



City of Tualatin

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NOTICE OF ADOPTION of a Planning Commission Decision

On April 19, 2018, the City of Tualatin Planning Commission adopted **Resolution No. 6-18TPC** (File No. VAR18-0001) granting a resolution for a Variance application submitted by the Tualatin Professional Center for a variance to the standards imposed under TDC 73.360(6)(a) (Off-Street Parking Lot Landscape Islands) and TDC 73.400 (11) (Access) located at 6464 SW Borland Rd. (Tax Map 2S1E 30B 9000).

A copy of the resolution is available for review at the Tualatin Community Development Department – Planning Division located at 18880 SW Martinazzi Avenue from 8:00 a.m. to 5:00 p.m., Monday through Friday.

This decision is final unless a Request for Review is filed within 14 calendar days from the date of this mailing. A written Request for Review must be received by the **Community Development Department – Planning Division at 18880 SW Martinazzi Avenue, Tualatin, OR 97062 before 5:00 p.m.** The appeal must be submitted on the City Request for Review (i.e. Appeal) form with all the information requested, as required by TDC 31.078, and signed by the appellant. Only those persons who submitted comments during the notice period or testified at the public hearing may submit a Request for Review. The appeal forms must include reasons, the appeal fee, and meet the requirements of Section 31.078 of the Tualatin Development code.

Date notice mailed: May 1, 2018

file: VAR18-0001

RESOLUTION NO. 6-18TPC

A RESOLUTION OF THE PLANNING COMMISSION ADOPTING THE
VARIANCE APPLICATION SUBMITTED BY THE TUALATIN PROFESSIONAL
CENTER (VAR-18-0001)

WHEREAS, on April 19, 2018, a quasi-judicial public hearing was held before the Planning Commission for consideration an application submitted by the Tualatin Professional Center for a variance to the standards imposed under TDC 73.360(6)(a) (Off-Street Parking Lot Landscape Islands) and TDC 73.400(11) (Access);

WHEREAS, notice of public hearing was given as required by the Tualatin Development Code;

WHEREAS, the Planning Commission heard and considered the testimony and evidence presented on behalf of the applicant, City staff, and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing the Planning Commission deliberated and by this resolution makes its decision.

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

Section 1. Variance (VAR-18-0001), considered by the Planning Commission is hereby (check one):

Approved as follows:

- A. The applicant is authorized to construct a landscape area that is 5 feet in width for a depth of 25 feet from back of sidewalk, rather than property line as required by the standard in TDC 73.360(6)(a).
- B. The applicant is authorized to provide 32-foot-wide access drives for a depth of 25 feet from back of sidewalk, rather than the required depth of 50 feet from right of way as required by the standard in TDC 73.400(11).

Approved with the following Conditions:

Denied.

Section 2. The Planning Commission adopts as its findings the *Analysis and Findings* set forth in Exhibit 1, which includes the list of conditions, if any, and which is attached and incorporated herein.

Section 3. This resolution is effective upon adoption.

Adopted by the Planning Commission this 19 day of April, 2018.

CITY OF TUALATIN, OREGON

BY 

CHAIR

APPROVED AS TO FORM

BY 
City Attorney

ATTEST:

BY 
Recorder

TUALATIN PROFESSIONAL CENTER (TPC)

VARIANCE APPLICATION (VAR-18-0001)

ATTACHMENT B: ANALYSIS AND FINDINGS

The issue before the Tualatin Planning Commission (TPC) is consideration of a Variance (VAR) request to the standards imposed under TDC 73.360(6)(a) (Off-Street Parking Lot Landscape Islands) and TDC 73.400(11) (Access) to restore two existing access driveways onto SW Sagert Street. The medical condominium is located at 6464 SW Borland Road (Tax Map/Lot: 2S1E 30B 90000) and was developed in 1984. At the time, the site was constructed with southern access off a frontage road in the future SW Sagert Street right-of-way. The full-width improvements of SW Sagert Street are currently underway, as a result of the Sagert Farm subdivision project (SB15-0002).

TDC 73.360(6)(a) states, *"Except as in (b) below, site access from the public street shall be defined with a landscape area not less than 5 feet in width on each side and extend 25 feet back from the property line for commercial, public, and semi-public development with 12 or more parking..."* The applicant is asking to provide a landscape area that is 5 feet in width for a depth of 25 feet from back of sidewalk, rather than property line. Landscaping on the western access drive is proposed at a depth of 17.75 feet from property line and the eastern access drive at a depth of 19.38 feet.

TDC 73.400(11) states, *"...ingress and egress for commercial uses shall not be less than the following: 32 feet for first 50 feet from right of way, 24 feet thereafter."* The applicant is proposing 32-foot-wide access drives for a depth of 25 feet from back of sidewalk. The western access drive gradually narrows down to 24.78 feet near 50 feet from right of way and the eastern drive narrows down to 27.63 feet.

In order to grant the proposed variance, the request must meet the approval criteria of Tualatin Development Code (TDC) Section 33.020(1) and three of the four approval criteria of (2)-(5). The applicant prepared a narrative that addresses the criteria, which is included within the application materials (Attachment B), and staff has reviewed this and other application materials and included pertinent excerpts below.

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

Section 33.020 Conditions for Granting a Variance that is not For a Sign or a Wireless Communication Facility.

No variance shall be granted by the Planning Commission unless it can be shown that criterion (1) is met and three of the four approval criteria (2)-(5) are met for non-sign requests:

- (1) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same planning district or vicinity and the conditions are a result of lot size or shape, topography, or other physical circumstances applying to the property over which the applicant or owner has no control.**

Applicant Response to hardship created by exceptional or extraordinary conditions: The TPC property was developed in the 1980's through a partition of its eastern property and Architectural Review (AR 83-06) of four medical buildings. The project was conditioned to provide half-street improvements along SW

Sagert Street. Rather than requiring construction, the City entered into Development Agreement 84-16657 that allowed the development to proceed without making the improvements to SW Sagert Street. TPC's property is unique in that the frontage road to serve the southern accesses was not developed with the planned Sagert Street. Also unique to TPC's property was the fact that the property to the south and east was still being used for farming and essentially undeveloped. In 2015, Lennar Homes Northwest ("Lennar") applied to construct Sagert Farm, a 79 residential lot subdivision to the south and east of the subject property. With the Sagert Farm subdivision review, the full width improvements of SW Sagert Street were approved. These improvements induced changes to TPC's two southern accesses. TPC applied for restoration of its two southern accesses in MAR 17-0041 and learned the two driveway standards in question would create a severe hardship on the loss of existing parking stalls. The parking spaces that would be lost are located close to the two entrances and Building D, allowing safe access for TPC's clients. Additionally, of those 17 parking spaces, which would be lost, 3 are currently dedicated handicapped parking spaces which serve some of TPC's most vulnerable clients.

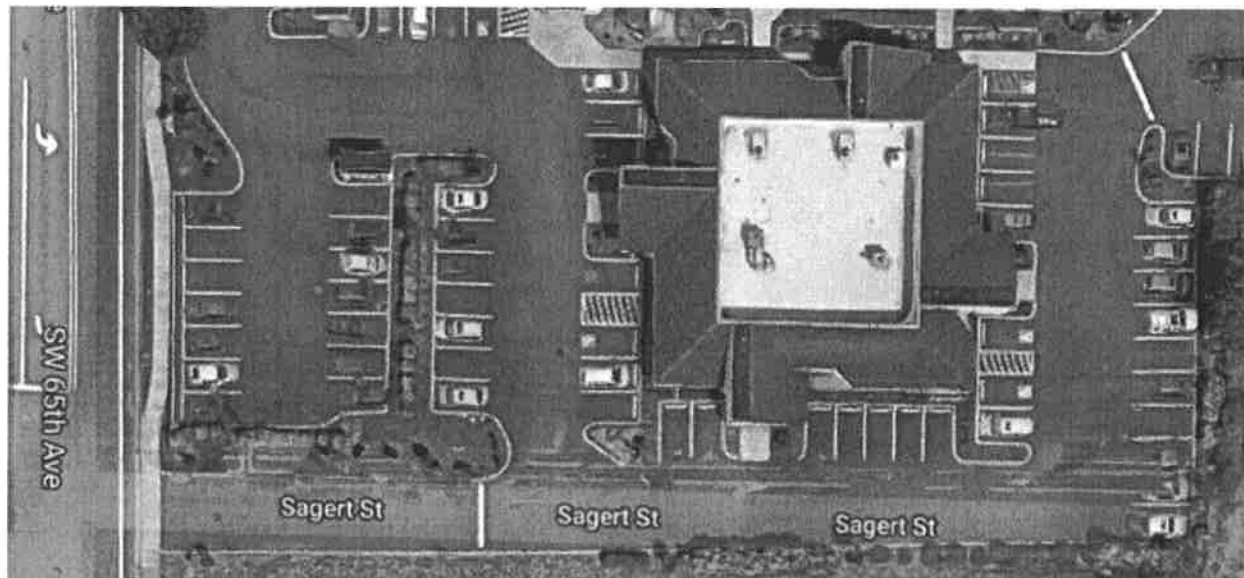
The four condominium buildings have double frontage (onto SW Borland Road to the north and SW Sagert Road to the south). To the west is SW 65th Street so the site is surrounded on three sides by major city streets (Attachment A - Exhibit 4). Two of the four medical office buildings have lower levels that gain their access from Borland Road. Because of this grade difference of having two levels, there is a nearly ten-foot boulder retaining wall separating the two Borland Road driveways, essentially dividing the west parking lot from the east parking lot (Attachment A -Exhibit 6). The design of SW Sagert Street was constrained by logistical elements. Sagert Street was required to align with the existing three legs of SW 65th Avenue and SW Sagert Road intersection, respect the existing Sagert right-of-way dedication by TPC from the early 1980's, and align with its eastern street connection at Sequoia Ridge. These constraints along with the topography of the site established the location and grade of Sagert Street. The full width of the required improvements of Sagert Street advanced their proximity to the TPC complex, specifically at Building D.

Applicant Response for 73.360(6)(a): Providing a 5-foot wide landscape area for a depth of 25-feet from the TPC property line would result in a loss of at least seventeen parking stalls. This is a hardship that is created by exceptional or extraordinary conditions that do not apply generally to other properties in the vicinity and the conditions are a result of lot size, shape, topography and the physical circumstances applying to the TPC property over which the owner has no control.

The topographical and site constraints with the existing medical buildings makes TPC's property unique. The condominium building development cannot be moved or reconfigured without severe hardship and significant expense to TPC. Therefore, if TPC were required to landscape 25 feet from the property line, as required by TDC 73.360(6), it would cause severe hardship to TPC and its patients by losing valuable parking spaces adjacent to Building "D".

Instead of 25 feet of landscaping along the driveways from the property line as required by this section of the Code, TPC is requesting variance relief to provide a landscape area at a 25-foot depth from the back of sidewalk. TPC is requesting minimal variance relief to landscape area from the property line as follows: 5.8' on the west side and 7.25' on the east side of the west driveway and a 5.62' variance to landscaping on the east side of the east driveway as documented. The west side of the east driveway exceeds the 25-foot standard being 26.97' of landscaping from the property line. The total landscaped area along the two driveways will visually comply with what the Code envisions, as TPC will landscape 25 feet from the back of the sidewalk along its ingress and egress. This will exceed a 25-foot long landscape area as follows: the west driveway will have over 28' of landscaping on either side and on the east driveway there will be 35' on the west side and 28' on the east side. By landscaping to back of sidewalk on either side of both

driveways, the visual look of the landscaping on either side of the two driveways will exceed the code standard of 25' of landscaping.



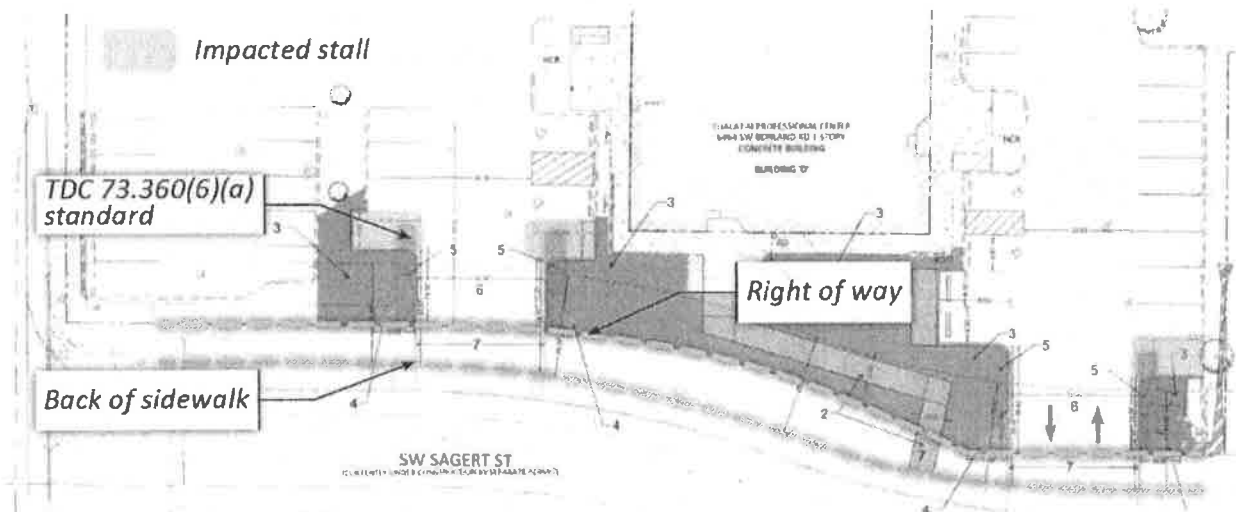
Staff Response: *The existing western access drive provides an approximate depth of 12 feet of landscape area from property line. The existing eastern access drive is an extension of the frontage road constructed in the 1980s; therefore, no landscape area defines the depth of the access. The site layout and circulation pattern served the unique needs of the business at the time. Additionally the development was reviewed through Architectural Review (AR 83-06) in 1983, prior to an amendment implementing current code standards (Plan Text Amendment 91-06 and Ordinance 862-92) requiring 25-foot depth of landscaping from the property line. A retrofit of the existing condition would be necessary for the southern two access drives to meet the TDC 73.360(6)(a) standard. This presents a unique physical circumstance for the property owner. The variance is the minimum remedy to allow the business to meet operational needs in light of the physical constraints.*

The applicant addresses topographical constraints but provides no calculations or profiles. TualGIS (City program that provides aerial imagery and site data) provides evidence that the site has a high elevation of 228 ft on the west side of the property and slopes down to 214 feet on the east side, a difference of 14 feet. The property was developed with respect to the naturally sloped environment, and the western and eastern areas of the site are separated by a retaining wall, preventing internal circulation.

Staff additionally visited the site on November 29, 2017 and found that the access on TPC property is located approximately 3-4 feet higher than the improved SW Sagert Street. The area of these access drives will need to be graded to match the roadway, providing an additional, unique hardship to the site.

Sheet V1 (below) illustrates a curb tight sidewalk along SW Sagert Street, south of the TPC site. There is approximately 10 feet of landscape strip between the back of sidewalk and southern property line. The applicant is proposing an additional 17.75 to 19.38 feet of landscape area beyond the strip. City road standards generally require a curb tight landscape strip then sidewalk. This section of Sagert Street was modified to match existing conditions of the surrounding vicinity, creating an extraordinary condition. The variance allowance to combine the landscape area in the public right of way and private landscape area

would exceed the intent of 25 foot depth requirement. It will also comply with the intent to use landscaping to visually define the accessway.



There is a discrepancy in evaluating the loss of parking when strictly evaluating this access standard. Two stalls from the proposal will be impacted at the western access drive and one at the eastern access drive if the TDC 73.360(6)(a) standard is imposed. No ADA stalls are impacted. Seven existing stalls take direct access off the former frontage road or SW Sagert Street right of way and are not lost as a result of this standard.

This criterion is met.

Applicant Response for 73.400(11): Providing two 32 foot wide driveways for a length of 50 feet would result in the removal of at least seventeen parking stalls. This hardship is created by the exceptional or extraordinary conditions that do not apply generally to other properties in the vicinity and the conditions are a result of lot size, shape, topography and the physical circumstances applying to the TPC property over which the owner has no control.

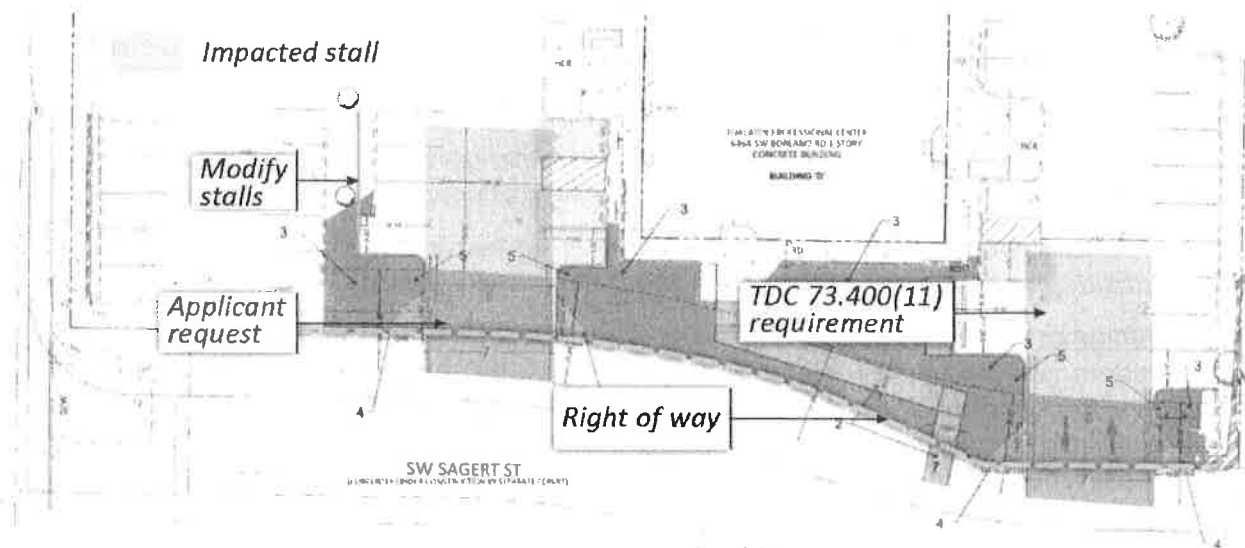
TPC has worked with an engineering firm, KPFF, to attempt to reconfigure its parking lot to comply with TDC 73.400(11). Through this effort, KPFF has created a proposal of modified parking spaces and reconfigured TPC's parking lot.

The existing access drives are approximately 24 feet wide. A retrofit of the existing condition would be necessary for the southern two access drives to meet the TDC 73.400(11) standard. This presents a unique physical circumstance for the property owner.

Building D is setback approximately 21 feet from the southern property line and is generally centrally located between the two access drives. Building D has an existing 5 foot wide sidewalk and 3.5 foot wide landscape strip on the west and east elevation. Due to the existing configuration, standard 18.5 foot long parking stalls would be impacted by the required 32 foot wide by 50-foot deep ingress/egress requirement.

There is also a discrepancy in evaluating the loss of parking, when strictly evaluating this access standard. Three stalls from the proposal will be impacted at the western access drive and one at the eastern access drive (below) if the TDC 73.400(11) standard is imposed. Three of the impacted stalls are designated ADA. Four stalls along the western access drive may be modified to avoid impacts. Seven existing stalls take

direct access off the former frontage road or SW Sagert Street right of way and are not lost as a result of this standard.



The applicant is proposing 32-foot-wide access drives for a depth of 25 feet from back of sidewalk. The western access drive gradually narrows down to 24.78 feet near 50 feet from right of way and the eastern drive narrows down to 27.63 feet.

The applicant has provided a Technical Letter #2 – Site Access Evaluation, authored by Clemow Associates, LLC and dated January 25, 2018. This letter references the National Cooperative Highway Research Program (NCHRP) Report 659 that contains guidelines for driveway design. Based on the NCHRP Guide, a total necessary driveway throat length of 23-24 feet is recommended for the subject site to avoid potential vehicle stacking or pedestrian conflicts. The applicant is proposing a driveway length of 25 feet from back of sidewalk, which exceeds the professional recommendation in Exhibit 7.

This criterion is met.

(2) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances or financial situation of the applicant or owner, or from regional economic conditions.

Applicant Response for 73.360(6)(a): Because the landscaping requirement in this section of the Code is tied to ingress and egress, the resulting hardship is similar to that present in the access variance request below. The hardship results from the sloping nature of the property as well as the use of the buildings as medical offices serving those with intensive medical needs.

If TPC is required to meet this section of the Code with the associated 25-feet of landscaping required in this section of the Code, it will be required to remove some of its most convenient parking spaces, as well as three handicapped spaces, in closest proximity to Building D. If this variance is approved, TPC will landscape the length of the approved driveways to the back of sidewalk, which will effectively offer more than 25-feet of landscaping on the two access driveways, as mentioned elsewhere in this narrative. The City's underlying goal, as noted below where this narrative addresses criteria 4, will be satisfied. The

modified landscaping will provide shade for the parking lot, reduce stormwater runoff and beautify the frontage of Sagert Street.

As mentioned in Criterion 1, the proposal involves a retrofit of an existing site to match the full width improvements of SW Sagert Street. Development standards have changed in the 34 years since the property was developed. Ordinance 862-92 through Plan Text Amendment 91-06 incorporated this landscape standard in 1991, creating a unique circumstance to the site's physical features. Additionally, the site is served by two parking areas that are separated by grade, providing no internal circulation. As a result, the applicant needs to retrofit both southern accessways, as opposed to just one.

The hardship does not result from the applicant or owner's actions, from personal circumstance, from financial situation, or from regional economic conditions. This criterion is met.

Applicant Response for 73.400(11): The hardship results from the location of the TPC property, which is a corner lot surrounded on three sides by major roads, two of which provide access to the property. The hardship also results from the sloping nature of the property, as well as, the use of the buildings as medical offices serving those with intensive medical needs. When the property was improved in the 1980's, the developer had limited options to design the approved condominium development because of the slope present on the property, as well as, the built and planned streets that surround three sides of the property (Exhibit 6 and 4). The design that was approved in the 1980's involves four buildings that offer medical services. Building D, is the building that is most impacted by the 32-foot wide by 50-foot depth. Due to the vulnerable, often frail, state of the patients, they need convenient parking close to Building D. If TPC is required to meet this section of the Code and extend its driveway to 50 foot throat lengths, it will be required to remove some of its most convenient parking spaces, as well as three handicapped spaces, in closest proximity to Building D. Exhibit 2. The hardship results from the slope on the property and approved use of the site, not from the actions for the applicant or owner.

As addressed above in TDC 73.360(6)(a), this criterion is met.

(3) The variance is necessary for the preservation of a property right of the applicant or owner substantially the same as is possessed by owners of other property in the same planning district or vicinity.

Applicant Response for 73.360(6)(a): Because this TDC section is tied closely to TPC's ingress and egress, the underlying purpose of the variance is the same: to allow TPC to continue to use its property for a parking lot to serve its clients in substantially the same layout as has the last thirty years. As it currently exists, the parking lot provides safe, efficient access for TPC's patients into its facility. The current landscaping serves to beautify the City and to create a welcoming, professional appearance for TPC's clients.

With the requested variance, TPC will continue to landscape its access driveways yet will continue to maintain the parking spaces necessary to serve its clients. It will continue to provide a welcoming, professional environment and also designated handicapped parking spots for TPC's most vulnerable patients and convenient access to parking lots both on the east and west sides of the building. Other property owners in the vicinity are permitted parking lots on their property which are designed in a manner to most effectively serve their patrons and which are landscaped in a professional, welcoming manner. With the variance to TDC 73.360(6), TPC requests the same treatment as other property owners in the vicinity.

The purpose of landscaping along the access drives is to help define to the public where to access a site. The applicant's proposed landscaping depth in combination with the public right-of-way landscaping will address the intent of the code. This criterion is met.

Applicant Response for 73.400(11): The variance is necessary to allow TPC to continue to use its property for a four building medical complex in substantially the same layout as has existed the last thirty years. As it currently exists, the two southern accesses provide safe, efficient access for TPC's patients into its facility. There are designated handicapped parking spots for TPC's most vulnerable patients and convenient access to parking lots both on the east and west sides of the building. Other property owners in the vicinity are permitted parking lots on their property, which are designed in a manner to most effectively serve their patrons. The parcels to the immediate east and west of the subject parcel are zoned Commercial Office (CO), as is the subject parcel, and are improved with office buildings currently used for medical offices or laboratory services. Both the parcels to the east and west have large parking lots to serve their patrons (Exhibit 4). Similarly, the parcel to the immediate north includes medical offices and the Legacy Meridian Park Medical Center.

The Clemow and Associates evaluation found that the TPC property is in a suburban location in which the relative importance of motor vehicles is high and the other modes (bicycle and pedestrian traffic and availability of public transit) is low (Exhibit 7). The Clemow evaluation concludes that with the two driveway lengths of twenty-five feet from back of sidewalk, TPC will have a parking lot that is safe and efficient. With the variance request to TDC 73.400(11), TPC requests the same treatment as other property owners in the vicinity.

This criterion is met.

(4) The variance shall not be detrimental to the applicable objectives of the Tualatin Community Plan and shall not be injurious to property in the planning district or vicinity in which the property is located.

Applicant Response for 73.360(6)(a): In Goal 1 (General Provisions), the City emphasizes the importance of creating shaded areas in parking lots to reduce glare and heat buildup, reduce impervious surface area and stormwater runoff, provide visual relief within paved parking areas and enhance the visual environment.

As a condition of variance approval, TPC will provide an updated landscape plan, which will provide landscaping along the reduced driveways and include trees, shrubs and other plants to shade the access driveways and parking lots, reduce stormwater runoff and provide visual relief.

Therefore, TPC's variance request will not be detrimental to the applicable objectives of the Tualatin Community Plan. Instead, with the variance proposal, TPC will further the objectives of Tualatin's Community Plan by shaded parking areas, reducing stormwater runoff, providing visual relief and enhancing the natural environment.

The applicant is referencing the Tualatin Development Code 73.320(1) Off-street parking lot landscaping standards, general provisions.

Section 6.040 of the Tualatin Community Plan describes the purpose of each commercial planning district: Office Commercial Planning District (CO). To provide areas suitable for professional office uses adjacent to or across from residential areas. Restaurants may be allowed by conditional use permit when designed as an integral part of a major office complex. It is the intent of this district to provide for office development ranging in size from small buildings with one or two tenants to large complexes housing business

headquarters offices. In the design of development in this district, care shall be taken to preserve significant natural resources and to provide extensive perimeter landscaping, especially adjacent to residential areas and streets.

Providing a landscape area that has a depth of 25 feet from back of sidewalk will be compatible with the Tualatin Community Plan. This area will also define the site ingress/egress and will not be injurious to the vicinity. This criterion is met.

Applicant Response for 73.400(11): TDC 11.610 includes Tualatin's Transportation Goals and Objectives. In Goal 1 (Access and Mobility), Goal 2 (Safety) and Goal 4 (Equity), the City emphasizes the importance of providing safe and efficient travel for users of all ages and abilities.

TPC hired Clemow & Associates, transportation engineers, to analyze its proposal at the heart of this variance request for driveway throat lengths of approximately 25 feet. Clemow & Associates determined the "driveways can operate in a safe and efficient manner." Exhibit 7, page 1, Clemow Site Access Evaluation. Further, the "25-foot driveway throat lengths are anticipated to be sufficient to accommodate existing development traffic." Exhibit 7, page 2. TPC's variance request will not be detrimental to the applicable objectives of the Tualatin Community Plan. Instead, with the variance proposal, TPC will further the objectives of Tualatin's Community Plan by creating safe and efficient access to its property and, by continuing to offer four handicapped parking spots near the entrance to its Building D, allowing access for users of all abilities.

The applicant has provided a Technical Letter #2 – Site Access Evaluation, authored by Clemow Associates, LLC and dated January 25, 2018. This letter references the National Cooperative Highway Research Program (NCHRP) Report 659 that contains guidelines for driveway design. Based on the NCHRP Guide, a total necessary driveway throat length of 23-24 feet is recommended for the subject site to avoid potential vehicle stacking or pedestrian conflicts. The applicant is proposing a driveway length of 25 feet from back of sidewalk, which exceeds the professional recommendation in Technical Letter #2.

This criterion is met.

(5) The variance is the minimum remedy necessary to alleviate the hardship.

Applicant Response for 73.360(6)(a): The 5 to 7-foot requested variance to the landscaping standard for driveway accesses is the minimum remedy necessary to alleviate the hardship. As explained above, even though TPC is requested a variance of 5 to 7-foot to the landscaping standard of 25' from the property line, when measured from the back of sidewalk and using the planter ROW strip, the actual landscaping TPC will provide exceeds 25' on both driveways (Exhibit 3). Thus, TPC is requesting the minimum variance and mitigating any adverse result. Furthermore, TPC will reconfigure its existing parking stalls in order to request the minimum remedy necessary to the landscaping standard.

The applicant is proposing to vary from the 73.360(6)(a) standard by 5.62 to 7.25 feet, or by providing a landscape area depth of 19.38 to 17.75 feet from property line as illustrated on Sheet V1, dated 1/26/18. As this stretch of Sagert Street is designed with curb tight sidewalks then landscape strip, the variance proposal will provide a landscape depth of 28.55 to 35.13 feet from back of sidewalk.

The variance request is the minimum necessary to alleviate the hardship. This criterion is met.

Applicant Response for 73.400(11): The variance is the minimum remedy necessary to alleviate the hardship. With the requested variance, TPC will still lose 1 parking space in its western parking lot and 4 parking spaces from the eastern parking lot. Also, it will be required to reconfigure its parking lot to reduce the size of the remaining parking spaces.

No parking illustrated on Sheet V1, dated 1/26/18 will be lost if this variance is granted. As stated in Technical Letter #2 – Site Access Evaluation, authored by Clemow Associates, LLC and dated January 25, 2018, the variance requested is the minimum necessary to alleviate the hardship.

This criterion is met.

SUMMARY OF ANALYSIS AND FINDINGS

Based on the application materials and the analysis and findings presented above, staff finds that VAR-18-0001 meets all criteria of TDC 33.020 "Conditions for Granting a Variance that is not For a Sign or a Wireless Communication Facility."

