water

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

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

Goal 12 Transportation

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

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

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

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

The scenarios generate the following traffic:

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

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

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

Goal 13 Energy Conservation

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

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

Goal 14 Urbanization

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

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

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

Criterion "6" is met

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

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

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

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

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



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

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

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

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

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

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

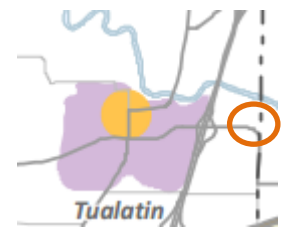
The intent of Title 3 is to protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

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

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

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

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



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

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

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

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

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

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

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

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

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

Criterion "7" is met.

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

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

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

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

Criterion "8" is met.

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

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

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

Sanitary Sewer, Stormwater, & Water

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

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

Criterion "9" is met.

10. The applicant has entered into a development agreement.

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

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

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

6625 SW Nyberg Lane Development

This property is currently in the Bridgeport, Hazelbrook and Tualatin High boundaries:

Here is the information for those schools:

Bridgeport Elementary

K-5 classrooms:	21
Special Purpose classrooms:	10
Classrooms in Portables:	2
School Capacity is:	596

Class size guidelines have ranged from 1 to 25 to 1 to 31—depending upon state funding.

School capacity number is based on 1 to 26

Enrollment projected to grow from its current 505 students to 519 in 2019-20

Hazelbrook Middle School

Grade 6-8 classrooms	37
Special Purpose classrooms	9
School Capacity is:	1,040 with portables

Class size staffing ratios have ranged from 1 to 27 to 1 to 30 (same guidelines for portables as for regular classrooms)

School capacity based on 1 to 28

Enrollment is projected to grow from its current 966 students to 975 in 2019-20

Tualatin High School

Grade 9-12 classrooms	67
Special Purpose classrooms	1 double classroom
School Capacity is:	1,888

In 2019, School Capacity will be expanded to 2,000 with completion of classroom addition

Class size staffing ratios have ranged from 1 to 27 to 1 to 30

School capacity based on 1 to 28

Enrollment is projected to drop from its current 1,992 to 1,981 in 2019-20

Durham Center is a special program for grade 6-12 students who are placed there because they struggle in the regular school setting.

Overall Tigard-Tualatin Classrooms and Capacities:

Elementary

Total Grade K-5 classrooms	223
Total Grade K-5 portables	14
Total K-5 Capacity with portables	6,161

K-5 Enrollment expected to grow from its current 5,628 to 5,694 in 2019-20

Middle School

Total Grade 6-8 classrooms	105
Total Grade 6-8 portable classrooms	5
Total Grade 6-8 Capacity with portables	3,107

Grade 6-8 Enrollment expected to grow from its current 2,795 to 3,053 in 2019-20

High School

Total Grade 9-12 classrooms	134
Total Grade 9-12 portable classrooms	4
Total Grade 9-12 Capacity with portables	3,891

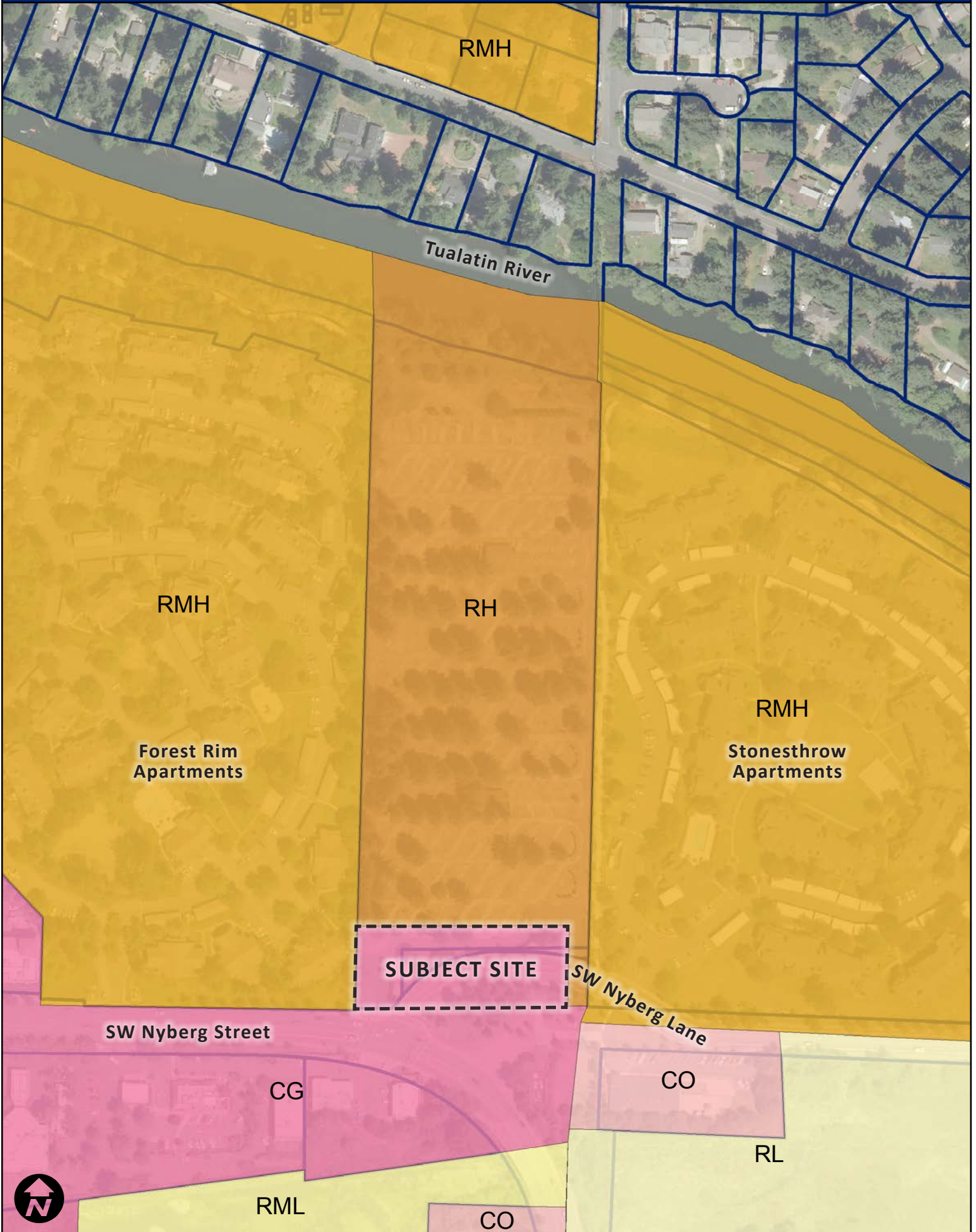
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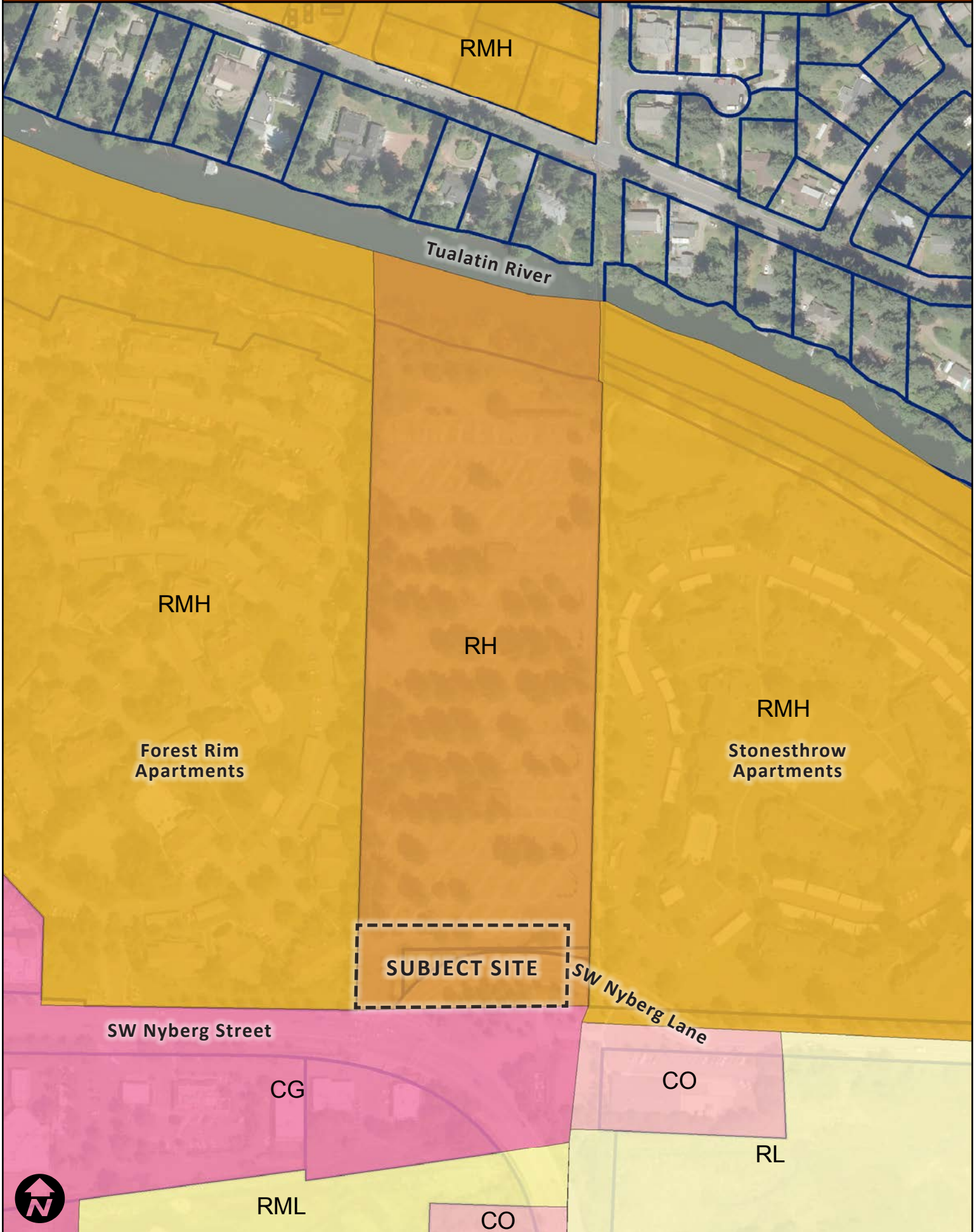
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MEMORANDUM

CITY OF TUALATIN

TO: Erin Engman, Assistant Planner

CC:

FROM: Tony Doran, Engineer Associate

DATE: March 31, 2017

SUBJECT: PMA16-0001, Tualatin Apartments

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

TDC 1.032 Burden of Proof (6) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Because the proposed land use action will result in an amendment to the City of Tualatin's zoning map, Section 660-012-0060 of the State's Transportation Planning Rule applies. Division 12 of the State's Transportation Planning Rule (OAR 660-012) gives the Oregon Department of Land Conservation and Development (DLCD) and the City of Tualatin the power to interpret and implement Statewide Planning Goal 12 (Transportation). Section 660-012-0060 of the TPR provides specific language on how to deal with amendments to adopted plans and land use regulation.

OAR 660-012-0060 Plan and Land Use Regulation Amendments

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation

**facility (exclusive of correction of map errors in an adopted plan);
 (b) Change standards implementing a functional classification system; or
 (c) As measured at the end of the planning period identified in the adopted transportation system plan:**

- (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**
- (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**
- (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

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

TDC 1.032 Burden of Proof (8) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Transportation

The site is adjacent to and development will have access to SW Nyberg Lane.

SW Nyberg Lane

SW Nyberg Lane is a City of Tualatin facility which is designated as a Minor Collector which has a preferred right-of-way width of 76 feet that includes two 12-foot travel lanes, two 8-foot wide parking strips, two 6-foot bike lanes, two 6-foot planter strips, and two 6-foot sidewalks.

The Plan Map Amendment as reviewed consists of 0.64 developable acres of zone CG (General Commercial) to zone RH (High Density Residential).

The scenarios generate the following traffic:

<u># of Lots</u>	<u>AM Peak</u>	<u>PM Peak</u>	<u>Total</u>
Existing	159-78=81	114-58=56	1,736-868=868
PMA16-0001	6	7	80
Change	-75	-49	-788

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

Sanitary Sewer, Stormwater, & Water

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

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

Please let me know if you have questions, ext 3035.

6625 SW Nyberg Lane Development

This property is currently in the Bridgeport, Hazelbrook and Tualatin High boundaries:

Here is the information for those schools:

Bridgeport Elementary

K-5 classrooms:	21
Special Purpose classrooms:	10
Classrooms in Portables:	2
School Capacity is:	596

Class size guidelines have ranged from 1 to 25 to 1 to 31—depending upon state funding.

School capacity number is based on 1 to 26

Enrollment projected to grow from its current 505 students to 519 in 2019-20

Hazelbrook Middle School

Grade 6-8 classrooms	37
Special Purpose classrooms	9
School Capacity is:	1,040 with portables

Class size staffing ratios have ranged from 1 to 27 to 1 to 30 (same guidelines for portables as for regular classrooms)

School capacity based on 1 to 28

Enrollment is projected to grow from its current 966 students to 975 in 2019-20

Tualatin High School

Grade 9-12 classrooms	67
Special Purpose classrooms	1 double classroom
School Capacity is:	1,888

In 2019, School Capacity will be expanded to 2,000 with completion of classroom addition

Class size staffing ratios have ranged from 1 to 27 to 1 to 30

School capacity based on 1 to 28

Enrollment is projected to drop from its current 1,992 to 1,981 in 2019-20

Durham Center is a special program for grade 6-12 students who are placed there because they struggle in the regular school setting.

Overall Tigard-Tualatin Classrooms and Capacities:

Elementary

Total Grade K-5 classrooms	223
Total Grade K-5 portables	14
Total K-5 Capacity with portables	6,161

K-5 Enrollment expected to grow from its current 5,628 to 5,694 in 2019-20

Middle School

Total Grade 6-8 classrooms	105
Total Grade 6-8 portable classrooms	5
Total Grade 6-8 Capacity with portables	3,107

Grade 6-8 Enrollment expected to grow from its current 2,795 to 3,053 in 2019-20

High School

Total Grade 9-12 classrooms	134
Total Grade 9-12 portable classrooms	4
Total Grade 9-12 Capacity with portables	3,891

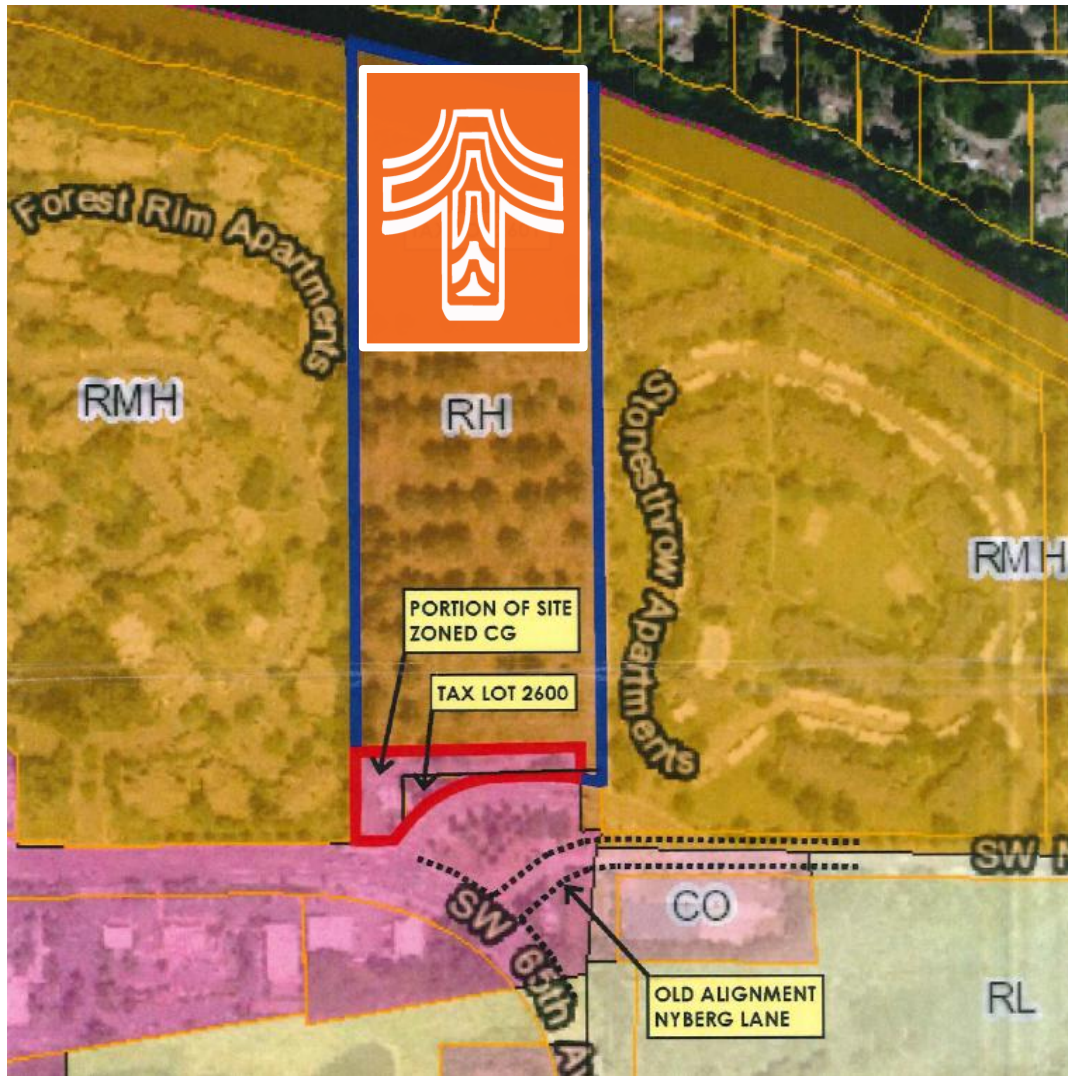
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Tualatin Apartments Plan Map Amendment

PLANNING COMMISSION HEARING
MAY 18, 2017



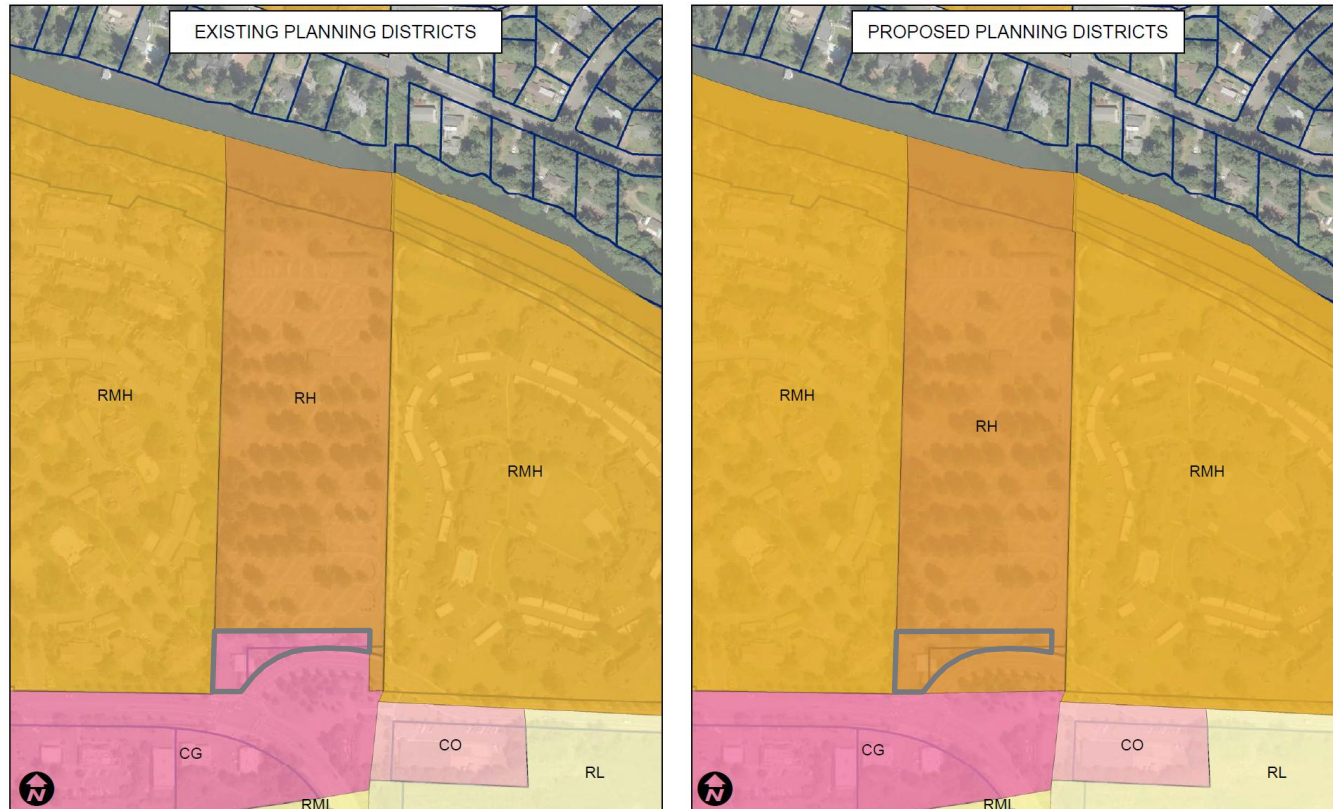
HEARING AGENDA

- Staff Presentation
- Applicant Presentation
- Public Comment
- TPC Deliberation and Decision



HEARING PURPOSE

- **Plan Map Amendment:** change CG land to RH land on portions of Tax lot 2600 and 2601





PLANNING COMMISSION REVIEW

- **Why is this proposal subject to TPC review?**
 - TPC serves as the City’s advisory body to fulfill Statewide Planning Goal 1 – Citizen Involvement and provide recommendations to City Council.
- **Scope of Approval:**
 - City Council will review PMA proposal on June 12. Final decision may be appealed to LUBA.



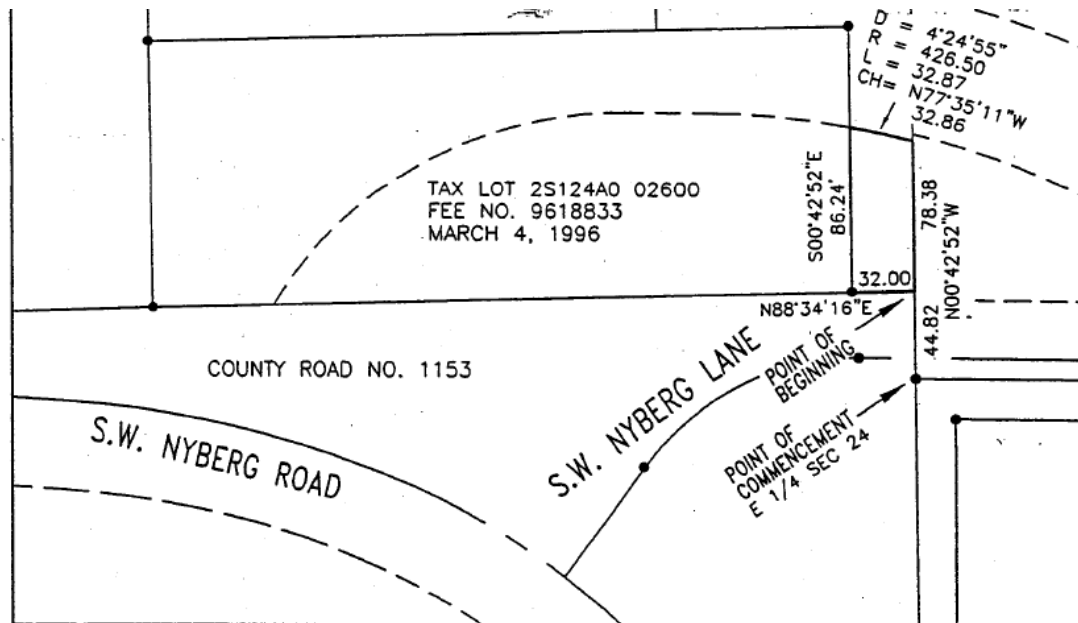
REVIEW OF APPLICATION

- **Analysis and Findings**
 - PMA's are subject to criteria found in TDC 1.032. The applicant has the burden of proof to provide evidence that the criteria have been met.
 - Staff has reviewed the application and finds that the proposed PMA is consistent with the Tualatin Development Code and Tualatin Community Plan



BACKGROUND

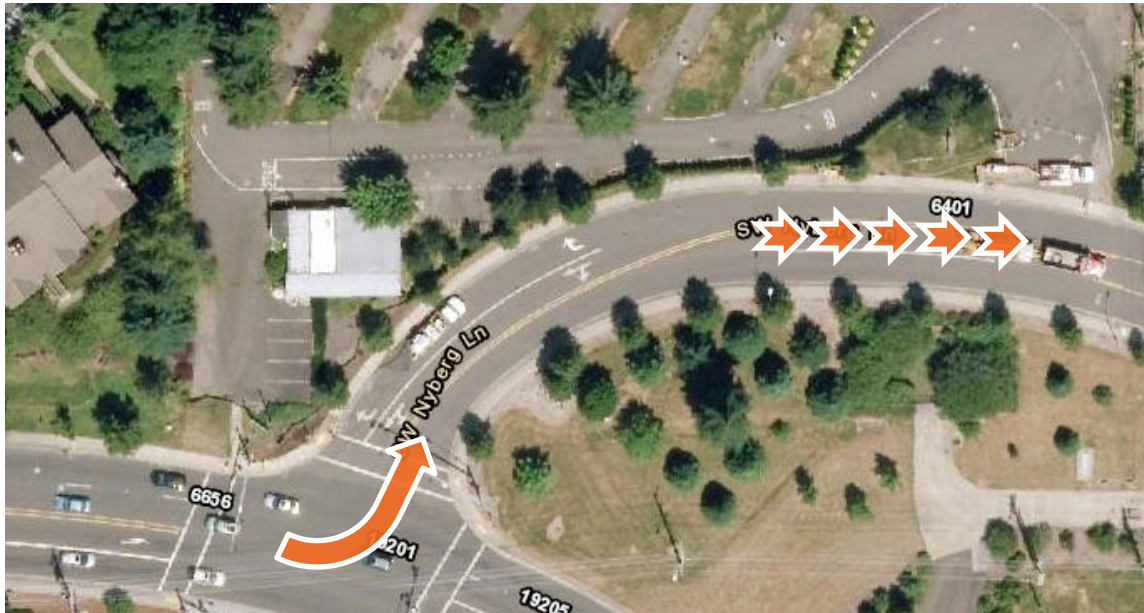
- CG land bisected by Nyberg Lane intersection improvement project
- Land acquired through Dedication Easement in 2003





BACKGROUND

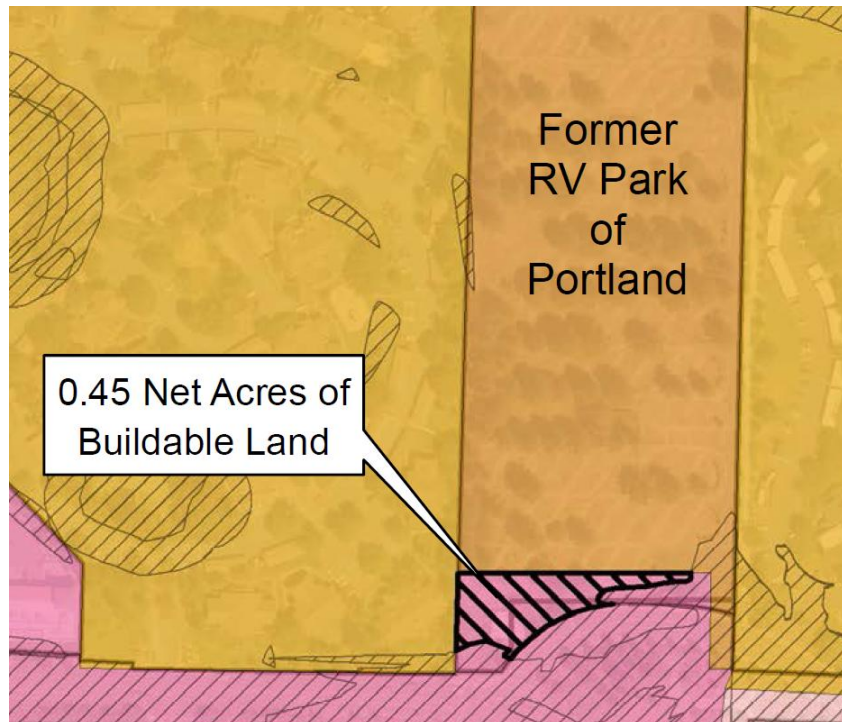
- **Access Constraints**
 - Limited access for auto-oriented commercial use
 - Limited visibility from Nyberg Road





BACKGROUND

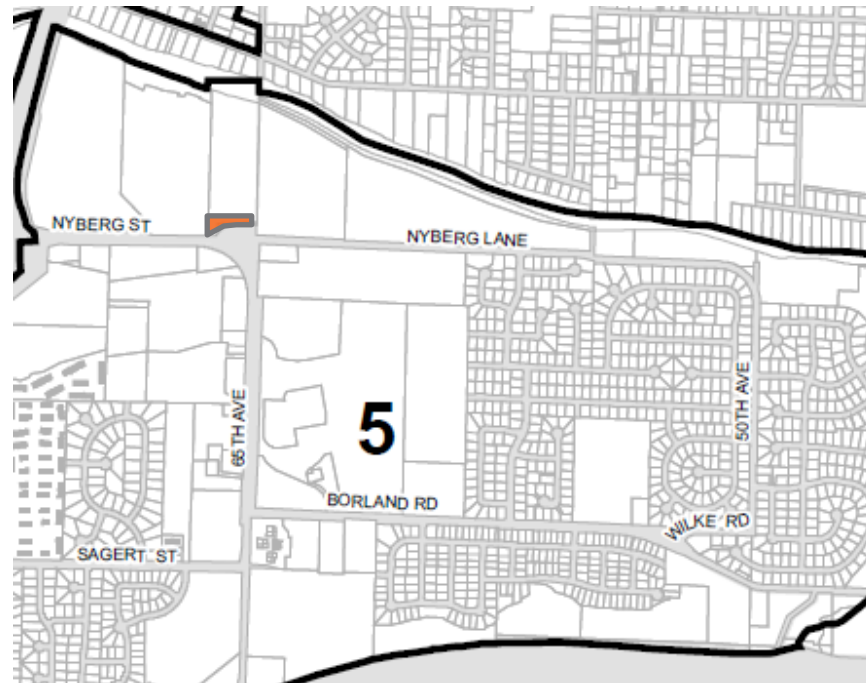
- **Floodplain Constraints**
 - Limited development opportunities for commercial use





PROPOSAL

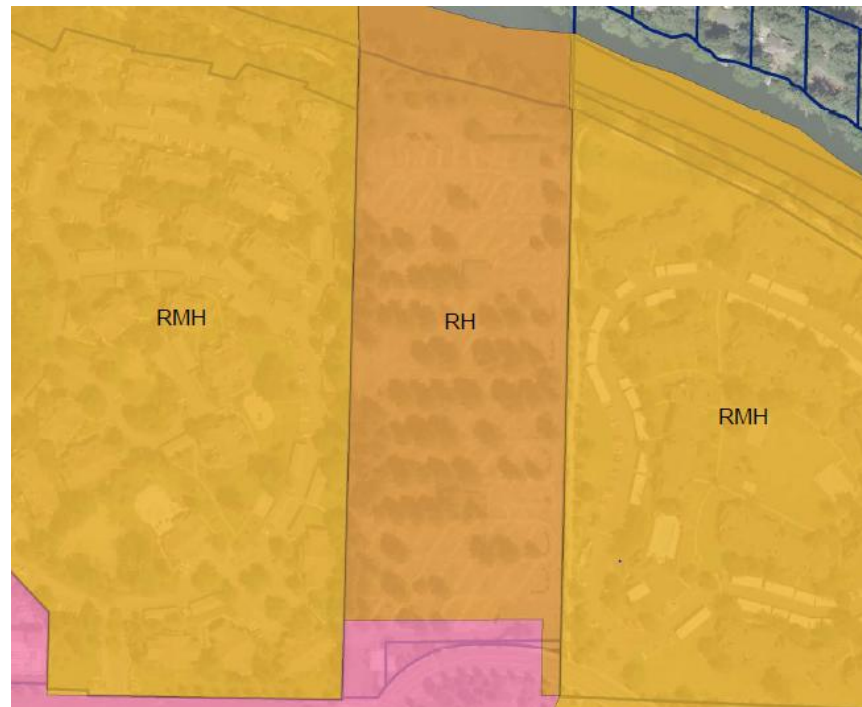
- **Consistent with TDC Chapter 09: Plan Map**
 - Area 5: This area [...] contains substantial multi-family use north of Sagert and west of 65th Ave





PROPOSAL

- **Consistent with existing development patterns**
 - Land to the east and west is developed with multi-family development





RECOMMENDATION OPTIONS

- Recommend approval to City Council
- Recommend approval to City Council with amendments
- Recommend denial to City Council