



City of Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: February 26, 2013 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:

<http://www.tvctv.org/government-programming/government-meetings/tigard>

CABLE VIEWERS: The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday 6:00 p.m. Sunday 11:00 a.m.

Friday 10:00 p.m. Monday 6:00 a.m.



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL

MEETING DATE AND TIME: February 26, 2013 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

6:30 PM

● STUDY SESSION

A. Discuss Possible Modifications to the City's Cross Connection Control Program

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss labor negotiations under ORS 192.660(2)(d). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING - FEBRUARY 26, 2013
 - A. Call to Order
 - B. Roll Call
 - C. Pledge of Allegiance
 - D. Council Communications & Liaison Reports
 - E. Call to Council and Staff for Non-Agenda Items
2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)
 - A. Follow-up to Previous Citizen Communication
 - B. Tigard High School Student Envoy
 - C. Tigard Area Chamber of Commerce
 - D. Citizen Communication – Sign Up Sheet

3. CONSENT AGENDA: These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:
- A. Approve City Council Meeting Minutes for:
 - 1. November 27, 2012
 - 2. December 18, 2012
 - 3. January 8, 2013
 - 4. January 15, 2013
 - B. Receive and File: Corrected 2013 Council Liaison Appointment Matrix
 - C. Establish the River Terrace Stakeholder Working Group - Resolution
 - D. Appoint Members to the River Terrace Stakeholder Working Group - Resolution
 - E. Authorize the Mayor to Execute an Intergovernmental Agreement with Metro Regarding the Management of the Fields Property
 - F. Authorize the City Manager and Chief of Police to Execute an Intergovernmental Agreement with Washington County Juvenile Department
 - G. Placeholder (The packet material for this matter will be available Thursday, February 21.)
Authorize the Mayor to Execute an Agreement with ODOT Regarding the Pacific Highway/Gaarde Street/McDonald Street Intersection Improvements
 - H. Joint Resolution with the City of Beaverton: Agree to Coordinate the Beaverton South Cooper Mountain and the Tigard River Terrace Planning Efforts - Resolution

- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/City Center Development Agency has voted on those items which do not need discussion.*

AGENDA IS CONTINUED ON NEXT PAGE...

4. QUASI-JUDICIAL PUBLIC HEARING - ZONE CHANGE ANNEXATION (ZCA) 2012-00002 - HUMMEL ANNEXATION

REQUEST: A request to annex one parcel (1.01 acres) on SW 133rd Avenue to the City of Tigard to obtain sanitary sewer service. **LOCATION:** 14695 SW 133rd Avenue; Washington County Tax Assessor's Map 2S109AC, Tax Lot 0500.

COUNTY ZONE: R6: Residential, 5 units/acre minimum density, 6 units/acre maximum density. The purpose of the R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2, Section 300-5, or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

EQUIVALENT CITY ZONE: R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally. **APPLICABLE**

REVIEW CRITERIA: The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1, Goal 11, Goal 12, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

5. LEGISLATIVE PUBLIC HEARING - DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT & GENERAL PLAN DISTRICT STANDARDS DEVELOPMENT CODE AMENDMENT (DCA) DCA2012-00004

PROPOSAL: The City of Tigard proposes legislative amendments to the Tigard Development Code (TDC) and Zoning Map in a combined amendment package to adopt two new chapters and clarify the applicable boundaries of four existing chapters. The City proposes the adoption of Chapter 18.605 (Plan Districts) to provide approval standards for the adoption of future plan districts or the modification of existing and future plan districts. The City and Clean Water Services jointly propose the adoption of Chapter 18.650 to create a new plan district to govern future development within the 106 acre Durham Advanced Wastewater Treatment Facility (Durham Facility). The City also proposes text amendments to TDC Chapters 18.600, 610, 620, 630, and 640 to create a uniform naming convention and add boundary maps to provide clarity as to where the regulations apply; boundary maps to be identical to those adopted with the applicable chapters for illustrative and clarifying purposes only. The City also proposes corresponding changes to the official Zoning Map to add the boundaries of the Durham Facility Plan District and four other existing plan districts which are not presently shown. The proposed amendments for the Planning Commission's review are included in Attachment 1 and summarized below in Section IV of this report:

APPLICANTS:

City of Tigard 13125 SW Hall Blvd. Tigard, OR 97223	Clean Water Services 2550 SW Hillsboro Highway Hillsboro, OR 97123
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ZONES:

Chapters 18.600 & 18.605: Citywide

Chapter 18.610: MU-CBD Zoning District

Chapter 18.620: C-G & MUE

Chapter 18.630: MUC, MUE-1, MUE-2, MUR-1, MUR-2, R-4.5, R-7, & R-12

Chapter 18.640: MUC-1

Chapter 18.650: I-P & R-4.5

LOCATION: Citywide and properties identified in the Attached Maps.

APPLICABLE

REVIEW

CRITERIA: Statewide Planning Goals 1, 2, 6, 9, 10, 11 and 13; Metro Urban Growth Management Function Plan Title 4; Comprehensive Plan Goals 1, 2, 6, 9, 10, and 11; and Community Development Code Chapters 18.380 and 18.390.

6. RENEW ANNEXATION INCENTIVES AND DISCUSS ANNEXATION POLICY DIRECTION - RESOLUTION
7. ADOPT A RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY FOR THE 92ND AVENUE SIDEWALK PROJECT - RESOLUTION
8. COUNCIL LIAISON REPORTS
9. NON AGENDA ITEMS
10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
11. ADJOURNMENT

Business Meeting**Meeting Date:** 02/26/2013**Length (in minutes):** 15 Minutes**Agenda Title:** Discuss Possible Modifications to the City's Cross Connection Control Program**Prepared For:** Dennis Koellermeier**Submitted By:** John Goodrich, Public Works
Council Business Mtg - Study**Item Type:** Update, Discussion, Direct Staff**Meeting Type:** Sess.**Public Hearing:** No**Publication Date:****Information****ISSUE**

Staff is seeking council direction on whether the city should consider modifying its cross connection control program.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends modifying the cross connection control program.

KEY FACTS AND INFORMATION SUMMARY

As a water provider, the City of Tigard is tasked with providing safe, high-quality drinking water to nearly 58,000 customers in Durham, King City, two-thirds of Tigard, and unincorporated areas of Bull Mountain.

Background on Cross Connections and Testing

A cross connection refers to an actual or potential link between the drinking water system and contaminants. Most commonly, these links occur with irrigation systems. Since cross connections can pose a significant health hazard, such connections are strictly regulated by the state. Devices, known as backflow prevention assemblies, prevent contaminated water from being siphoned or pushed in to the drinking water system.

The city is required (by the state) to ensure that the estimated 4,500 backflow prevention assemblies within the water service area are tested annually. This regular testing ensures the assemblies are functioning properly.

The Current Cross Connection Control Program

Under the existing program, the city's water customers are responsible for having their backflow prevention assemblies tested. Customers hire a person who is state-certified in backflow assembly testing to perform the test and submit the results to the city. Although testing is performed by private companies and costs vary, a typical test runs about \$45.

Compliance under the Current Program

Over the past five years, residential compliance with annual testing has decreased from 85 to 57 percent. This not only creates potential health and safety issues, but is also in conflict with the state's testing mandate. (Nearly 100 percent of the city's non-residential water customers comply with backflow testing requirements.)

Cross Connection Control Administrative Rules

Administrative rules regarding Cross Connection Control Program Practices and Procedures are attached. The city has the authority, via these rules, to terminate a customer's water service should they fail to comply with testing requirements. (See section II. G.) Beginning with the 2013 backflow testing year, staff plans to terminate water service to customers who fail to comply with testing requirements.

Possible Program Modifications

Staff investigated what other area water providers are doing to achieve testing compliance among residential water customers. Providers with the highest compliance numbers (typically in the 90-percent range) are those where the water

provider coordinates the testing for the water customer. The cost of the testing is passed along to the customer via his utility bill.

Staff is interested in gauging the council's interest in implementing a similar program within the Tigard Water Service Area in 2014. Staff envisions a voluntary program where:

1. If a customer elects to participate, the city will coordinate the customer's annual testing.
2. If a customer elects to participate, the city will bill the customer for the testing—possibly spreading the cost over an entire year.
3. The city will contract with a private company to perform the testing. Such a contract may result in lower customer testing costs due to economies of scale.
4. Fees and charges recover all program costs; the program would be revenue neutral.
5. No additional city staff will be required. (The city currently has one cross connection specialist who manages the existing cross connection program.)

Options for water customers with backflow assembly devices would be as follows:

1. Participate in the city's voluntary program.
2. Don't participate in the city's program. These customers can manage, schedule and pay for their own testing.
3. Disable/disconnect their irrigation system (or other amenities requiring a backflow prevention assembly) and have their assembly removed.

As in the current cross connection control program, if a customer fails to comply with testing requirements, his water service will be terminated.

Other Information

On November 14, 2012, staff briefed the Intergovernmental Water Board on potential program modifications. The board was amenable to pursuing these modifications.

If the city ultimately decides to modify the cross connection control program, staff would need to amend the existing administrative rules. Through the amendment process, the council and the public would have an opportunity to provide feedback on any proposed changes.

OTHER ALTERNATIVES

Council could propose alternate program modifications or could choose not to modify the existing program.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Not applicable

DATES OF PREVIOUS COUNCIL CONSIDERATION

This is the first time the council has discussed modifying the cross connection control program.

Fiscal Impact

Fiscal Information:

For discussion purposes, staff envisions a modified program where:

- Fees and charges recover all program costs; the program would be revenue neutral.
 - No additional city staff will be required. (The city currently has one cross connection specialist who manages the existing cross connection program.)
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Attachments

Administrative Rules regarding the Cross Connection Control Program



Administrative Rule

Cross Connection Control Program Practices and Procedures

Rule No. 12.01.080-06-01

Effective 06-06-2012

The purpose of this program is to protect the water supply from contamination or pollution from cross connections and to assure approved backflow prevention assemblies (public and private) are tested annually as mandated by Oregon Administrative Rules (OAR) 333-61-0070 Cross Connection/Backflow Rules permanently adopted January 31, 2006.

I. Cross Connection Control Program Provisions

- A. Installation or maintenance of any cross connection which would endanger the city water supply is prohibited. Any such cross connection now existing or hereafter installed is hereby declared unlawful and a nuisance and shall be abated as directed by the city or its authorized representative(s).
- B. Control or elimination of cross connections shall be in accordance with regulations of Oregon State Health Division and Oregon Plumbing Specialty Code. Practices, procedures, and criteria for determining appropriate levels of protection shall be in accordance with *Accepted Procedure and Practice in Cross Connection Control Manual*, American Water Works Association, Pacific Northwest Section, and Oregon Administrative Rules, Chapter 333-061-0071.
- C. Authorized city employees, with proper identification, shall have free access at reasonable hours of the day to those parts of a premise, or within buildings, to which water is supplied. Water service may be refused or terminated to any premise for failure to allow necessary inspections.
- D. Water may be shut off at any time for repairs or other necessary work with or without notice. Conditions may cause a variation of pressure. City will not be responsible for any damage caused by interruption of service or varying pressure. When service is interrupted, hot water faucets should be kept closed to prevent backflow of hot water or steam.

II. Backflow Prevention Assembly Testing

- A. Property owners with backflow prevention devices are responsible to schedule annual device testing in compliance with state rules. Backflow assembly testing contractors shall provide the city with compliance documentation.
- B. Inspections and tests of approved backflow prevention assemblies protecting public water system shall be conducted at time of installation, repair or relocation
- C. Installed backflow prevention assembly which affect public water system shall be inspected and tested annually
- D. Testing of all backflow prevention assemblies within Tigard Water Service Area shall be performed by an Oregon Health Authority (OHA) approved backflow assembly tester
- E. Should property owner fail to conduct annual test or if device fails the test and not immediately repaired, the city shall send a compliance warning letter to property owner
- F. Property owner must meet compliance standards by conducting test or removing physical cross connection. Elimination of backflow prevention assembly shall be field verified by city staff.
- G. Failure to comply with backflow prevention assembly testing requirements may be grounds for termination of water service. Termination shall follow all notification procedures set forth in these practices and procedures.

III. Residential Backflow Assembly Prevention Testing Customer Notification Process

- A. First Notice: City publishes an article in a direct mailed newsletter as a reminder that annual backflow prevention device testing is required by June 1st of each year.
- B. Second Notice: If annual test is not performed within thirty (30) days of specified June 1st date, a second notification in the form of a letter shall be sent by mail or door hanger posted on property. Letter will reference original newsletter article and request annual test to be performed within fifteen (15) days of receipt of door hanger/letter notification.
- C. Final Notification: Failure to comply with backflow prevention assembly testing requirements shall result in a final door hanger notification to property owner informing them water service will be turned off if completed backflow prevention assembly test report is not received within 48 hours of final notification date. A final notification process fee shall be assessed to billing charges as noted in the current city fees and charges schedule.
- D. Failure to complete test within 48 hours of final notification as described above shall result in termination of water service. A water disconnection charge shall be assessed to billing charges as noted in current city fees and charges schedule.
- E. The city reserves the right to grant time extensions to customers due to mitigating circumstances on a case-by-case basis. Such grants of time extensions shall be made in writing, shall include approval of the amount of extended time and final date compliance is required.

IV. Commercial Backflow Prevention Assembly Testing Customer Notification Process

- A. First Notice: During the week of the 20th prior to the scheduled test month, a letter will be sent to property owner as reminder of annual test to be performed on backflow assembly. This test is to be completed within thirty (30) days of the date of the letter.
- B. Second Notice: If annual test is not performed within thirty (30) days of first notice, a second notice will be send to property owner requesting annual test to be performed within fifteen (15) days of the notification.
- C. Final Notification: Failure to comply with backflow prevention assembly testing requirement shall result in final notification to property owner informing them water service will be turned off if completed backflow prevention assembly test is not received within five (5) days of final notification date. A final notification process fee shall be assessed to billing charges as noted in the current city fees and charges schedule.
- D. Failure to complete test within five (5) days of final notification as described above shall result in termination of service. A water disconnection charge shall be assessed to billing charges as noted in current city fees and charges schedule.
- E. The city reserves the right to grant time extensions to customers due to mitigating circumstances on a case-by-case basis. Such grants of time extensions shall be made in writing, shall include approval of the amount of extended time and final date compliance is required.

V. Appeal Process

- A. Property owner whose water service is being terminated due to non-compliance with backflow prevention and cross connection rules and regulations may appeal to city manager.
- B. Appeals must be in writing and state reason for appeal in a clear and concise manner.
- C. The city manager or designee shall conduct an investigation and within 48 hours after receipt of written appeal and provide customer with a decision. All decisions by city manager are final.

Approved by:



Martha L. Wine, City Manager



Date

AIS-1176

3. A.

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Carol Krager, City Management

Item Type: Motion Requested

Meeting Type: Consent Agenda

Public Hearing:

Publication Date:

Information

ISSUE

Approve City Council meeting minutes.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as submitted.

KEY FACTS AND INFORMATION SUMMARY

Attached council minutes are submitted for City Council approval. (Dates of meetings are listed under "Attachments" below.)

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

[November 27, 2012 Meeting Minutes](#)

[December 18, 2012 Meeting Minutes](#)

[January 8, 2013 Meeting Minutes](#)

[January 15, 2013 Meeting Minutes](#)

AIS-1176

3. A.

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Carol Krager, City Management

Item Type: Motion Requested

Meeting Type: Consent Agenda

Public Hearing:

Publication Date:

Information

ISSUE

Approve City Council meeting minutes.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as submitted.

KEY FACTS AND INFORMATION SUMMARY

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OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

November 27, 2012 Meeting Minutes

December 18, 2012 Meeting Minutes

January 8, 2013, Meeting Minutes - Placeholder

January 15, 2013 Meeting Minutes Placeholder



City of Tigard

Tigard City Council Meeting Minutes

November 27, 2012

 Mayor Dirksen called the meeting to order at 6:34 p.m.

City Council attendance:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

Staff present: City Manager Wine, Assistant City Manager Newton, Assistant to the City Manager Mills, Assistant Public Works Director Rager, Parks Facilities Manager Martin, City Attorney Hall, Human Resources Director Zodrow, City Recorder Wheatley

- STUDY SESSION

- A. Update on 2012 Tigard City Council Goal No. 5, Recreation, and Council Direction Regarding a Recreation Database

Note: This portion of the meeting was conducted in the Town Hall.

Assistant Public Works Director Rager introduced this agenda topic. One of the council's goals for 2012 was related to recreation. For the first part, the council asked staff to search the city to identify an inventory to provide to the city's customers to give them an idea of what recreation opportunities are already provided.

 Parks Facilities Manager Martin advised the inventory has been assembled in an electronic format, which can be easily kept up to date. The Public Works Department plans to devise a form that will allow people to make online suggestions regarding the inventory. After a three-month effort, a list was created and divided into categories and sub-categories to help people narrow searches. About 300 recreational items are listed in the inventory out of about 7-800 possible items that could have been included. After review, staff would like to hear from council members about how many items they would like to have listed on the inventory. Parks Facilities Manager Martin reviewed the static display of the software used to develop the inventory to demonstrate how searches could be conducted and the categories identified; i.e., sports, crafts, music, cultural arts, classes, etc. Parks Facilities

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

Manager Martin referred to a disclaimer authored by the city attorney stating that the City of Tigard does not offer the programs, but the city is providing links to recreational offerings.

 Assistant Public Works Director Rager asked if the inventory presented this evening is what the council had in mind. The next step would be to keep the inventory updated.

 Councilor Woodard commented that the inventory was a good start and what the Park and Recreation Advisory Board was looking for to follow through on its goal recommendations for city recreation. He suggested that a placement holder be created to direct people to videos of Tigard activities. Mayor Dirksen noted that links to other websites could be posted as well. Councilor Woodard said he would like to see photos added to the link information; i.e., when accessing information on the Tigard swimming pool, there would be a photo of the facility.

Discussion followed on other ideas and formatting suggestions that could be considered. An interactive component of this tool would be helpful so people can send feedback to city officials. This information would be useful to the Park and Recreation Advisory Board for planning purposes.

 Parks Facilities Manager Martin commented on talks with the school district regarding creating recreational opportunities by partnering with the Tigard-Tualatin School District. School District officials are receptive to this concept.

 In response to a comment from Mayor Dirksen, City Manager Wine said the nature of the types of partnerships under discussion include facility coordination, field operations and community garden opportunities.

 Councilor Henderson said the inventory as demonstrated this evening looks bland. He asked if a calendar of events could be included. City Manager Wine responded a calendar of events for city meetings and city-sponsored events are posted on the city's webpage – there might be a way to expand this to include recreational opportunities. The mayor suggested links to other calendars might be a more time-efficient way to provide this information.

 Councilor Wilson commented the formatting could be more user friendly.

 Councilor Woodard suggested logos of different organizations that offer recreational opportunities could be posted to show support of these organizations and give them recognition.

 Mayor Dirksen told staff this is a "...great start and the right idea..."

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

Council members moved to the Red Rock Creek Conference Room to meet in an Executive Session and to review the remaining items on the Study Session agenda. (6:55 p.m.)

B. Administrative Items:

- Consent Agenda Item No. 3E (Approve the Purchase of the Rankin Property and Authorize the city manager to Complete the Property Purchase - Resolution) has been removed. Sellers' signatures on required documents are pending; this item will be rescheduled.
- Written Testimony Received for Agenda Item No. 5 - Continuation from November 13, 2012, of Public hearing on urban Forestry Code Revisions:
 - John Frewing - November 24, 2012 email (attached).
 - Justin Wood - November 27, 2012 email (attached).
- Council Calendar:
 - December
 - 4 - Council Meeting and City Center Development Agency Meeting - 6:30 p.m.
 - 11 - Council Business Meeting - 6:30 p.m.
 - 18 - Special Council Meeting - Mayor's Farewell Reception, Remarks and Blue Ribbon Task Force Report - 6:30 p.m.
 - 25 - Christmas - City Hall offices closed
 - January
 - 1 - New Year's Day - City Hall offices closed
 - 8 - Council Meeting - Reception, Oath of Office Ceremony, State of the City, Elect Council President, 6:30 p.m.
 - 10 - Council Groundrules Review; Goal Setting Meeting - Fanno Creek House, 9 a.m. - 5 p.m.
 - 15 - Council Workshop Meeting, 6:30 p.m.
 - 22 - Council Business Meeting, 6:30 p.m.
- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 7:05 p.m. to discuss exempt public records and to review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer under ORS 192.660(2)(f) and (i).

Executive Session concluded at 7:26 p.m.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

1. BUSINESS MEETING - NOVEMBER 27, 2012

- A. Mayor Dirksen called the meeting to order at 7:34 p.m. 
- B. City Recorder Wheatley called the roll:

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

- C. Pledge of Allegiance
- D. Council Communications & Liaison Reports: None.
- E. Call to Council and Staff for Non-Agenda Items: None.

2. CITIZEN COMMUNICATION

- A. Follow-up to Previous Citizen Communication:  None.
- B. Citizen Communication: None.

Mayor Dirksen reviewed the Consent Agenda:

3. CONSENT AGENDA: (Tigard City Council)

- A. Approve City Council Meeting Minutes for:
 - 1. September 18, 2012
 - 2. October 16, 2012
- B. Waive Temporary Sign Permit Fees for Tigard-Tualatin Babe Ruth - Resolution

RESOLUTION NO. 12-42 - A RESOLUTION WAIVING \$162 IN TEMPORARY SIGN PERMIT FEES FOR THE TIGARD-TUALATIN BABE RUTH
- C. Authorize the Mayor to Execute an Intergovernmental Agreement Amendment Allowing the City to Construct a Turnaround on Metro Property at Woodard Park
- D. Add the Woodard Park Parking Project to an Approved Project List in the Parks & Recreation System Development Charge Study - Resolution

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

RESOLUTION NO. 12-43 -- A RESOLUTION ADDING THE WOODARD PARK PARKING PROJECT TO THE APPROVED PROJECTS FOR NEIGHBORHOOD/POCKET PARKS LIST IN THE PARKS & RECREATION SYSTEM DEVELOPMENT CHARGE STUDY

- E. ~~Approve the Purchase of the Rankin Property and Authorize the City Manager to Complete the Property Purchase – Resolution~~ This item will be rescheduled. Sellers' signatures pending.

Motion by Council President Buehner, seconded by Councilor Wilson, to approve the Consent Agenda.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

4. LEGISLATIVE PUBLIC HEARING - DEVELOPMENT CODE AMENDMENT (DCA 2012-00001) - PROJECTIONS INTO REQUIRED YARDS

REQUEST: Amend Chapter 18.730.050.D of the Community Development Code to allow, in the R-12 Zone, bay windows and pop outs with floor area to project into required side yards by one foot provided they do not: a) exceed 12 feet in length, b) contain over 30% of the dwelling unit side elevation square footage, and c) the width of the approved side yard is not reduced to less than 3 feet. LOCATION: Citywide. ZONE: R-12. APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.380, 18.390, 18.510, and 18.730; Comprehensive Plan Goals 1, Public Involvement; Goal 2, Land Use Planning; Goal 9, Economic Development; Goal 10, Housing; and Statewide Planning Goals 1, 2, 9 and 10.

Mayor Dirksen opened the public hearing.

City Attorney Hall reviewed the hearing procedures.

 Associate Planner Pagenstecher presented the staff report. The applicant requests a development code amendment to provide more flexibility in single-family detached building design on narrow lots within the R-12 zone. The proposed amendment would allow for building projections under certain size limitations and that includes floor area to extend into required side yards.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

Council members asked the associate planner for clarification on elements of the proposed code. Mr. Pagenstecher explained how the recommendation came forward with regard to how the revised projection into side yards was obtained.

Public Testimony:

Proponents:



- Ryan O'Brien, 1862 NE Estate Street, Hillsboro, OR 97124, (applicant) testified in support of the proposed code amendment noting the successful use for infill development in the City of Portland and the advantages of allowing the projections into yard setbacks when designing more attractive homes on small lots.



- Ken Gertz, 19200 SW. 46th Ave., Tualatin, OR 97062 (representing the Homebuilders Association) testified in support of the proposed code amendment. He suggested this type of amendment also be considered for the R-4.5 and R-7 zoning areas.

Council Consideration:



Consideration of Ordinance No. 12-08

Motion by Council President Buehner, seconded by Councilor Wilson, to adopt Ordinance No. 12-08.

ORDINANCE NO. 12-08 - AN ORDINANCE AMENDING THE TIGARD COMMUNITY DEVELOPMENT CODE CHAPTER 18.730, TO ALLOW IN THE R-12 ZONE, BAY WINDOWS AND PROJECTIONS WITH FLOOR AREA TO EXTEND INTO REQUIRED YARDS WITH CERTAIN LIMITATIONS (DCA2012-00001)

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

5. CONTINUATION FROM NOVEMBER 13, 2012, OF PUBLIC HEARING ON URBAN FORESTRY CODE REVISIONS - URBAN FORESTRY CODE REVISION PROJECT - COMPREHENSIVE PLAN AMENDMENT (CPA) 2011-00004 DEVELOPMENT CODE AMENDMENT (DCA) 2011-00002

The purpose of the November 27, 2012 continuation of this agenda item is to receive a brief staff report and public testimony, followed by council consideration of the amendments to Planning Commission's recommendation.

REQUEST: To implement the city's Comprehensive Plan as recommended by the Urban Forestry Master Plan, the City of Tigard is proposing a Comprehensive Plan Amendment adopting the "Significant Tree Groves" Map and Tigard Development Code (Title 18) Amendments to Chapters 18.115, 18.120, 18.310, 18.330, 18.350, 18.360, 18.370 18.390, 18.530, 18.610, 18.620, 18.630 18.640, 18.715, 18.745, 18.775, 18.790, and 18.798. (Non Land Use Elements) In addition, in support of the Title 18 amendments, amendments are proposed to the Tigard Municipal Code (TMC) Chapters 1.16, 6.01, 6.02, 7.40, 8.02 through 8.16, 9.06, and 9.08.

LOCATION : Citywide. ZONE: Citywide.

APPLICABLE REVIEW CRITERIA: City of Tigard Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals 1, Citizen Involvement; 2, Land Use Planning; 5, Natural Resources; 6, Environmental Quality; 7, Hazards; 8, Parks Recreation, Trails and Open Space; 9, Economic Development; 10, Housing; 11, Public Facilities and Services; 12, Transportation; 13, Energy Conservation; and 14, Urbanization; METRO's Urban Growth Management Functional Plan Titles 1, 3, 12 and 13. Statewide Planning Goals 1, 2, and 5 through 14.



Mayor Dirksen announced the hearing is a continuation from November 13, 2012.



Staff Report: Associate Planner Daniels, Consultant Prager. Written report and PowerPoint presentation are on file in the record copy of the packet materials.



Council discussed the information and presented questions for clarification of staff and consultant (Interim Community Development Director McGuire, Associate Planner Daniels, Consultant Prager)



Public testimony:

- Written testimony received:
 - John Frewing, email dated November 24, 2012
 - Justin Wood, email dated November 27, 2012

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

- Oral testimony:
 -  Ken Gertz, Homebuilders Association (signed-in as “neutral”) presented testimony. Mr. Gertz advised the Homebuilders Association were not supportive of moving the canopy percentages from the tree manual (administrative rules) to the code. The Mayor agreed with Mr. Gertz that the percentages should be in the administrative rules for greater flexibility should adjustment be needed.

Mr. Gertz said that trees, from a developer’s standpoint, fall into four categories: hazard trees, trees that are in the way of the development design, save trees incorporated into the development design and the “try to save” trees. The “try to save trees” are those trees that might be saved but it is unknown as to whether it can remain until the house designs are finalized for the lot line adjustments are completed. To avoid having to go to a Type II change, should the developer decide he wants to save or remove the tree, he would automatically place tree in the “cut” category. This would require the developer to project on his tree plan the number of canopy replacement trees. Should he be able to save the tree, he would not receive credit for the tree, which would mean that the replacement trees would still need to be planted whether they were wanted or not. A simple solution for this problem would be to refer to CDC 18.790.070 (B) (2) and add the words “or save” within the language of this section. (Inserted after the word “planted” and before “in.”)

Mr. Gertz referred to the tree replacement fees, which the developer would use for bonding on the project. He noted there were four different fees ranging from \$350-450. He suggested that one fee be selected as a compromise “somewhere in the” middle” of that range. He noted the basis of the fee was applied to a 3-inch tree, even though a 1½-inch tree would be planted, so the numbers are skewed to the high end. He recommended the fee be closer to \$300 rather than \$450.

Mr. Gertz said the City of Tigard might want to consider what the City of Tualatin does for street trees. In Tualatin a developer pays a flat fee per lot for street trees and then twice a year the city plants these trees in the locations. This would impress upon the homeowners that these trees belong to the city. Mr. Gertz said the problem he has experience with Street trees is not having them live but that homeowners often remove them.

Mr. Gertz said that HBA is generally in support of the proposed urban forestry code amendments.

 Council consideration of staff list of amendments to the Planning Commission’s recommended draft based on council direction on October 23 and November 13, 2012:

 Councilor Wilson remarks about the proposed UFCR. Many of his concerns relate to the complexities, most of which occurs in the Administrative Rules. The code refers to these rules,

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

which he thinks should be simplified; therefore, adopting all of these sections now to be effective March 1 represents a problem for him. He would prefer to adopt all amendments together although he will no longer be on City Council when the rules are considered for adoption. He said he will be voting no this evening, not because he does not “like the whole thing, but because it just has not reached the point where I can support it.” Mayor Dirksen urged Councilor Wilson to consider each amendment separately and determine whether he was opposed or in favor of the amendment independent of the entire UFCR recommendations.

Amendment	Addresses Policy Issue	Brief Description
1	3	<p>Differentiates between residential and non-residential maintenance requirements for trees planted with development.</p> <p> Motion by Council President Buehner, seconded by Councilor Woodard, to approve Amendment No. 1.</p> <p>The motion was approved by a unanimous vote of City Council present.</p>
2	4	<p>Removes tree removal permit requirements for single family residential developments.</p> <p> Motion by Council President Buehner, seconded by Councilor Woodard, to approve Amendment No. 2.</p> <p>The motion was approved by a unanimous vote of City Council present.</p>
3	5	<p>Clarifies that hazard trees are required to be removed only in response to verified complaints.</p> <p> Motion by Council President Buehner, seconded by Councilor Wilson, to approve Amendment No. 3.</p> <p>The motion was approved by a unanimous vote of City Council present.</p>
4	7	<p>Enhances the purpose statement in Chapter 18.790 to draw a clear link between the details in the Urban Forestry Manual and the overall purpose of the development code revisions.</p> <p> Council requested additional explanation by staff. Provides clarity for the tree canopy approach. Purpose statement amended to add a description to give a preview, in the code language, of what to expect to be contained in the administrative rules. Provides information of legislative intent.</p>

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

		 Motion by Council President Buehner, seconded by Councilor Wilson, to approve Amendment No. 4. The motion was approved by a unanimous vote of City Council present.
5	7	<p>Adds the canopy requirements to the code to draw a clearer link between the details in the Urban Forestry Manual and the overall purpose of the development code revisions.</p> <p> Mayor Dirksen and Council President Buehner noted they were in opposition to this amendment. Councilor Woodard commented on the proposed amendment with Mayor Dirksen explaining the complications with making future changes if required to be done as a land-use action. The canopy requirements are not the concern; however, a preference was noted by the mayor that these requirements reside within the administrative rules. Councilor Woodard confirmed that the administrative rules would have the enforcement of law.</p> <p> Motion by Council President Buehner, Councilor Woodard, that the council not approve Amendment No. 5.</p> <p>The motion was approved by a unanimous vote of City Council present.</p>
6	8	<p>Reduces development costs for Minor Land Partitions by not requiring an arborist or landscape architect for partition projects that can meet the requirements by planting street trees in open soil volumes only.</p> <p> Motion by Mayor Dirksen, seconded by Council President Buehner, to approve Amendment No. 6.</p> <p>The motion was approved by a unanimous vote of City Council present.</p>

 Consideration of “housekeeping amendments” as identified in the November 27, 2012 memorandum from Associate Planner Daniels regarding “Urban Forestry Code Revisions.” This memorandum is on file in the record copy of the meeting packet.

 Motion by Council President Buehner, seconded by Councilor Woodard, to approve the 13 housekeeping amendments.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

 Discussion on the ordinance and resolution before the City Council for approval:

A. Urban Forestry Code Revisions - Land Use Elements

 Before voting on the proposed Ordinance No. 12-09, statement made by Council President Buehner, that she still has some concerns about potential litigation from events arising out of the code, but in an effort to reach consensus, she will vote for the code change. She added that she hoped the city attorney would keep track of issues and those that raise “red flags” should be brought to the council immediately.

 Mayor Dirksen commented that each councilor likely has some issues that, individually, they would like to see addressed. Looking at this as a complete package, it is “such a large improvement over what we have had previously...” He referred to the work by the Task Force and the Planning Commission, “...and to come up with this compromise that everyone could agree with in general and in principle is a huge achievement...”

 Councilor Woodard said his biggest concerns were cost and privacy issues. He wanted to see home builders be able to keep down those costs that are passed to the homeowner. As the council proceeded through the hearing process, his concerns diminished. While he still has a few questions for clarity, he realized the administrative rules process would assist in keeping the code less complicated and allow staff to assist customers more efficiently. Councilor Woodard said he still has some concern about project costs, but he thinks the council will have the opportunity to address this concern if it does materialize. The end result is a good product.

 Mayor Dirksen closed the public hearing.

 Motion by Council President Buehner, seconded by Councilor Woodard, to adopt Ordinance No. 12-09:

ORDINANCE NO. 12-09 - AN ORDINANCE TO ADOPT DEVELOPMENT CODE AMENDMENT DCA 2011-00002 TO AMEND CHAPTERS 18.115, 18.120, 18.310, 18.350, 18.360, 18.370, 18.390, 18.610, 18.620, 18.630, 18.640, 18.715, 18.745, 18.775, 18.790 AND 18.798 OF THE COMMUNITY DEVELOPMENT CODE, ALONG WITH THE AMENDMENTS APPROVED BY COUNCIL EARLIER IN THE MEETING.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

Councilor Woodard received clarification that this action would amend the Development Code.

The motion was approved by a majority vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	No
Councilor Woodard	Yes

 Councilor Woodard asked for clarification regarding the proposed Ordinance No. No. 12-10. He noted in the “whereas” statements of the ordinance, there are requirements that he assumes are required by the state. City Attorney Hall advised the “whereas” clauses do not amend the text of the Comprehensive Plan. The language in the “whereas” clauses: “...decision to allow, limit or prohibit uses...” is language from statute. Principal Planner McGuire confirmed that this language documents the process the city went through to demonstrate to the state that the city followed the state’s process.

 Motion by Council President Buehner, seconded by Councilor Woodard, to approve Ordinance No. 12-10.

ORDINANCE NO. 12-10 - AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA 2011-00004 TO INCORPORATE A SIGNIFICANT TREE GROVES MAP INTO THE TIGARD COMPREHENSIVE PLAN

The motion was approved by a majority vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	No
Councilor Woodard	Yes

 B. Urban Forestry Code Revisions - Non Land Use Elements

 Motion by Council President Buehner, seconded by Councilor Woodard, to approve, Ordinance No. 12-11

ORDINANCE NO. 12-11 - AN ORDINANCE TO ADOPT THE NON LAND USE ELEMENTS OF THE URBAN FORESTRY CODE REVISIONS PROJECT BY AMENDING CHAPTERS 1.16, 6.01, 6.02, 7.40, CREATING CHAPTERS 8.02, 8.04, 8.06, 8.08, 8.10, 8.12, 8.14, 8.16, 8.18, AND DELETING CHAPTERS 9.06 AND 9.08 OF THE TIGARD MUNICIPAL CODE, AS AMENDED EARLIER THIS EVENING.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012

The motion was approved by a majority vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	No
Councilor Woodard	Yes



- Proposed Resolution - Amendments to the Citywide Master Fees and Charges Schedule

Council consensus was to postpone making a decision on the proposed amendments to the Citywide Master Fees and Charges schedule. This matter will be rescheduled to address City Council concerns/questions on the proposed fees.



City Manager Wine addressed the City Council on the procedural steps regarding the administrative rules. Staff acknowledges council members' concerns about the complexity, the perceived prescriptiveness and the level of detail contained in the administrative rules. Associate Planner Daniels advised staff will use a similar process as used this evening as the City Council reviews and considers the administrative rules.



Mayor Dirksen noted he was pleased with the progress made by the council on the UFCR project. The end result is an improvement over what "we had before." His concerns at the beginning were based on comments from citizens about a desire to preserve and enhance the trees in the City of Tigard and how to do this in a way that was fair in consideration of property owners' rights. The challenge was difficult. He thanked everyone involved, particularly those who served on the Task Force.



Council President Buehner noted deferral of discussions on view corridors and height restrictions. She said she hoped that staff would schedule these topics for council review in the next year.

6. COUNCIL LIAISON REPORTS: None.
7. NON AGENDA ITEMS: None.
8. EXECUTIVE SESSION: Not held.

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012



9. ADJOURNMENT: 9:14 p.m.

Motion by Council President Buehner, seconded by Councilor Wilson, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 27, 2012



Agenda Item No. _____ Meeting of _____

City of Tigard

**Tigard City Council Meeting Minutes
December 18, 2012**

1. SPECIAL MEETING - December 18, 2012



- A. Mayor Dirksen called the meeting to order at 7:40 p.m.
- B. Roll Call

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Dirksen	✓	
Council President Buehner	✓	
Councilor Henderson	✓	
Councilor Wilson	✓	
Councilor Woodard	✓	

- C. Pledge of Allegiance



2. MAYOR'S BLUE RIBBON TASK FORCE REPORT

Mayor Dirksen introduced this agenda item. The mayor brought the Blue Ribbon Task Force together to consider different financial options the city might look to in the future. He referred to his 2011 State of the City address where he summarized the city's financial situation and challenges we were facing to our commitment in the city to maintain financial stability while still providing the level of service the city organization and the citizens expect.

This group consisted of prominent citizens who reviewed the city's circumstances to determine if there were possible courses of action that the city could take. Several Task Force members were present to share the outcome of their work.

Assistant City Manager Newton served as the facilitator to the Task Force. The Task Force was convened around the question: *If Tigard were to acquire a new public dollar, what would it fund and where would that come from?* Ms. Newton said that, to a person, each member of the Task Force

viewed the City of Tigard as a community. The city has a role in providing services to the community and a role in making Tigard a great place to live and work.

Assistant City Manager Newton read the names of the Mayor’s Blue Ribbon Task Force:

Barry Albertson	Bob Smith
David Burke	Fire Chief Michael Duyck
Dan Goodrich	Jason Rogers
Jessica Cousineau	State Representative Margaret Doherty
Mark Haledman	Melody Graeber
Mike Stevenson	Sue Yesilada
Tom Woodruff	Troy Mears

Finance and Information Services Department Director LaFrance said his role to the group was to provide information they needed to develop their recommendations. Tonight the Task Force will present their six recommendations.

Recommendation 1 – Financial Stability/Services – Presented by Task Force Member Dan Goodrich:

- Strengths of the city for focus.
 - A fiscally sound budget process.
 - One of the lowest tax rates when compared to other cities in the region.

The residents of the city are unaware of these strengths. The Task Force believes that the residents have confidence in the city. The budget process has resulted in high-level services, even though we do have a low tax rate. With appropriate discussions and an education process, the residents will retain their confidence and the city will establish credibility to move forward.

- Fiscal problems are imminent due to compression factors inherent in the tax structure. Additional revenue sources must be found to maintain and add services.
 - The Task Force identified a process for the city to follow:
 - Communicate/educate/market to celebrate what we do well in managing finances to do as much or more as any other community with less money. Also assist local businesses by creating a positive community environment to help build identity. 
 - Communication should occur through multiple channels. The city should plan a series of communications over a period of time to get the message out in the media about what good jobs the city and businesses are doing.
 - Community meetings, activities and focus group meetings – provide opportunities for two-way communications.

- In time, when the good things that the city is doing become better understood, then review the budget and how money is being spent. Challenge people to help identify other things that we should be doing and how we are going to pay for them – discover different revenues.
- Continue to work with the state to identify ways to fund local services.



Recommendation 2 – Economic Development – Presented by Task Force Member Mike Stevenson:

- Economic development and a healthy business sector are critical for a financially stable and vibrant community.
- The city has a lot to offer businesses, but it needs to be more creative and proactive in attracting quality businesses that citizens want, especially downtown.
- Engage the citizens to identify the types of business that will keep them here and encourage them to shop locally.
- Positive interactions between the business community and city personnel are critical.
- The city should work to identify business types or clusters to attract new businesses and develop the business community.
- Solicit input from the business community about Tigard’s unique potential that makes it attractive for investments.
- Pacific Highway is a major presence in the community. This road provides a major route through the city; however, it is important that it should meet the requirements of City of Tigard residents. The beautification of Pacific Highway could improve the overall image of Tigard.
- More public/private investments are needed in the downtown to spur investments.
- Develop and implement a competitive economic development strategy engaging members of the business community and citizens.
- Focus on strategies for specific areas.
- Find ways to leverage private investment.
- Emphasize with the citizens the importance of doing business locally.
- Establish a dedicated, full-time economic development staff position and an economic development commission.
- Renew a focus on community aesthetics and beautification – through a public/private partnership.



Recommendation 3 – Identity/Vision for the City of Tigard – Presented by Task Force Member Melody Graeber:

- The city needs a strategic plan that clearly articulates what it hopes to accomplish and supports the city’s identify.
- Call for strong, constant and ongoing communication with the public.
- A strong community uniqueness will help create a connection for the people to be more than just satisfied with Tigard as a place to live.

- A vibrant downtown with a community gathering place is important for connecting citizens to their community.
- Reinforce and strengthen the city’s brand through signage, print materials and electronic communication.
- Obtain a Tigard zipcode, distinct from Portland to help foster a stronger business connection to the community. State Representative Margaret Doherty is exploring a resolution for this issue.



Recommendation 4 – Marketing/Education/Communication – Presented by Task Force Member Representative Margaret Doherty:

- Common threads among all the recommendations from the Task Force include addressing communication and promoting Tigard.
- Develop a communication strategy that does a better job celebrating what we do well and, at the same time, conveys the financial realities without using “scare tactics.”
- Tigard offers open processes to its citizens regarding how money is spent, how we budget and how we develop programs.
- Ongoing communication to citizens is critical to address the financial future.
- The communication strategy would include what the city is currently doing along with becoming more visible in community activities.
- The communication needs to be proactive. Services the city offers need to be marketed.
- The Task Force believes the city runs a “lean and mean” machine – we offer a lot of services even though there have been cutbacks. People need to know what the significant consequences have been with regard to cutbacks such as the closure of the library on Thursdays and the reductions to many of the youth service programs. On balance, Tigard continues to offer a great park system, many businesses are still open and residents are safe.
- Work with the Tigard Chamber of Commerce to celebrate the success of businesses.
- Become more involved in events, including those that are school sponsored, and talk directly to citizens who attend.



Recommendation 5 – Partnerships – Presented by Task Force Member Troy Mears:

- Partnerships should be an integral part of the city’s financial strategy. The city uses partnerships in many forms throughout city operations.
- Continue to conduct periodic reviews of programs and services throughout the year.
- Citizen volunteers serve the city well; members of all the city boards and commissions are volunteers.
- Potential for partnering with the Tigard-Tualatin School District on facility use.
- Develop a robust public/private partnership with a strategy for downtown development.
- Survey the citizens about interest in providing recreational opportunities or facilities through partnerships.



Recommendation 6 – Next Public Dollar – Presented by Task Force Member Mike Duyck

- This was the fundamental question to the Task Force from the Mayor: *“If Tigard were to acquire a new public dollar, what would it fund and where would it come from?”*
- The answer to this question will come from the community by implementing the components of Task Force Recommendations. Ask the residents what they want to see in the community – get very specific through surveys to determine what services are wanted and needed. Provide information about how much services cost.
- During the economic downturn, the reductions the city has made have been admirable. The city has done an exceptional job of reducing staff, staying within budget and running as efficiently as possible. The committee feels there is not much more that can be “squeezed out.”
- Develop a cohesive strategy and the Task Force is supportive of looking at creating a citywide strategic plan.
- The city has an outstanding group of citizens who are supportive of the city.
- Communication using multiple media cannot be over-emphasized.
- The Task Force unanimously concurred that the Tigard citizens have confidence in their leadership that financial issues can be addressed based on past and current financial challenges.
- The Task Force members were secure in the city’s determination and ability to ask for recommendations from the community about city services, consider additional funding options and then follow through.
- The Task Force sees incredible potential in the city to become a standout community in the region.



Finance and Information Services Department Director LaFrance introduced additional Task Force members present.

- Jessica Cousineau advised of her support and agreement with the Task Force members’ comments tonight.
- Tom Woodruff said he was somewhat disappointed that there was no “quick fix.” The concurrence of the Task Force was that there are ways that additional revenue can be raised, while no one ever likes to see more taxes or fees. But, before considering additional revenue, more work needs to be done in the community to make the case that the city needs the funds and will use them wisely.
- Jason Rogers noted appreciation for being involved in the process. The Task Members came into the process hoping to find a “silver bullet” that would answer the mayor’s fundamental question about what to fund should a new tax dollar be available. The solution offered by the Task Force is a package of things that could become that “silver bullet” if implemented collectively to move the city towards more prosperous times.

Task Force Member Duyck concluded the report from the group extending compliments to the city for setting up the process.

 Mayor Dirksen said it is clear from the Task Force report that there is more work to do; continued dialogue between this group and the council will be needed. He acknowledged Task Force member Woodruff's comments about hoping to find a "silver bullet – a quick fix," and while it would have been nice to find a solution, the mayor said he did not really expect to find one. The city will embark on looking for ways to turn the Task Force's recommendations into specific actions. The mayor opened the floor to the City Council for questions or comments.

- Councilor Wilson commented that the last time the city did something like this was for the "Tigard Beyond Tomorrow" visioning project in the late 90's. He appreciates the recommendations from the Task Force for specific actions the city can take. Councilor Wilson said he was pleased to see a number of elements the city has been working on or talking about starting.
- Councilor Henderson thanked the Task Force for their work. He supported the process and, if feasible, would like to see a similar process undertaken annually. He agreed with the importance of reaching out to the public to let them know what the city is doing and to solicit what they want to see done. Councilor Henderson referred to common threads of needs; i.e., economic development and communication. He said he would be willing to work on the recommendations proposed by the Task Force.
- Councilor Woodard commented on the wealth of good information provided in the report. He said the report underscored for him that fundamental changes must be made. He referred to the local, state and national hard economic climate and the need to be prudent and to look at all types of opportunities. He appreciated the recommendation to solicit input from the citizens. Councilor Woodard was happy to see the recommendation to add to the city organization an individual with economic development expertise to help identify policies and look for opportunities. He supported the notion that recreation can provide opportunities to add to the economic health of a community. He supported the concept of partnerships. He offered the idea of real-time voting at certain venues to ask people to cast their vote on issues as one way to determine the general will of the community.
- Council President Buehner thanked the Task Force for their hard work. She would like to see the Task Force continue to work. She commented on the readability and valuable information contained in the report and said she would like to see a copy mailed to every citizen in Tigard to start the education process. One of the issues that will be challenging will be the hiring of an economic development person or a recreation person in light of the fiscal constraints being experienced by the city. She anticipates additional budget-related issues coming from the state legislature affecting local governments in the short term. This means the city needs to remain extremely fiscally conservative. Council President Buehner said that while she agrees an effort should be made to educate people, the primary emphasis is to share the financial realities the city is facing. "We can't cut anymore...we can't cover up the shortfalls anymore..." The only way we can look to fund other programs is for some sort of local option levy in the future. She said she hoped some of the Task Force members would be willing to work on a strategy to assist the city in putting together a plan for what is needed, including the possibility of a local option levy proposal. She commented on the need to lobby at the state legislature to take local option levies out of compression.

- Councilor Henderson said the information from the Task Force comes at the exact time that it is needed since the city is headed into its new budget cycle and council goal setting. He expressed thanks for Assistant City Manager Newton’s facilitation of the group – her expertise and knowledge of the city’s history provided a good foundation for the group’s charge.
- > Assistant City Manager Newton introduced Task Force Member Barry Albertson who was also present.

Ms. Newton said that staff hoped the City Council would accept the Task Force Report and work with staff to start implementing the recommendations.

 Motion by Council President Buehner, seconded by Councilor Wilson, to accept the Mayor’s Blue Ribbon Task Force Report and take a look at implementing the recommendations.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Mayor Dirksen thanked the members of the Task Force. The mayor presented each of the members a certificate of acknowledgement.

 3. COUNCIL WILSON’S FAREWELL REMARKS

This meeting is the final council meeting for Councilor Wilson. Councilor Wilson said, initially, he was disinclined to give a final talk but decided he would like to say a few things “from the heart.” His farewell remarks are paraphrased and attached (Attachment 1).

> **Non Agenda – Presentation to Mayor Dirksen: Dirksen Nature Park**

Councilor Wilson made a special presentation to Mayor Dirksen. The mayor was unavailable for the council meeting held December 11, 2012. The council took action that night to honor Mayor Dirksen’s accomplishments to the City of Tigard. The council, through Resolution No. 12-52, named the Summer Creek Property the “Dirksen Nature Park.” This 48-acre property, bordered by Fowler Middle School, Tiedeman Avenue and Tigard Street will soon become Tigard’s largest nature park and the second largest city park.

Mayor Dirksen thanked Councilor Wilson for his comments. He expressed his appreciation for such a “startling and stunning tribute.”

4. MAYOR DIRKSEN'S FAREWELL REMARKS

 This is Mayor Dirksen's final council meeting as mayor. A copy of his farewell remarks is attached.

8:49 p.m.

5. ADJOURNMENT

Motion by Council President Buehner, seconded by Councilor Wilson, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present.

Mayor Dirksen	Yes
Council President Buehner	Yes
Councilor Henderson	Yes
Councilor Wilson	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

Attachment 1 – Councilor Wilson’s farewell remarks – December 18, 2012

Councilor Wilson opened his remarks saying that over his 19 years’ of service to the city he has done a lot of talking; therefore, his initial reaction was to be disinclined to give a final talk. Upon reflection, however, he decided he would like to say a few things “from the heart.” Below is a paraphrased transcription of his remarks:

We have had a really good run here. When I think of everything we have accomplished, it is personally gratifying even if not everyone knows everything that went into it – to see an intersection improved, a new park, a new logo or whatever it might be. Everything that we have done has been a team effort – the mayor, council, city manager, staff and a lot of great volunteers. The mayor and I in recent weeks interviewed a group of new people who want to get involved. I have been impressed with the quality of people who volunteer to participate. The community is a reflection of its people. If you take a little island country with no resources such as Singapore and think about why that country is successful...well, it’s because of the people who live there. The government is a reflection of that.

As I move on, I will not miss the late nights at meetings and reading enormous volumes of material. What I will miss is the people; we have a great city staff and we all should be proud of them.

A good part of the reason that we have had a great run, is because we have had stability on the council, especially in the seat of mayor. As you all know, we had two mayors struggle with lengthy terminal illnesses while in office and it is difficult under those circumstances. Over our whole history, the average mayor served three years; Craig served ten years. Ten years with a bad mayor isn’t necessarily going to be a great thing (laughter). Craig has been an exceptional mayor. I think one of the best decisions that we made was to hire him half-time so he could ‘get out there.’

We have tangible accomplishments, such as streets and parks. But, there are also a lot of intangible accomplishments that are not measureable – the facts are that under Craig’s tenure, we have raised the profile of Tigard regionally. People around the region know that Tigard is a player and that is in part because Craig has been ‘out there.’ When he announced that he was stepping down, I was really disappointed to hear that. Craig has been a good friend. It put me in a difficult position – my term was up. I needed to determine whether to run for councilor again, run for mayor or quit. I felt that I did not want to quit and I thought that since I had been the longest serving councilor I should run for mayor. I don’t regret that decision. We could have appointed a mayor, but I do believe that it is important for voters to have a choice. They made their choice and I respect that.

As we went through the campaign, there were not a lot of differences between John Cook and me in policy issues. In reflecting on the mayoral race one theme came up in my mind as the deciding factor. John made a comment somewhere during the campaign about how he would like to hold coffee meetings – go to a coffee shop and be available for citizens to come talk to him. When he said that, I thought, ‘John, you know being mayor is a job.’ But, reflecting on that, I realize that John’s right about that – I was focusing on being sort of the technocrat: governing, getting stuff done and thinking that my experience was the most important thing. I think that John, during that whole 19 years’ time, was developing

relationships with people. That proved to be the deciding factor. John mentioned after the election that he had 100 people out there helping him. I was thinking I did not have that kind of support – and if John can muster 100 people to put out signs for him, then he can muster 100 people or more to get things done for the city. That is what leadership is all about – it's to get people to do things and to move them all in the same direction. I am excited to watch things unfold and, 'John, I will be watching you!' (laughter)

That concludes my remarks. I will be around and I am looking forward to relaxing a little bit and being on the sidelines.

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Tigard Farewell
December 2012

Dear friends, colleagues, and neighbors –

Thank you for coming tonight and joining me on this special evening.

When someone starts a journey, they usually have a good idea of their destination, of where they will end up. But when I began my public service in Tigard, I could not have imagined that it would lead here. Who could have guessed, when I agreed to coach my kindergarten-aged son's soccer team, that it would lead to being the Mayor of Tigard? But when you get involved, and you continue to see a need, and when you apparently lack the ability to say, "no", the opportunities just continue to present themselves.

When I look back at the last 12 years, I think of the things we've accomplished, and the people I've met and worked with. I remember Mayor Jim Nicoli, who was mayor when I was elected to council in 2000, and Joyce Patton, who taught me so much about how to ask the right questions, and Paul Hunt, and Ken Scheckla, and my old friend Brian Moore, who I first met when we coached our sons and their friends in basketball ten years before. The Council then was considering the need for a new library. The old one was way too small and though much loved by the community it no longer could meet the people's needs. Of course, it would cost money, and the challenge was defining the people's vision to design a project the people would support. The City had just come off of an unsuccessful road improvement bond measure campaign and was concerned they didn't have the confidence of the people. Of course, we were successful and the new library has been a blessing to the community for several years. In the process we learned a lot about community engagement and listening.

When Mayor Nicoli died and Jim Griffiths became Mayor, our downtown business owners were trying to create a new Enterprise Zone to revitalize Tigard's downtown. They were not successful, but this led the Mayor and me to conceive the idea of the Downtown Task Force to create a Downtown Improvement Plan that could be supported by the business community as well as the rest of the City. Eventually the people approved the Downtown Urban Renewal District. While it's still in its early years, we've started to make improvements and we are beginning to exercise the great potential for what downtown will gradually become.

Concurrently, we were looking for an alternative way to find money for much needed street and road maintenance and improvements. Again we assembled a group of citizens, the Transportation Financing Strategies Task Force, to explore the different options and make a recommendation to Council. While the initial plan was to find a source of funding for capital improvements, what we discovered was that maintenance of existing streets was eating up potential improvement dollars, so instead the recommendation was to consider creating a Street Maintenance Fee. It's always difficult to convince citizens to agree to new fees, but once we had held several open houses and we showed people how little it would cost and what it would accomplish, the small opposition just melted away. Encouraged by that success, and continuing to hear from residents the importance of reducing traffic congestion, we also created a local gas tax to raise money to do specific road improvement projects. The idea was so popular that though there was a group that tried to repeal it, they failed to even get enough signatures to refer it to the ballot. Councilors Nick Wilson and Sydney Sherwood, now Sydney Webb, both shared my commitment to transportation improvements. In her own unique style, Sydney declared that creating the new revenue source was "a no-brainer". The citizen task force that recommended the gas tax (do you see a pattern here?) has since been made a permanent citizen Transportation Commission that reviews transportation needs and approves projects for gas tax funding. Tom Woodruff had joined the Council by then. He has a real heart for inclusive collaboration and he taught us a lot about public engagement.

Tigard's other great need was for more parks. The first time I came before the Tigard City Council was as President of the Tigard Soccer Club, telling the Council we needed more parks and open space for our citizens to use, especially for our children to play in. When I joined Council in January 2001, Tigard had just 288 acres of parks and open space – not nearly enough. The Council, including new Councilor Gretchen Buehner, agreed. Today, by making it a priority, some incredibly creative work by staff and council, and the passage by the citizens of a \$17M parks bond, we now have over 500 acres and we'll have more before we're done! Our future plans include more land purchases around the city and the creation of a public plaza space in our Downtown.

Currently, in addition to everything else, we are on our way toward fulfilling a 20-year dream of Tigard having its own water source. Partnering with the City of Lake Oswego, in 2016 we'll have a new treatment plant and supply system that will serve the needs of both our cities for the foreseeable future.

Yes, it's been quite a journey for a regular guy from Klickitat, Washington, but it's not over yet. As with many journeys, the end of one is just the beginning of another. In three weeks I will take my oath of office as a member of the Metro Council, overseeing land use and transportation planning for the Region, as well as running

popular public assets like the Zoo, the Convention Center, and performance venues like the Schnitz and the Keller Auditorium. There I will represent, in addition to Tigard, South Beaverton, a small part of Aloha, and the unincorporated areas of south Washington County, in addition to the Cities of Tualatin, Sherwood, and Wilsonville. In this way I will continue to serve the residents of Tigard as well as our larger community.

As I leave office, I would like to share with you my continued vision for the future of Tigard. First, we should keep doing the things we are doing, and continue forward on the projects and programs in which we are now engaged. Some of them will mean *change*, and change is scary. Tigard today is a wonderful place and we **must** work to preserve it, but preserving what we have means being prepared for the future. Life *is* change. To stop changing is to begin dying. This is true for individuals but is **just** as true for communities. I like to tell students that government has two jobs – to provide services today, and to plan for the future. If we idealize the past or let our thinking remain trapped in the present, if we fail to have a vision for Tigard's future or fail to act on that vision, not only will we not gain what we could, but we will risk losing what we have. While we, and by "we" I don't mean just the City or the just the Council but rather "we" the entire Tigard community, while we should always act with thoughtful caution, we **must** keep moving forward if we are to successfully meet the challenges of the future. As always, to achieve this we must strive to work together. Then Tigard will be able to rise to its full potential while remaining "A Place to Call Home".

God Bless you all, and God Bless the City of Tigard



City of Tigard
Tigard City Council Meeting Minutes
January 8, 2013

1. BUSINESS MEETING



- A. Council President Buehner called the meeting to order at 7:30 p.m.
- B. Roll Call – Council President Buehner asked City Recorder Wheatley to call the roll.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor-elect Cook	✓	
Councilor Buehner	✓	
Councilor-elect Henderson	✓	
Councilor-elect Snider	✓	
Councilor Woodard	✓	



- C. Pledge of Allegiance - Boy Scout Troop 423 - Flag Ceremony
- D. Council Communications & Liaison Reports: None
- E. Call to Council and Staff for Non-Agenda Items: None

2. ADMINISTER OATHS OF OFFICE TO MAYOR JOHN COOK, COUNCILOR MARLAND HENDERSON AND COUNCILOR JASON SNIDER

- Municipal Court Judge Michael O'Brien administered oaths of office individually to:
 - Mayor John Cook
 - Councilor Marland Henderson
 - Councilor Jason Snider

From this point forward, Mayor Cook presided over the meeting.

3. INAUGURAL REMARKS

- Councilor Marland Henderson

Paraphrased highlights of Councilor Henderson's remarks:

- *My daily guidance is drawn from the Serenity Prayer and the three powerful messages contained within:*
 - *Accept with serenity the things that cannot be changed.*
 - *Courage to change the things that should be changed.*
 - *Wisdom to distinguish the one from the other.*
- *Acceptance of the things that cannot be changed is the most difficult and those things include:*
 - *An economy that needs to get better.*
 - *Acceptance of loss of personal goals.*
 - *The differences in philosophy between public and private enterprises.*
 - *The responsibility borne by prior councilors.*
- *Courage to change things is frightening when faced alone. Establish civility, trust and cooperation to work with others constructively. Speak and act with honesty and integrity as a representative of the public.*
- *Wisdom usually comes from experience. Things take time. A councilor gets his or her check and power from the people. Half the people don't know what I do and the other half don't care (laughter).*
- *My mission is to "leave it better than how I found it."*
- *My accomplishments for the first year – everything changed from what I wanted to do:*
 - *The budget changed.*
 - *There were reductions in income.*
- *My second year, I witnessed with the Parks and Recreation Advisory Board. The city increased the parks and improvements budget by \$17 million. As budget reserves continued to fall, so did our economy.*
- *For year three, I was no longer a new councilor. There were drastic changes on staff including the retirement of the city manager along with several department leaders. This was inopportune for the City of Tigard as it grew larger in size with the annexation of River Terrace.*
- *Year four – along with the annexation of River Terrace's 500 acres, Tigard added several large parks to its inventory. For the first time in many years, the city reached outside the city for new talent by hiring the new city manager. The greatest partnership, to date, has been Tigard's partnership with Lake Oswego to secure a water source that the city has been trying to lock-in for a long time.*
- *Where do we go from here? For the next year, we will struggle with our uncertain economy. We need to support the people's No. 1 priority: the downtown and its identity. We need to continue to build a better council with a new member and an interim mayor. We must prioritize an economic development strategy by employing an economic development director to assist and implement the efforts of our new community development director and his department.*
- *I thank all of those who allowed me to return as Tigard's City Councilor for four more years. Special thanks to those who responded to my request for comments last August. "...Your voice was heard by me and...I will echo it as your representative and councilor."*

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 8, 2013



- Councilor Jason Snider

Councilor Snider's remarks:

I want to thank all of the residents of Tigard for trusting me with the leadership of our city and community. I am committed to the efficiency and transparency of our local government. I believe difficult problems are best solved through creativity, ingenuity and teamwork. Over time, I found that simple solutions are often the most effective. As I serve, I am going to balance situations as I see them through the lenses of my unique experiences.

In my healthcare profession, I am a practical scientist and this will lead me to ask for data that supports a statement or assumption and will often ask 'why.' For these reasons, I am going to pray for the city staff to have patience with me.

Last, I would like to personally thank my wife family for supporting me with the time it will take to serve effectively as a councilor. Thank you.



4. INAUGURAL REMARKS - MAYOR JOHN COOK

Mayor Cook's remarks:

Good evening and thank you all for attending tonight. It's an honor to be able to serve as your Mayor. I would like to thank the citizens of Tigard for their vote of confidence and look forward to working with you on the issues that are most important to the city. We are fortunate that Mayor Dirksen has left the city in very good shape. The council has been working hard on several initiatives that I plan to keep moving forward, and we have several pending issues that need to be addressed.

Later this week, the council will be setting goals for the year. During the campaign, I spoke with many of you about your concerns; the issues that you feel most pressing; the reasons that you choose to live in Tigard; your hopes for the future; and from those long-time residents, the things that you miss about our changing city. I will be bringing these to the table as we plan for the future, and I look forward to chatting with you further at a Fireside Chat or a Town Hall.

Growing up in Tigard, the one thing I could always count on is that small town, neighborly feel. While we all would like to keep that atmosphere, we have to recognize that Tigard is a major player in the Metro region now. We will likely have some big decisions to make related to growth and livability. I see three areas that we'll be taking a hard look at:

- **Transit** – Working on the SW Corridor plan with our neighbors, and to address transportation issues in the 99W/Pacific Highway region. This discussion will include what type of high capacity transit our citizens will want for Tigard.
- **Water** – Continuing to work to secure an ownership in a water source for Tigard. Currently, we are working with Lake Oswego to accomplish this.

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 8, 2013

- **Growth** – *The annexation policy for the council, including a large part of Bull Mountain that residents are asking to be included in Tigard later this month.*

So, there's work to do to maintain the livability in our city and I'm ready to get started. I look forward to talking with you and continuing to have Tigard be A Place to Call Home!



5. ELECT COUNCIL PRESIDENT TO SERVE JANUARY 2013 TO DECEMBER 31, 2014

The Tigard City Charter states: At its first meeting of each odd-numbered year, the council by ballot shall choose a president from its membership. In the mayor's absence from a council meeting, the president shall perform the duties of the office of mayor and preside over it. Whenever the mayor is physically or mentally unable to perform the functions of office, the president shall act as the mayor pro tem.

City Recorder Wheatley distributed ballots, which were filled out and signed by the Mayor and City Council members. City Recorder Wheatley tallied the ballots and submitted the results to Mayor Cook who announced that Councilor Henderson was elected to serve as the City Council President.



6. ADJOURNMENT: 7:48 p.m.

Motion by Councilor Woodard, seconded by Councilor Buehner, to adjourn the meeting.

The motion was approved by a unanimous vote of City Council present:

Mayor Cook	Yes
Council President Henderson	Yes
Councilor Buehner	Yes
Councilor Snider	Yes
Councilor Woodard	Yes

Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: _____

TIGARD CITY COUNCIL MEETING MINUTES – JANUARY 8, 2013



City of Tigard

City Council Workshop Meeting - January 15, 2013

TIGARD CITY COUNCIL

MEETING DATE/TIME: January 15, 2013 – 6:30 p.m.

MEETING LOCATION: City of Tigard – Town Hall, 13125 SW Hall Blvd., Tigard, OR 97223



1. WORKSHOP MEETING

A. At 6:33 p.m. Mayor Cook called the Tigard City Council meeting to order.

B. Deputy City Recorder Krager called the roll.

	Present	Absent
Mayor Cook	✓	
Councilor Buehner	✓	
Council President Henderson	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

C. Pledge of Allegiance

D. Council Communications & Liaison Reports



Park and Recreation Advisory Board (PRAB) liaison Councilor Woodard reported that fifteen teenage volunteers removed invasive species such as ivy and jasmine from East Bull Mountain Park recently. He commented that it is great to have the students involved. He said the Rotary Club is interested in donating fitness equipment for use in Tigard parks. PRAB members will be attending a council meeting in February to discuss equipment placement. He said the PRAB is currently working on annual goals and is looking forward to viewing the council's goals. He said they are working on the final land acquisitions from the parks bond.

Councilor Buehner mentioned she will give a liaison report at the next council meeting.

Council President Henderson reported to the audience that council held their goal setting session on January 10, 2013. City Manager Wine said revised

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

groundrules, 2013 council goals and council liaison assignments will be finalized and considered for approval by council at a future meeting.

E. Call to Council and Staff for Non-Agenda Items: City Manager Wine said she would follow up at the end of the meeting on several administrative items from the goal setting session.

2. EXECUTIVE SESSION: At 6:38 p.m. Mayor Cook announced that the council would be entering into an Executive Session to consider pending litigation or litigation likely to be filed, under ORS 192.660 (2) (h). The executive session ended at 7:05 p.m.

3. ANNUAL CITY COUNCIL TOUR OF POLICE DEPARTMENT TEMPORARY HOLDING FACILITY

At 7:08 p.m. Police Chief Orr and Captain de Sully gave council a tour of the police department temporary holding facility. This tour is a requirement for the city to comply with Oregon State Department of Corrections procedures. Council returned to Town Hall at 7:30 p.m.

4. QUARTERLY JOINT MEETING WITH THE BUDGET COMMITTEE



Mayor Cook welcomed the citizen members of the Budget Committee. Citizen members attending were Don Fisher, Melody Graeber, Cameron James, Clifford Rone and alternate Melonie Boekee. Senior Management Analyst Collins distributed information to all members and a copy of this material has been added to the packet for this meeting.

Recap of Last Fiscal Year Audit

Finance and Information Services Director LaFrance gave a brief recap of last fiscal year's audit. The audit was completed by Thanksgiving and published on the city's website the following Tuesday. There were no negative findings regarding controls. The city had one budget law violation - adequate public notice did not appear in a newspaper for one supplemental budget hearing. He said new internal procedures have been implemented to prevent this occurrence in the future. He said the audit is available on the city's website.

Councilor Buehner asked if there would be a presentation to council from the auditors this year. Finance and Information Services Director LaFrance replied that he would defer that question to the new Audit Committee.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

Presentation of FY 2013 Second-quarter Financial Report

Finance and Information Services Director LaFrance presented the second-quarter financial report and noted that while the numbers are not audited, they show the current financial standing at the close of the previous month. Releasing quarterly reports meets the goal of transparency and a benefit is that it gives staff a high-level look at the financials and an examination for things that appear out of order. He said the quarterly financial reports are always prefaced with a memo explaining how to read them. He said any questions or items of interest can be discussed during the presentation, or council can contact him any time and the answers to the questions will be shared with the other budget committee members. In-depth items from the previous quarter that require a follow-up response can also be addressed in the next quarterly financial report.

In response to a question from Councilor Buehner regarding timeliness of the city's gas tax receipts from the Department of Revenue, Finance and Information Services Director LaFrance said the state is currently running two months behind.

Finance and Information Services Director LaFrance discussed the city's departments and other expenditure accounts such as Debt Service and the Capital Improvement Plan (CIP).



Finance and Information Services Director LaFrance pointed out that the budget numbers reflect one supplemental budget. At the January 22, 2013, council meeting there will be a public hearing to consider a second supplemental budget. He said sustainability is a main assumption in the General Fund so the forecast assumes a spending rate of only ninety-five percent. Departments have to manage not only their budgets but limit their spending to that goal of ninety-five percent.

Finance and Information Services Director LaFrance said operating expenditures in all funds are currently at 47 percent. Revenues are at 66 percent, which is to be expected due to the bulk of property taxes coming in November. Spending in some capital funds is over 50 percent such as Parks System Development Charges (SDCs). Street Maintenance spending is also over 50 percent because paving occurs during the first two months of the fiscal year.

Finance and Information Services Director LaFrance said sewer revenue is below budget but this is not due to problems with collections. It was determined that it was budgeted too high. Councilor Snider asked for an explanation and Mr. LaFrance said that due to bad modeling, the city's sewer budget was high in 2012 and a correction made in 2013 was more accurate but it needs adjustment.

Finance and Information Services Director LaFrance said expenditures for the Water CIP Fund are lower due to the timing of invoices from Lake Oswego. Tigard has not received the second quarter invoice. Councilor Buehner inquired whether, since the invoices from Lake Oswego lag behind, the city should make that adjustment as it goes through the fiscal year 2014 budgeting process so we won't be expecting the revenue.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

Mr. LaFrance said this would not work from a budgetary standpoint, because it is still earned during the fiscal year and needs to be recognized in the year received.

 Mayor Cook said the expenditure side of the second-quarter report is easy to understand. He said, “But on the revenue side, other than property taxes, it is hard to know if we are on target. Are we six percent high or low?” He suggested it would be helpful to council if they saw a budget by the month or quarter that lists when various revenues are expected. He said just looking at the percentage is not helpful. Finance and Information Services Director LaFrance said a quarterly report discussion is a good time to discuss the timing of revenues. But he said if the Budget Committee wants more frequent cash-flow information, staff can provide it. Councilor Buehner noted for new council members that one of the revenues the city receives is the PGE franchise, and it does not come until March.

After a discussion with Councilor Buehner regarding the Insurance Fund, Finance and Information Services Director LaFrance said putting total percentages on the requirements and resources may be misleading. He said staff we may look at removing this from future reports.

General Fund Financial Forecast and Budget Instructions for Fiscal Year 2014

Finance and Information Services Director LaFrance discussed the General Fund forecast and described the meaning of the lines on the graph. He noted that on the General Fund forecast, the orange line indicates the minimum amount of fund balance needed at the end of the year in order to have enough cash to begin the next year. Mayor Cook confirmed that it indicates a minimum cash requirement but no percentage of reserves. Mr. LaFrance said if a reserve is desired, then that needs to be discussed. He said that in general, these are preliminary forecasts. Initial decisions of the Budget Committee and council are not presumed. He said it starts with what is happening today and takes known data and assumptions and forecasts forward. It does not assume additional staff or unknown increases in fees. He said the budget for 2013 is supposed to be sustainable for three years. These forecasts have been updated with business enterprise and CIP assumptions. The updated forecast shows that the goal will continue for the next three to five years.

 Finance and Information Services Director LaFrance said fiscal year 2014 budget instructions given to city departments require level budgets. Department directors were told to take existing positions and apply them to the work that must be done. Dollar amounts for services and equipment must remain the same as the current year. Additional needs must come with additional revenue identified. Departments submitted their budget requests on January 14, 2013.

Executive staff will be reviewing budget requests and working with City Manager Wine to develop a proposal for the Budget Committee meeting on April 15. Finance and Information Services Director LaFrance said training for new members will cover such topics as how to read a budget document and their role as a budget committee member.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

Assistant City Manager Newton said the city's budget document comes with more words than numbers to tell what our city does and describes what the funds are for.

 Councilor Snider welcomed the new Budget Committee members and asked to hear their concerns for the upcoming budget year. He noted that he is a former member of the budget committee and chaired it for a number of years.

Budget Committee Member Fisher said he had no specific agenda and thinks that the city of Tigard is doing a great job in providing services. He said he is primarily interested in helping the city maintain as many services as possible.

Alternate Member Boekee said Tigard is at a crossroads and she wants to help shape the city.

Member Rone said he joined the committee in order to understand what goes on at this level in city government. He said the moves made to balance the fiscal year 2013 budget set the city in good stead to move forward for the next few years. He suggested there should be a way to return some of the franchise fee to citizens in the future when the economy is in better shape. He said he didn't want to increase franchise fees last year but felt there were few options. He said the budget was handled well last year.

Member James said he hoped for a less contentious year than last, noting that, "It was rough, but we made the hard decisions."

Member Graeber said she has no concerns and is impressed with how the city is governed.

Councilor Buehner said she is a member of the League of Oregon Cities State Tax Committee. She said, "I am concerned about fiscal issues due to Measures 50 and 47, especially for counties; some of which are going under." She said counties are required to provide three things - elections, jails, and assessor services. The state has had to pick up these services for some counties. She is very concerned that the cities will not receive their state shared revenues. She requested that all Budget Committee members be provided with this LOC committee's report so they can be aware of the loss of this revenue stream. City Manager Wine said training on these issues can also be arranged through the LOC.

Council President Henderson raised a point of order. He asked if it was time to choose a Budget Committee chair. Finance and Information Services Director LaFrance said a chair will be elected at their first meeting which is according to state law. He said their first meeting is scheduled for April 15, 2013. He said he typically works with the sitting chair prior to that meeting. As they have lost their sitting chair he said the Budget Committee could make a recommendation for a point of contact until such time as a chair can be elected. Budget Committee Member Graeber offered to fill this interim spot. A question arose about whether or not the chair had to be a citizen member and Mr. LaFrance said he will look into this.

Councilor Woodard reflected back on the 2013 budget challenges. He said, "Things look good now but then they did at this time last year too. Things can sneak up on us." He challenged each Budget Committee member to think ahead and come up with opportunities

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

to fill shortfalls. There may not be a lot of time for discussion of options so it would be helpful if there are options and ideas ready to come to the table if that is necessary. He thanked them for their willingness to work on this committee.

5. RECEIVE BRIEFING ON THE DEVELOPMENT OF THE CAPITAL IMPROVEMENT PLAN (CIP) AND THE PROCESS TO PRIORITIZE CIP PROJECTS

 City Engineer Stone introduced this item. He distributed a handout called, “Internalized Capital Improvement Program Ranking Process Flowchart.” He said he was interested in hearing input about the prioritization process. He led council through the process from the project suggestion phase through approval by the Council/Budget Committee. He noted that Councilor Buehner suggested that the Planning Commission be involved in the staff ranking step, which he agreed was a good idea. He asked council if they had any suggestions.

Councilor Woodard said he would like to see an updated list as projects are considered. He said it would be helpful to have a monthly or bimonthly status update listed by priority. City Manager Wine noted that staff presents a CIP quarterly update to council and did this for three out of the four quarters last year. She said sometimes there may be an update on a single, major project. She asked City Engineer Stone about a scenario where a company comes to Tigard and their improvements create an opportunity to fund projects on our CIP list. City Engineer Stone said there are projects that the City of Tigard cannot afford. He said he would like to have a list of such projects that is ready to go if regional funding became available. In response to City Manager Wine’s question, he said he wanted to see a list that can be used through a process where, if three priority projects are taken off the list because they were funded by private development, three more projects can move up.

 Mayor Cook asked who completes the matrix for project grading. City Engineer Stone said staff completes it internally and gives it to the CCAC or maybe the TTAC, for example. They complete their own rankings and then staff does a comparison of the rankings. He said for the most part, the priorities are the same and their top five projects are consistent.

Councilor Buehner described a former process where the proposed CIP list would go before the Planning Commission in February and then again in April for a public hearing just prior to Budget Committee meetings. This gave the general public an opportunity to comment on the prospective list. She said this public comment venue no longer exists and she recommends reinstituting this process

Councilor Buehner asked how she can be assured that projects don’t just drop off the list. She referred to a Walnut Street project that had been at the top of the list and after two phases were completed, engineering and right of way purchases, it seemed to disappear.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

City Engineer Stone suggested projects may be moved off the list because priorities change. He said the city may have moved it because the city could not afford to build the project and wanted to wait until there was enough funding available to complete it. He said, "That is a decision council could make. We can have a list of prioritized projects and if we can't afford number one, then we'll save our money and not do anything else until we have it." Another option is to get the design completed on a project and shelve it until the money is available for construction. City Manager Wine said it is incumbent upon staff to communicate well about where we are with projects and make sure council has a clear understanding about the status of the projects. When opportunities arise or something changes that we have a system in place to maintain continuity. She said finding an opportunity for council to set priorities and clearly communicate that to staff would be helpful direction.

Council President Henderson said he agreed with City Manager Wine and strategy is more important than running through a list because some projects need to be built before others to make sure we are getting the best value for the dollar. He referred to the cost evaluation timeline and said he didn't remember that council has done that very frequently. He asked why anything over \$100,000 isn't coming to council first.

Councilor Woodard agreed with putting the Planning Commission's consideration into the mix. He advised everyone to think of opportunities to work together and use strategy to set wise priorities.

Councilor Buehner said the strategy discussion as part of the presentation at the Planning Commission. City Manager Wine reiterated that, "we are not recommending any changes to the CIP process because we are in the current cycle, but these suggestions will lead to staff coming back with recommendations on ways to get other input and make this process as transparent as possible."

- *Mayor Cook announced a change in the agenda order. He said it was fiscally responsible to hold the executive session next as the attorney was present. He said council would consider the remaining agenda items after the executive session.*

9. EXECUTIVE SESSION: At 8:51 p.m. Mayor Cook said the Tigard City Council was entering into an Executive Session to consider information or records that are exempt by law from public inspection under ORS 192.660(2) (f). *An Executive Session called under ORS 192.660(2) (e) to conduct real property negotiations was rescheduled to the next council meeting, January 22, 2013.*

The Executive Session ended at 9:39 p.m. Council returned to regular session while in the Red Rock Creek Conference Room.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

6. REVIEW PROPOSED CITY COUNCIL 2013-14 BUDGET

This item was discussed out of order, at the end of the meeting.

Assistant City Manager Newton led a discussion on the city council's proposed budget which was submitted to them in their newsletter of January 10, 2013. She said the city is taking a level budget approach, however there is an increase of \$400 per iPad that is not included. If the remaining councilors upgrade electronically, there will be \$1,200-\$3,000 added to the data package amount. This amount will be offset by reductions in other line items.

Assistant City Manager Newton said legal costs were hard to budget for because they vary greatly from year to year. She said 2012-13 was a huge year in terms of legal expenses, largely due to the light rail initiative. She noted that election years always require more legal fees. She said expenditures in this budget category will be closely monitored.

Council agreed with recommended reductions in the Dues & Subscriptions and Recognition expenses.

Assistant City Manager Newton distributed a spreadsheet showing FY 12-13 budgeted and spent Council Travel and Training amounts. Discussion was held on sharing budgeted training and travel money if an individual councilor does not use their allotted portion. Council President Henderson commented that he did not realize that former Councilor Wilson's unused budget for training and travel was available for others to use. Assistant City Manager Newton suggested council discuss their preference on this. Councilors Snider and Woodard recommended allowing flexibility within the Training & Travel budget. Mayor Cook said council will discuss this and also instructed staff not to increase travel money in FY 2014.

Assistant City Manager Newton said the council stipend will be reviewed and a recommendation developed by the Budget Committee.

~~7. DISCUSSION ON FEDERAL LEGISLATION~~ — *This item was rescheduled to the Feb. 5, 2013, council meeting*

8. NON AGENDA ITEMS: City Manager Wine led a calendar discussion on some housekeeping and calendar items.

- Council gave feedback on the council email box and how they wish to receive council materials. The City Manager, Assistant City Manager and Confidential Executive Assistant will continue to be copied on all council emails.
- January 29, 2013, 6-8 pm, Red Rock Creek Conference Room – Follow-up to goal setting Meeting – Councilor Snider requested that this meeting begin at 6:30 p.m. rather than 6:00 p.m. The time change will be made per his request.

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

- City Day at the Capitol – No council members plan to attend.
- National Guard Cities of Honor – Council wants to participate, but not until the next quarter. Assistant City Manager Newton will follow up on this.
- March 21, 2013, 9 am - 4 p.m. in the Public Works Auditorium – LOC Land Use Training- Council was asked to confirm with City Recorder Wheatley if they wish to attend.

10. ADJOURNMENT

At 10:21 p.m. Councilor Snider made a motion to adjourn, which was seconded by Councilor Buehner. The motion passed unanimously.

	Yes	No
Mayor Cook	✓	
Councilor Buehner	✓	
Council President Henderson	✓	
Councilor Snider	✓	
Councilor Woodard	✓	

Carol A. Krager, Deputy City Recorder

Attest:

John L. Cook, Mayor

Date

TIGARD CITY COUNCIL MINUTES – JANUARY 15, 2013

AIS-1198

3. B.

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): 10 Minutes

Agenda Title: Receive and File: Updated Council Liaison Appointment Matrix

Submitted By: Cathy Wheatley, Administrative Services

Motion Requested

Item Type: Update, Discussion, Direct Staff

Meeting Type: Special Meeting

Public Hearing:

Publication Date:

Information

ISSUE

Receive and file the corrected 2013 Council Liaison Appointment Matrix.

STAFF RECOMMENDATION / ACTION REQUEST

Receive and file the corrected matrix.

KEY FACTS AND INFORMATION SUMMARY

The council received on its February 5, 2013, consent agenda the 2013 Council Liaison Appointment Matrix. Two corrections were made to the matrix after February 5 and are reflected in the attached. The corrections include:

1. Identifying Judith Gray as the staff liaison to the Washington County Coordinating Committee.
2. Removing the High Capacity Land Use Plan Citizens Committee. This committee completed its charge and no longer exists.

An updated matrix is attached.

OTHER ALTERNATIVES

Further amend the matrix if changes are agreed upon by the City Council.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

December 6, 2011

January 24, 2012

June 26, 2012

January 10, 2013

February 5, 2013

Attachments

Corrected 2013 City Council Liaison Matrix

2013 City Council Appointment Matrix

Updated after Feb 5 2013

Committee Name	Primary Representative	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Budget Committee</i>	All Council		3-4 consecutive Monday evenings in April & May		Toby LaFrance
The Budget Committee provides a public forum to obtain public views in the preparation of fiscal policy.					
<i>Budget Subcommittee- Social Services</i>	Councilor Snider		1 meeting in March		Toby LaFrance
Reviews applications submitted by social service agencies for contributions from the city. Consists of 1 Council member and 2 citizen-members of the Budget Committee.					
<i>Budget Subcommittee - Events</i>	All Council		Council Workshop or Study Session in March		Toby LaFrance
Reviews requests for contributions to community events.					
<i>City Center Development Agency</i>	All Council		First Tuesday of the month.	Approximately 2 hours per month	Sean Farrelly
Council members serve as the urban renewal agency's board.					
<i>Clackamas River Water Providers</i>	Councilor Woodard		Usually First Wednesday of the month, 9-11 a.m. Held at North Clackamas Water Commission Building, 14275 S Clackamas River Drive, Oregon City 97045; staff contact: Kim Swan 503-723-3510		John Goodrich
Comprised of six municipal water providers on the Clackamas River serving more than 300,000 people in Clackamas County. Participation is voluntary and funded through membership dues. The CRWP projects and staff are jointly funded but each individual organization retains autonomy. Conservation programs and services are provided to CRWP members. Members include Estacada, Lake Oswego, Gladstone, Tigard, and the North Clackamas Counter Water Commission, Oak Lodge Water District, Sunrise Water Authority, South Fork Water Board and Clackamas River Water.					

Committee Name	Primary Representative	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Community Development Block Grant Policy Advisory Board</i>	Council President Henderson	Marissa Daniels	2 nd Thursday of the month at 7 p.m. Location rotates	Approximately 2 hours month	Marissa Daniels
By IGA, Washington Co. established the Community Development Policy Advisory Board (PAB) to represent the County Consortium, make recommendations to the County Commissioners on all matters pertaining to the CDBG program. Includes a representative, generally an elected official, from the County and each of the 11 participating cities in the Co.					
<i>Intergovernmental Water Board</i>	Councilor Buehner	Councilor Snider	2nd Wednesday/month, 5:30 p.m., Water Building	Monthly	Dennis Koellermeier
To make recommendations to the Tigard City Council on water issues and to carry out other responsibilities set forth in the IGA between Tigard, Durham, King City and the Tigard Water District. Each jurisdiction is represented by a member + 1 at-large.					
<i>Metro Joint Policy Advisory Commission on Transportation</i>	Beaverton Mayor Doyle	Cornelius Mayor Jef Dalin	2 nd Thursday/month 7:30- 9 a.m. @ Metro		Judith Gray
Tigard Mayor Cook to attend/monitor meetings on regular basis. A 17-member committee that provides a forum for elected officials and representatives of agencies involved in transportation to evaluate transportation needs in the region and to make recommendations to the Metro Council.					
<i>Mayor's Appointment Advisory Committee</i>					Staff Liaison to the committee interviewing
The Mayor and one councilor. The councilor serving as the current City Council liaison will interview applicants for filling available seats on city boards, committees and commissions. For example, when interviewing applicants for the Planning Commission, the Mayor and the primary Council liaison will interview candidates with a meeting time and date to conduct the interviews coordinated by the staff liaison.					
<i>Metropolitan Area Communications Commission</i>	Councilor Woodard	Louis Sears	6 times a year, usually Wednesday, 1-5 pm at MACC headquarters		Louis Sears
MACC is the governing body that oversees the contracts for cable services and TVCTV. The Executive Committee meets separately to make recommendations to the Commission on administrative issues including budget and the review of the Executive Director.					

Committee Name	Primary Representatives	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Metro Policy Advisory Committee (MPAC)</i>		*	2 nd and 4 th Wednesday 5-7 p.m. at Metro	Ongoing 4 hours/month	Kenny Asher
MPAC it is made up of elected officials. Representatives are elected by peers within Washington County cities. *Note: Potential that Councilor Buehner to be nominated as the alternate (last update on this was 1/10/2013).					
<i>Regional Water Providers Consortium</i>	Councilor Buehner	No appointment made	Quarterly meeting held at Metro		John Goodrich
Consortium is comprised of all water suppliers in the metro area. The Councilor appointee to this group represents the city on regional policy issues.					
<i>SW Corridor Plan Steering Committee</i>	Mayor Cook	Councilor Woodard			Judith Gray
Consists of project partner elected and appointed officials who make final recommendations to the Metro Council and other jurisdictions for the SW Corridor Plan					
<i>Tigard- Lake Oswego Joint Water Partnership Oversight Committee</i>	We have two primary seats: Councilor Buehner & Councilor Snider		Monthly – working on a new meeting schedule		Dennis Koellermeier
Membership is comprised of staff and elected officials to govern water partnership between the cities.					
<i>Washington County Coordinating Committee</i>	Mayor Cook	Councilor Woodard	2 nd Monday @ noon Beaverton City Hall	1-2 hours per month	Judith Gray
WCCC reviews and comments on major land use and transportation issues and provides a forum for discussion which results in recommendations for a coordinated approach between jurisdictions. The Committee has specific authority on the Major Streets Transportation Improvement Program (MSTIP) and the Countywide Traffic Impact Fee (TIF) program. Representatives to JPAC and MPAC from County and cities in the Co. will be on the policy body.					
<i>Westside Economic Alliance</i>	Mayor Cook	Councilor Woodard	3 rd Wednesday of month 7:30-9 a.m. @St. Vincent's Hospital Board Room	<u>PLUS:</u> <i>Optional Thursday Forum breakfast w/ speakers</i>	Kenny Asher
Create an environment conducive to business growth, working to influence decisions on policies and regulations impacting the economic vitality of the area.					

Committee Name	Primary Representative	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Willamette River Water Coalition</i>	Council President Henderson	Councilor Buehner	Monthly		Dennis Koellermeier
Mission of the coalition is to protect the Willamette River and to protect Tigard's water rights.					

Tigard Board & Committee Liaison Assignments:

<i>Committee Name</i>	Primary Representative	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Tigard Audit Committee</i>	Councilor Buehner		Meet a minimum of two times with reps of the CPA firm appointed to perform the annual audit of the city's annual financial report.		Debbie Smith-Wagar
Participate in the appointment, compensation, retention and oversight of any independent accountants engaged for the purpose of preparing and issuing an independent audit report of performing other independent audit, review or attest services.					
<i>City Center Advisory Commission</i>	Council President Henderson	Councilor Woodard*	2 nd Wednesday/month@ 6:30 pm		Sean Farrelly
This committee's role is defined in the City Charter and is to assist the Urban Renewal Commission in developing and carrying out an Urban Renewal Plan. *If Councilor Woodard is also unable to attend, Council President Henderson will contact another City Council member to attend.					
<i>Facade Improvement Subcommittee</i>	*Council President Henderson & Councilor Woodard	Mayor Cook		(2 representatives needed)	Sean Farrelly
To encourage businesses to make improvements to storefronts or commercial facades in downtown by providing design assistance and/or matching funds. *Two council representatives required.					
<i>Downtown Public Art Subcommittee</i>	Council President Henderson	Councilor Woodard/ Mayor Cook			Sean Farrelly
Discuss and make recommendations for various public art options that may be purchased with the urban renewal funds for the Main St./Green St. project.					
<i>High Capacity Transit Land Use Plan Citizens Advisory Committee</i>	Councilor Woodard	Councilor Snider	Meet during regularly scheduled Transportation Advisory Committee Mtgs		Judith Gray
Metro has identified the "SW Corridor" (PDX - Sherwood via Tigard) as the next priority expansion line for the regional HCT system. The city is gearing up for an extensive planning process beginning with a state-funded land use plan to identify potential station area locations and development traits to warrant HCT investment and achieve the city's aspirations. The Transportation Advisory Committee serves as the Citiz. Advisory Comm. for the land use plan. Council, at its August 14, 2012, meeting adopted Resolution No. 12-32 accepting the final report of the Tigard High Capacity Transit Land Use Plan. The Committee no longer meets.					
<i>Library Board</i>	Councilor Snider		2nd Wednesdays - 7 p.m.		Margaret Barnes
Advisory to the Council regarding library policies, budget, facilities and other needs of the community to provide quality library service, per TMC 2.36.030.					

<i>Committee Name</i>	Primary Representative	Alternate Rep	Meeting Frequency	Time Expectation	Staff Liaison
<i>Neighborhood Involvement Committee (formerly CCI)</i>	Mayor Cook		3 rd Wednesday/every other mo. @ 7p.m.	6 hours a year	Joanne Bengtson
Charged with oversight for the Neighborhood Network program, encourages two-way communication between city and residents and encourages residents to be more involved. <i>(The committee changed its name to reflect new mission – previous incarnation was Committee for Citizen Involvement.)</i>					
<i>Park & Recreation Advisory Board</i>	Councilor Woodard	Council President Henderson	2nd Monday/month 7 p.m. in the Water Building		Steve Martin
To advise the Council on park and recreation policies, facilities, programs and budgets.					
<i>Planning Commission</i>	Councilor Buehner	Councilor Snider	1st & 3rd Monday/month @ 7p.m.		Tom McGuire
Assists the City Council to develop, maintain, update and implement the Comprehensive Plan, to formulate the Capital Improvements Program, and to review and take action on development projects and development code provisions delegated to the Commission.					
<i>Transportation Advisory Committee</i>	Councilor Woodard	Councilor Snider	1 st Wednesday, 6:30 p.m., library 2 nd Floor Conf Rm	1.5 hr. meetings	Judith Gray
Advisory to council & staff regarding planning and development of a comprehensive transportation network, including development of plans and corresponding financing programs; development of funding mechanisms and sources to implement transportation projects and ensure adequate maintenance of the existing transportation infrastructure; public involvement and education in transportation matters and ways to improve traffic safety and accessibility in all transportation modes.					
<i>Tree Board</i>	*		1 st Wednesdays - 6:30 p.m.		
The mission of the Tree Board is to develop and administer a comprehensive program for the management, maintenance, removal, replacement & protection of trees on public property. *Tree Board mission to be added to/redefined in 2013? – get recommendation from staff.					
<i>Youth Advisory Council</i>	Councilor Snider	Mayor Cook	1 st & 3 rd Wednesdays @ City Hall (Meetings are irregular; PD staff will advise liaisons when meetings are scheduled.)		Various representatives- Police Department
Students in grades 5-12 represent their peers as resources to the community to advise the best ways to build developmental assets for each youth in Tigard. The Youth Advisory Council also facilitates the development and implementation of programs and activities that are important to youth. E:\adm\city council\goals\2013\council liaison appt matrix\updated after feb 5 - 2013 council liaison appt matrix.docx					

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Establish the River Terrace Stakeholder Working Group - Resolution

Prepared For: Marissa Daniels

Submitted By: Agnes Kowacz, Community Development

Item Type: Resolution

Meeting Type: Consent Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

The River Terrace Stakeholder Working Group is being established to complete the River Terrace Community Plan, which will be built upon the West Bull Mountain Concept Plan.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that Council approve a resolution establishing the River Terrace Stakeholder Working Group.

KEY FACTS AND INFORMATION SUMMARY

In 2002, Metro brought Areas 63 and 64 (now known as River Terrace) into the Urban Growth Boundary, initiating the process for these rural lands to be developed. Prior to urbanization of these areas, regional regulations require the preparation of a comprehensive plan for the area. Washington County decided to complete the planning for these areas in two steps. First, complete the concept plan and second, the community plan. In 2010, the County completed The West Bull Mountain Concept Plan with the assistance of a Stakeholder Working Group and a Technical Advisory Committee. In 2012, Washington County agreed that the City would complete the community plan and implementing ordinances. The Stakeholder Working Group will continue the effort of Washington County for the West Bull Mountain Concept Plan through implementing the community vision for River Terrace.

Resolution 08-47 establishes procedures to form and appoint limited duration Citizen Advisory Committees. Step one of the two-step Council process includes approval of a purpose and charge statement, a list of stakeholder groups to be represented, and a meeting protocol. The proposed purpose, charge, and meeting protocol for this working group are part of the appended proposed resolution (Attachement 1).

Staff proposes an eighteen-member committee that would include representatives from government agencies, community organizations and the River Terrace Area. The second resolution to Council will be for the appointment of specific citizens to fill the slots listed above.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2012 City Council Goals:

1. Take the Next Step on Major Projects- River Terrace Community Plan

DATES OF PREVIOUS COUNCIL CONSIDERATION

The River Terrace Community Plan was discussed at the following City Council meetings: May 15, 2012, September 18, 2012, November 20, 2012 and December 11, 2012.

Attachments

RTCP Resolution

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-**

A RESOLUTION ESTABLISHING A STAKEHOLDER WORKING GROUP TO ADVISE STAFF DURING COMPLETION OF THE RIVER TERRACE COMMUNITY PLAN.

WHEREAS, in 2002, Metro brought Areas 63 and 64 (now known as River Terrace) into the Urban Growth Boundary, initiating the process for these rural lands to be developed; and

WHEREAS, prior to urbanization of these areas, regional regulations require the preparation of a comprehensive plan for the area. Washington County decided to complete the planning for these areas in two steps. First, complete a concept plan and second, a community plan. In 2010, the County completed the West Bull Mountain Concept Plan with the assistance of a Stakeholder Working Group and a Technical Advisory Committee; and

WHEREAS, the City received petitions from property owners in Area 64 to annex and on August 23, 2011, the Council approved the annexation of Area 64 through Ordinance 2011-07; and

WHEREAS, in 2011, Metro expanded the UGB to include an additional 50 acres (known as Roy Rogers West) to connect areas 63 and 64; and

WHEREAS, in 2012, Washington County and the City signed an intergovernmental agreement assigning community planning responsibility for the River Terrace area to the City of Tigard; and

WHEREAS, in 2012, Tigard City Council directed staff to complete a River Terrace Community Plan and recognizing the value of citizen involvement, directed staff to develop a public involvement plan for the process that includes reconvening the Stakeholder Working Group; and

WHEREAS, on January 22, 2013, Council approved the annexation of Area 63 and Roy Rogers West through Ordinance 2013-01; and

WHEREAS, the Stakeholder Working Group will advise staff during the refinement of the concept plan into the River Terrace Community Plan.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The River Terrace Stakeholder Working Group is hereby established to review and comment on draft materials, and to ensure that the community plan is consistent with and supportive of applicable goals through the completion of the River Terrace Community Plan. Its membership shall include representatives from the categories listed below:

- Representative from government agencies (4)
- Representatives from community organizations (4)
- Representatives from the River Terrace Area (up to 10)

SECTION 2: The mission of the Stakeholder Working Group is to:

1. Create an environment conducive to multiple and diverse opinions and ideas;
2. Review and comment on draft materials prepared by staff and consultants;

3. Ensure the community plan is consistent with and supportive of the applicable goals, policies, and actions measures in the Comprehensive Plan and the recommendations in the West Bull Mountain Concept Plan; and
4. Promote public understanding of the River Terrace Community Plan.

SECTION 3: The Stakeholder Working Group shall:

1. Convene at least five meetings conducted by a third party project facilitator;
2. Attend at least four public meetings to promote public understanding and receive meaningful public input;
3. Consider all written and oral input received by the public;
4. Seek to achieve general consensus on the community plan, if consensus cannot be reached then decisions will be made by a majority vote;
5. Assure respect and consideration of the viewpoints of others; and
6. Recommend Council removal and replacement of members unwilling or unable to adhere to the protocol described above.

SECTION 4: The City's River Terrace Community Plan project manager is assigned as staff liaison to the Stakeholder Working Group. Other city staff will be used to support the Group's activities as deemed necessary throughout the entire process.

SECTION 5: The term of service for the members of the Stakeholder Working Group shall expire after adoption of the River Terrace Community Plan and implementing ordinances. The Group itself shall also be disbanded at that point.

SECTION 6: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Appoint Members to the River Terrace Stakeholder Working Group - Resolution

Prepared For: Marissa Daniels

Submitted By: Agnes Kowacz, Community Development

Item Type: Resolution

Meeting Type: Consent Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

A resolution to appoint members to the River Terrace Stakeholder Working Group to participate in the development of the River Terrace Community Plan.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that Council approve the resolution appointing members to the River Terrace Stakeholder Working Group.

KEY FACTS AND INFORMATION SUMMARY

In 2002, Metro brought Areas 63 and 64 (now known as River Terrace) into the Urban Growth Boundary, initiating the process for these rural lands to be developed. Prior to urbanization of these areas, regional regulations require the preparation of a comprehensive plan. Washington County decided to complete the planning for these areas in two steps. First, complete the concept plan and second, the community plan. In 2010, the County completed The West Bull Mountain Concept Plan with the assistance of a Stakeholder Working Group and a Technical Advisory Committee. In 2012, Washington County agreed the City would complete the community plan and implementing ordinances. The Stakeholder Working Group will continue the effort of Washington County for the West Bull Mountain Concept Plan through implementing the community vision for River Terrace.

Procedures governing the formation and appointment of limited duration Citizen Advisory Committees are delineated in Resolution 08-47. Step one of the two-step Council process includes approval of a purpose and charge statement, a list of stakeholder groups to be represented, and a meeting protocol. The proposed purpose, charge, and meeting protocol for this working group are part of the appended proposed resolution. Staff is now asking Council to approve the specific individuals to fill the slots defined in the stakeholder groups list.

The citizen's committee includes up to 18 members. A list of names and affiliations of individuals proposed for appointment is included in Exhibit A to Attachment 1.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

2012 City Council Goals:

1. Take the Next Step on Major Projects- River Terrace Community Plan

DATES OF PREVIOUS COUNCIL CONSIDERATION

The River Terrace Community Plan was brought before City Council on the following dates: May 15, 2012, September 18, 2012, November 20, 2012 and December 11, 2012. The resolution to establish the River Terrace Stakeholder Working Group is set for the February 26, 2013 meeting.

Attachments

RTCP Appointments

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-**

A RESOLUTION APPOINTING MEMBERS TO THE RIVER TERRACE COMMUNITY PLAN STAKEHOLDER WORKING GROUP.

WHEREAS, Metro has brought 500 acres of land, known as River Terrace, into the Urban Growth Boundary, initiating the process for these rural lands to be developed; and

WHEREAS, prior to urbanization of these areas, regional regulations require the preparation of a comprehensive plan for the area; in 2010, Washington County completed the West Bull Mountain Concept Plan with the assistance of a Stakeholder Working Group and a Technical Advisory Committee; and

WHEREAS, in 2012, Washington County and the City signed an intergovernmental agreement assigning community plan responsibility for the River Terrace area to the City of Tigard; and

WHEREAS, In 2012, Tigard City Council directed staff to complete a River Terrace Community Plan and recognizing the value of citizen involvement, directed staff to develop a public involvement plan for the process that includes reconvening the Stakeholder Working Group; and

WHEREAS, Council Resolution 08-47 amended the process to establish and appoint members to limited duration Citizen Advisory Committees; and

WHEREAS, on February 26, 2013 in Resolution 13-____, Council authorized the establishment of a limited Citizen Advisory Committee, (known as the River Terrace Stakeholder Working Group), to advise staff during the refinement of the community plan into the River Terrace Community Plan and define the membership of the committee; and

WHEREAS, the aforementioned authorization identified the River Terrace Community Plan Stakeholder Working Group as consisting of up to 18 members;

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: As established in Resolution 13-____, the Stakeholder Working Group membership shall include representatives from the categories listed below:

- Representatives from government agencies (4)
- Representatives from community organizations (4)
- Representatives from the River Terrace Area (up to 10)

SECTION 2: The membership of the River Terrace Community Plan Stakeholder Working Group shall consist of those individuals listed on Exhibit A.

SECTION 3: The term of service for the members of the Stakeholder Working Group shall expire after adoption of the River Terrace Community Plan and implementing ordinances. The Group itself shall also be disbanded at that point.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

River Terrace Community Plan Stakeholder Working Group Nominations:

Representatives from government agencies

- Nora Curtis, Clean Water Services
- Mark Woodard, City Council
- Richard Shavey, Planning Commission
- Ernie Brown, Tigard Tualatin School District

Representatives from community organizations

- Yolanda McVicker, CPO 4B
- Kathy Stallkamp, CPO 4K
- Lisa Hamilton, Friends of Bull Mountain
- Dick Winn, Friends of Tualatin River Wildlife Refuge

Representatives from the River Terrace Area

- Jim Beardsley, Property Owner- Area 64
- Joanne Criscione, Property Owner- Area 64
- Michael Freudenthal, Neighborhood Representative
- Fred Gast, Developer
- Dan Grimberg, Developer/Property Owner- Area 64
- Jerry Hanford, Neighborhood Representative
- Steve Jacobson, Property Owner- Area 63
- Marsha Lancaster, Property Owner- Urban Reserve
- Dina Weathers, Neighborhood Representative
- Matt Wellner, Developer/Property Owner- Area 63

Business Meeting**Meeting Date:** 02/26/2013**Length (in minutes):** Consent Item**Agenda Title:** Authorize the Mayor to Execute an Intergovernmental Agreement with Metro Regarding the Management of the Fields Property**Prepared For:** Steve Martin**Submitted By:** Greer Gaston,
Public Works**Item Type:** Motion Requested**Meeting Type:** Consent Agenda**Public Hearing****Newspaper Legal Ad Required?:** No**Public Hearing Publication****Date in Newspaper:****Information****ISSUE**

Shall the council authorize the mayor to execute an intergovernmental agreement (IGA) with Metro regarding the management of the Fields property?

STAFF RECOMMENDATION / ACTION REQUEST

Authorize the mayor to execute the IGA.

KEY FACTS AND INFORMATION SUMMARY

On July 24, 2012, the council adopted Resolution No. 12-30 whereby the city:

1. Committed \$2 million toward the purchase of the Fields property.
2. Obtained joint ownership of the property with Metro.
3. Agreed to develop an intergovernmental agreement with Metro on the management of the property.

The attached IGA fulfills item 3 (above) by addressing how the Fields property will be managed. Significant terms of the IGA are summarized below:

- Metro will provide initial stabilization activities such as removal of invasive plants and installation of native plants.
- The city, at its expense, will manage the property during the interim period, which extends from the date this agreement is signed until a Site Conservation and Management Plan is developed and approved by Metro and the city.
- The city will continue to manage the property, including trails and restored and developed areas, beyond the interim period. Management will include ongoing maintenance, security and operation of facilities, projects or improvements such as fences, gates, outdoor furniture or structures, utilities, signage and lighting.
- The city will also be responsible for resolving nuisances (like illegal camping, graffiti, dumping of trash) and removal of invasive plants and maintenance of vegetation (following stabilization).
- When available, the city may participate in Metro programs that provide funding to resolve nuisances.
- If the city fails to resolve nuisances, Metro may abate the nuisance and charge the city.
- The initial term of the IGA will be five years. Unless terminated by Metro or the city, the agreement will automatically renew for additional five-year terms.

The city has similar management agreements for two other Metro-owned properties within the city.

This IGA is a precursor to the upcoming Site Conservation and Management Plan. That plan will spell out how the property is used—what portion of the property remains in a natural state versus what portion of the property is actively

managed, developed, mowed, etc. That plan has not been developed, but will come before council for formal consideration at some future date.

OTHER ALTERNATIVES

The council could propose changes to the IGA. In adopting Resolution No. 12-30 on July 24, 2012, the council committed to develop—in conjunction with Metro—an agreement regarding the management of the Fields property.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Not applicable

DATES OF PREVIOUS CONSIDERATION

The council was briefed on the IGA at its February 19, 2013, workshop meeting.

July 24, 2012 - the council adopted Resolution No. 12-30 whereby the city agreed to develop an IGA with Metro on the management of the property.

April 24, 2012 - the council discussed the city's \$2 million contribution toward the purchase of the property in executive session.

Fiscal Impact

Cost: Estimated \$10,000

Budgeted (yes or no): No *

Where Budgeted (department/program): Parks Fund

Additional Fiscal Notes:

For the next few years, staff estimates the city's costs to manage the Fields property will be less than \$10,000 annually. Actual costs will depend upon the number and severity of nuisances, work required to maintain restoration efforts initiated during the stabilization period, etc. The cost to manage the property may increase in the future:

- As Metro phases out stabilization activities.
- If the property is developed and improvements necessitate a higher level of maintenance.

* Since the city did not anticipate purchasing the Fields property, it did not include property management costs in the fiscal year 2012-2013 budget. However, staff is confident that these expenses can be managed within the existing Park Division budget.

Attachments

IGA regarding the Management of the Fields Property

INTERGOVERNMENTAL AGREEMENT
(Fields Trust Property Management)

This Intergovernmental Agreement (“Agreement”) is entered into this _____ day of _____, 2012 (the “Effective Date”), by and between THE CITY OF TIGARD, a municipal corporation (the “City”), and METRO, a metropolitan service district established pursuant to Oregon law and the Metro Charter (“Metro”).

RECITALS

A. On September 13, 2012, Metro and City jointly purchased certain real property located in the City of Tigard, County of Washington, State of Oregon, commonly known as Tax Parcel 1200 (R0456081) in Section 1 of Township 2 South, Range 1 West of the Willamette Meridian, and more particularly described on the attached Exhibit A (the “Property”).

B. The Property is located within the Fanno Creek Target Area, an area specifically identified in Metro Ballot Measure 26-80 (the “2006 Natural Areas Bond Measure”) as regionally significant due to its wildlife habitat values and its contribution to water quality.

C. Metro and City wish to manage the Property to protect water, habitat, and to restore native species and therefore desire to enter into this Agreement to provide for the responsibilities and obligations of the parties with respect to the management, maintenance, and operation of the Property in accordance with the provisions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties set forth in this Agreement, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Initial Stabilization Period. Metro may take whatever actions it deems appropriate, in the period immediately following Closing, to stabilize the Property, which stabilization activities may include construction, maintenance, or repair of facilities, projects, or improvements (such as fences or gates), removal of invasive plants, and replanting of native plants. Except for those items specifically delegated to the City as set forth on the Communication and Maintenance Schedule attached hereto as Exhibit B, Metro will bear all costs associated with implementation of the stabilization program. Notwithstanding the foregoing, Metro shall not construct permanent improvements without advance notice to the City and obtaining written consent from the City.

2. Interim Protection Guidelines

a. From the effective date of this Agreement until completion of the Site Conservation and Management Plan, as defined below in Section 3 (the “Interim Period”), the City shall manage, maintain, secure, and operate the Property in accordance and in a manner consistent with the Metro Greenspaces Master Plan, the Tigard Municipal Code, the Tigard

Parks and Recreation Master Plan, and this Agreement (this Agreement and these plans collectively referred to herein as the “Plans”). In case of conflict among Plans, the Plan affording the highest level of resource protection shall govern.

b. During the Interim Period, the City shall control security and access to the Property, and shall respond to neighborhood or citizen complaints regarding improper use on the Property in accordance with the Communication and Maintenance Schedule attached hereto as Exhibit B. Following Metro’s completion of its stabilization activities, the City may, at its discretion, allow informal public access to the Property for passive recreation, habitat enhancement, and pedestrian activity. All uses of the Property in the Interim Period shall be consistent with this Agreement and with the Plans. The City shall not allow any such informal use if to do so would effectively preclude any potential uses of the Property that could later be allowed in the Site Conservation and Management Plan.

c. Following Metro’s completion of its stabilization activities, the City shall not allow or permit any alteration of any water, timber, mineral, or other resource on the Property, except for the control of exotic, non-native, invasive, or pest plant species, as necessary to prevent Property degradation, or to address security or public safety concerns. A list of the anticipated vegetation management activities to be conducted by the City is set forth in the Communication and Maintenance Schedule attached hereto as Exhibit B. If the City believes that an improvement, trail, or alteration of any water or timber resource on the Property is necessary prior to adoption of a Site Conservation and Management Plan for the Property, Metro shall have the right to approve of such action, which approval shall be in writing, and the City shall provide Metro sixty (60) days advance written notice of its intent to construct any improvements, trails, or alteration of water or timber resource on the Property. In any event, no capital improvements or trails shall be constructed on the Property, and no alteration of water or timber resource shall occur, that are inconsistent with this Agreement or that would effectively preclude any potential uses of the Property that could later be allowed in the Site Conservation and Management Plan.

3. Long-Term Management, Maintenance, and Operation.

a. Metro and the City, in consultation with one another, shall jointly develop long-term management guidelines for the Property (the “Site Conservation and Management Plan”). The Site Conservation and Management Plan will divide the Property approximately between those areas that will be (i) kept natural, such that native vegetation planted on the Property during the stabilization period is free to grow, requiring decreasing maintenance over time (the “Natural Area”), and (ii) actively managed, developed, or mowed, requiring approximately the same amount of maintenance over time (the “Maintained Area”). With respect to each management area, the Site Conservation and Management Plan will set forth the acceptable management, operation, and maintenance for the area, the types and levels of programmed and public uses and trails, improvement standards, and signage plans and standards. Notwithstanding the foregoing, the parties acknowledge and agree that the division of the Property in this manner is somewhat approximate, and will cooperate in good faith in those portions of the Property that overlap or could be viewed to serve both purposes and functions.

b. In accordance with the terms of this Agreement and the Site Conservation and Management Plan, the City shall be responsible for the Management (as defined below) of both the Maintained Area and the Natural Area. As used in this Agreement, the term “Management” means the ongoing maintenance, security, and operation of the applicable portion of the Property and of any facilities, projects or improvements located thereon, such as fences, gates, outdoor furniture or structures, utilities, signage and lighting. Management includes, without limitation, removal of invasive weeds, maintenance of vegetation, abatement of nuisances, and the responsibility to coordinate with other governmental agencies regarding any issues that may arise under such other agencies’ jurisdiction. Specifically, if any permits are necessary for the Management of a management area, the City shall be responsible for obtaining the permit, and Metro shall reasonably cooperate in such efforts. Each party shall be responsible for its proportionate share of taxes or assessments for the Property, based on their percentage ownership interest in the Property. The City shall be responsible for funding the Management with its own financial and staffing resources. Notwithstanding the above, the City may, from time to time, in its sole discretion, seek Metro’s assistance with Management of the Property. Upon the City’s request, Metro may, in its sole discretion, agree to assist with Management of the Property as requested by the City.

c. The City shall act in a timely manner to resolve nuisance complaints and mitigate threats to the resources of its management area. If the City is issued a nuisance notice for activities occurring on the Property (“Nuisance Notice”), then the City shall forward the notice to Metro. If, at the time the City receives a Nuisance Notice, Metro has a program in place that would reduce or cover the cost to abate the nuisance (“Program”), and the City is eligible to participate in such Program, Metro agrees to work with the City, so that the City may become a participant in the Program and use the Program funds to assist in abating the nuisance and covering the costs associated with such abatement. If no Program exists, and the City does not abate the nuisance in accordance with the time set forth in the Nuisance Notice, Metro may, at its sole option, abate the nuisance and provide the City with an invoice for the reasonable cost of such work.

d. All requests for new easements, rights of way, and leases not already burdening or affecting the Property at Closing shall be submitted to Metro in accordance with the Metro Easement Policy, Resolution No. 97-2539B, passed by the Metro Council on November 6, 1997, attached hereto as Exhibit C. Any decision regarding the naming of all or any portion of the Property must be in accordance with Metro Code Chapter 2.16, as it may be amended.

e. The parties will jointly develop a Master Plan for the Property identifying which areas may be developed for recreational uses and which areas will be maintained in a natural state. The Master Plan for the Property is subject to the approval of each party and shall be developed collaboratively, with either Metro or the City performing the role of project manager.

4. Term. Unless modified or terminated as provided herein, this Agreement shall continue in effect for a period of five (5) years. This Agreement shall thereafter automatically renew for additional five-year terms unless, not later than ninety (90) days prior to the expiration of the then-current term of this Agreement, one of the parties provides the other party with notice that it does not wish to renew this Agreement. The parties may, by written agreement signed by

each party, terminate all or a part of this Agreement based upon a determination that such action is in the public interest. Termination under this section shall be effective as providing in such termination agreement. Termination shall have no affect on ownership of the Property.

5. Termination for Cause. Any party may terminate this Agreement in full, or in part, at any time if that party (the “terminating party”) has determined, in its sole discretion, that the other party has failed to comply with the conditions of this Agreement and is therefore in default (the “defaulting party”). The terminating party shall promptly notify the defaulting party in writing of that determination and document such default as outlined herein. The defaulting party shall have thirty (30) days to cure the default described by the terminating party. If the defaulting party fails to cure the default within such thirty (30) day period, then this Agreement shall terminate ten (10) days following the expiration of such thirty (30) day period.

6. Indemnification. The City, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, shall defend, indemnify, and save harmless Metro and Metro’s officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys’ fees and expenses at trial and on appeal, relating to or resulting from the performance of its obligations under this Agreement or actions taken by City pursuant to this Agreement on the Property including but not limited to the management, maintenance, security, or operation of the Property, including but not limited to construction of trails or in relation to any other improvements on the Property. Metro, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, shall defend, indemnify, and save harmless the City and the City’s officers, employees, elected officials, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys’ fees and expenses at trial and on appeal, relating to or resulting from Metro’s performance of its obligations under this Agreement or actions taken by Metro pursuant to this Agreement on the Property including but not limited to those actions taken under Section above.

7. Insurance. Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.270.

8. Oregon Constitution and Tax Exempt Bond Covenants. A source of funds for the acquisition of the Property is from the sale of voter-approved general obligation bonds that are to be paid from ad valorem property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d) and 11(e) of the Oregon Constitution, and the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City covenants that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon’s constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this covenant, Metro shall be entitled to whatever remedies are available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.

9. Laws of Oregon; Public Contracts. The laws of the State of Oregon shall govern this Agreement, and the parties agree to submit to the jurisdiction of the courts of the State of Oregon. All applicable provisions of ORS chapters 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated by this reference as if such provisions were a part of this Agreement.

10. Assignment. No party may assign any of its rights or responsibilities under this Agreement without prior written consent from the other party, except that a party may delegate or subcontract for performance of any of its responsibilities under this Agreement.

11. Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by both (1) electronic mail or fax, and (2) regular mail. Notices shall be deemed delivered on the date personally delivered or the date of such electronic or fax correspondence, unless such delivery is on a weekend day, on a holiday, or after 5:00 p.m. on a Friday, in which case such notice shall be deemed delivered on the next following weekday that is not a holiday.

To Metro: Director, Sustainability Center
600 N.E. Grand Avenue
Portland, OR 97232-2736
Fax: (503) 797-1849

To City: Parks and Facilities Manager
City of Tigard
Parks and Recreation Department
13125 SE Hall Blvd
Tigard, OR 97223
Fax: (503) 684-7297

12. Severability. If any covenant or provision of this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

13. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to the Property. No waiver, consent, modification, amendment, or other change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

14. Counterparts; Facsimile Execution. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals. Facsimile or e-mail signatures shall operate as original signatures with respect to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF TIGARD

METRO

By: _____

Print Name: _____

Title: _____

Date: _____

Chief Operating Officer

Date: _____

Exhibit A
Property Description

Beginning at an iron pipe at the reentrant corner on the South line of the W.W. Graham Donation Land Claim No. 39, in Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington and State of Oregon and running thence North 1°27' East 1020.7 feet to a square iron at the Northeast corner of EDGEWOOD; thence North 89°07' West along the North line of said subdivision 151.1 feet to a corner of that certain tract of land conveyed to Rudolph Hunziker and Sophia G. Hunziker by Deed as recorded January 30, 1912 in Book 90, page 271; thence North 4°13' East along the property line 597.1 feet to the Southwest corner of that certain tract of land conveyed to the Oregon Electric Railway Company by Deed as recorded in Deed recorded May 17, 1909 in Book 83, page 163; thence South 43°44' East along the Southerly line of said tract of land 400.0 feet to the most Easterly corner thereof; thence South 41°35' East along the Southerly boundary of the Oregon Electric Railroad right of way 1737.57 feet to an iron pipe on the South line of the said W.W. Graham Donation Land Claim, also being the North line of Government Lot 5 in Section 1, Township 2 South, Range 1 West of the Willamette Meridian; thence North 88°43' West 1349.96 along the South line of said W.W. Graham Donation Land Claim and the North line of Government Lot 5 and Government Lot 6 of in Section 1, Township 2 South, Range 1 West to the place of beginning.

TOGETHER WITH easement for ingress and egress as granted in Grant of Easement recorded February 22, 2006, Recording No. 2006-020491, described as follows:

Located in a tract of land situated in the Southeast one-quarter of Section 2, Township 2 South, Range 1 West of the Willamette Meridian, City of Tigard, Washington County, Oregon. The Easement is described as follows:

Commencing at the 5/8" iron rod with yellow plastic cap marked DEHAAS & ASSOC. INC. set at the intersection of the Easterly right-of-way of SW Hall Blvd 30 feet from center line, with the South line of Lot 1, EDGEWOOD as shown on Survey No. 29031 of the Washington County Survey Records; thence South 87°27' East, along said South line, a distance of 291.15 feet; thence North 75°44'01" East a distance of 47.71 feet to the True Point of Beginning and point of curve of a curve to the left; thence along said curve to the left with a radius of 479.00 feet, a central angle of 13°39'17" (a chord which bears North 68°54'23" East 113.89) and a length of 114.16 feet; thence North 52°04'44" East a distance of 472.50 feet to the East line of Lot 1 EDGEWOOD; thence North 02°52'19" East, along said East line, a distance of 43.09 feet to a 5/8" iron rod with yellow plastic cap marked DEHAAS & ASSOC. INC. at the Northeast corner of said Lot 1; thence North 87°40'14" West, along the Northerly line of said Lot 1, a distance of 45.63 feet; thence South 62°04'44" West a distance of 455.14 feet to a point of curve of a curve to the right; thence along said curve to the left with a radius of 419.00 feet, a central angle of 13°39'17" (a chord which bears North 68°54'23" East, 99.62) and a length of 99.86 feet; thence South 14°15'29" East a distance of 60.00 feet to the true point of beginning.

Exhibit B
Communication and Maintenance Schedule
Fields Property, City of Tigard

	Stabilization Period		Interim Period	
	Tigard	Metro	Tigard	Projected Costs
Communication	For all communication between the City of Tigard and Metro: Steve Martin, (503) 718-2583	Stabilization, vegetation control, natural area maintenance: Kate Holleran, 503-813-7543 Safety, security and general property issues: Dan Moeller, 503-797-1819	For all communication between the City of Tigard and Metro: Steve Martin, (503) 718-2583	
Site Inspection	The site will be inspected weekly for illegal use, safety issues or maintenance needs.		The site will be inspected weekly for illegal use, safety issues or maintenance needs.	
Mowing	The meadow will be mowed twice during growing season (early summer and early fall) to manage invasive plants and lower fuel levels.		The meadow will be mowed twice during growing season (early summer and early fall) to manage invasive plants and lower fuel levels.	
Illegal Camping Patrol/Removal	Monthly		Monthly	
Vandalism	Reports of vandalism will be responded to within 24 hours of notification.		Reports of vandalism will be responded to within 24 hours of notification.	
Safety Hazards	Immediate response after notification.	Immediate response after notification.	Immediate response after notification.	
Ivy Control		Invasive plants treatments will be conducted throughout the stabilization period.	Natural area should be inspected twice yearly to identify any EDRR species and evaluate need for targeted invasive plant control.	The forested site should be relatively stable after weed control is accomplished. ~\$40/ac/year for long term maintenance.
Blackberry Control		Blackberry in open forest/woodland will be sprayed during stabilization or cut/sprayed if larger concentrations are present	Maintenance spray of blackberry in open forest/woodland area on 3-5 year schedule.	Approximately \$1800 per treatment (crew 7 for 1 day).
Reed Canary Grass Control		Reed canarygrass will be treated to prepare planting sites for native vegetation.		
Weed Tree Control (Holly, hawthorn, laurel)		Cut stump treatment will be conducted on weed trees during stabilization period.	Inspected to monitor weed tree re-growth/seedlings. Plan on re-treatment every 5-7 years.	Approximately \$2100 per treatment (crew 7 for 1 day)
Planting		Revegetation of natural areas will occur throughout the stabilization period.	Final maintenance may transition to Tigard if Tigard manages entire site. Circle sprays should be conducted until plants are free to grow. (typically 5 years). Release cutting/mowing in conjunction with circle sprays may be necessary depending on competing vegetation.	Approximately \$1800 per yearly circle spray treatment (crew 7 for 1 day). Approximately \$2100 per yearly cutting/mowing treatment (if needed). Stabilization funds are typically available until plants are free to grow.

Exhibit C
Easement Policy

I HEREBY CERTIFY THAT THE FOREGOING
IS A COMPLETE AND EXACT COPY OF THE
ORIGINAL THEREOF

BEFORE THE METRO COUNCIL

Rebecca V. Shoemaker
METRO COUNCIL ARCHIVIST

FOR THE PURPOSE OF APPROVING GENERAL) RESOLUTION NO. 97-2539B
POLICIES RELATED TO THE REVIEW OF)
EASEMENTS, RIGHT OF WAYS, AND LEASES)
FOR NON-PARK USES THROUGH PROPERTIES)
MANAGED BY THE REGIONAL PARKS AND) Introduced by
GREENSPACES DEPARTMENT.) Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this 6th day of November, 1997.

Jon Kvistad
Jon Kvistad, Presiding Officer

ATTEST:

Charmelle
Recording Secretary

Approved as to Form:

Daniel B. Cooper
Daniel B. Cooper, General Counsel

Exhibit "A"

METRO POLICY RELATED TO THE REVIEW OF
EASEMENTS, RIGHT OF WAYS, AND LEASES
FOR NON-PARK USES

Metro owns and manages , either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquisition by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park, uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.

6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.

7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.

8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.

9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.

10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.

11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.

12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.

13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:

a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

b) Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

c) Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

f) Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

g.) Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state or local jurisdiction requirements.

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Authorize the City Manager and Chief of Police to Execute an Intergovernmental Agreement with Washington County Juvenile Department

Prepared For: Alan Orr

Submitted By: Robert Rogers, Police

Item Type: Motion Requested

Meeting Type: Consent Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

Should the City Council authorize the City Manager and the Chief of Police to execute an IGA with the Washington County Juvenile Department providing for the use of a department vehicle when necessary from time to time to allow a juvenile transport from police custody to a detention facility or placement?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends Council to authorize the City Manager and Chief of Police to sign the IGA with the Washington County Juvenile Department.

KEY FACTS AND INFORMATION SUMMARY

The Juvenile Department requires their staff members who are on-call for response to police needs when a youth is taken into physical custody to respond from their homes to the County facilities to obtain a vehicle to use. This agreement would permit the occasional use of a police department (unmarked detective vehicle) to be used by the staff members of the Juvenile Department through a simplified check-out process at the police department as necessary. This agreement will significantly reduce the response time for the Juvenile Department representative as they respond to take the youth to the final disposition facility or placement. The Juvenile Department agrees that all drivers will be licensed and the vehicle will be refueled when returned.

OTHER ALTERNATIVES

None

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Does not apply

DATES OF PREVIOUS COUNCIL CONSIDERATION

Does not apply

Fiscal Impact

Fiscal Information:

There are no significant cost impacts to the department.

Attachments

Vehicle use IGA

*Intergovernmental Agreement of the CITY OF TIGARD and the
WASHINGTON COUNTY JUVENILE DEPARTMENT*

This agreement is made and entered into by and between the City of Tigard (City), a municipal corporation of the State of Oregon, and the Juvenile Department of Washington County (Department), a County of the State of Oregon;

WHEREAS the City and Department desire a cooperative effort in:

- Creating an increased atmosphere of collaboration between the City and Department;
- Assisting with the safe and efficient transporting of youth to the appropriate placement situations as determined by the Department;
- Reducing the response time of the Department to assist the police officers of the City;
- Serving the citizens of the County in the most professional manner possible given the budget and personnel restrictions the Department and City are experiencing;

WHEREAS the City and Department desire to memorialize and continue their cooperative efforts by contract as authorized under ORS.190.010.

The parties agree as follows:

1. The City will provide the Department with the use of its police vehicle(s) for official use on an as needed basis.
2. The City shall mechanically maintain the vehicles, secure them on City property, and have them available on a check out/in basis 24 hours a day.
3. The Department will specifically identify who would be able to use the vehicle(s) to the City in advance for the purposes of check out/in.
4. The Department members will not use the emergency equipment (lights, sirens, radio, and computer) that may be installed within the vehicle(s) unless otherwise permitted under law.
5. The Department will ensure that all drivers are validly licensed to operate the vehicle(s) and any other occupants are either members of the Department or Youth in their custody.
6. The Department members and the police supervisors of the City shall coordinate the check out/in procedures as determined in advance:
7. The Department will replace any fuel used before checking the vehicle back in.
8. The Department will immediately notify the City of any mechanical issues for correction at check in.
9. As part of the ongoing partnership between the City and Department, each agrees to allow the other the use of any facilities as available for meetings, trainings, community events or other use as agreed upon by the parties, subject to each entity's facilities use policies and procedures.

10. All vehicles supplied by the City shall remain the property of the City.

11. The Department will ensure to the greatest degree possible the security of the vehicle(s) and its contents against theft and foreseeable damage.

12. The City agrees to hold and save the Department, its officers, employees, or agents harmless from all claims whatsoever that might arise against the Department; its officers, employees, or agents by any act of Tigard, its officers, employees, or agents in the performance of the duties required by this contract.

13. The Department agrees to hold and save the City of Tigard, its officers, employees, or agents harmless from all claims whatsoever that might arise against the City of Tigard, its officers, employees, or agents by any act of Department, its officers, employees, or agents in the performance of the duties required by this agreement.

14. The City and the Department mutually agree that neither party will insure the actions of the other, but rather each party will assume its own responsibility in connection with any claims made by a third party against the City and/or the Department and that both the City and the Department will maintain liability insurance coverage.

15. The City and the Department mutually agree that nothing contained in this agreement is intended to limit the remedy, if any, of either party against the other party, including claims under subrogation agreements with the party's insurance carrier, to recover damages to property or injury to persons caused by a party's negligence.

16. This agreement shall be effective at signing by the authorized Directors below, and may be severed with 30 days notice in writing by either party without cause. It will be reviewed by both parties annually, with any changes or amendments being proposed in writing by the end of each calendar year.

In witness whereof, the parties have caused this agreement to be executed by the duly authorized officers on the dates hereinafter written.

City of Tigard

Washington County Juvenile

By _____
Alan F. Orr, Chief of Police

By _____
Lynn Schroeder, Director

Dated: _____

Dated: _____

ATTEST:

By _____

Business Meeting

Meeting Date: 02/26/2013
Length (in minutes): Consent Item
Agenda Title: Authorize the Mayor to Execute an Agreement with ODOT Regarding the Pacific Highway/Gaarde Street/McDonald Street Intersection Improvements
Prepared For: Mike Stone **Submitted By:** Greer Gaston, Public Works
Item Type: Motion Requested **Meeting Type:** Consent Agenda

Public Hearing

Newspaper Legal Ad Required?: No

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Authorize the mayor to execute a cooperative improvement agreement with the Oregon Department of Transportation (ODOT) and Washington County regarding the Pacific Highway/Gaarde Street/McDonald Street intersection improvements.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends authorizing the Mayor to execute this agreement.

KEY FACTS AND INFORMATION SUMMARY

This is a three-party cooperative improvement agreement between ODOT, Tigard, and Washington County setting the framework of how the agencies will work together to fund and improve the intersection of Pacific Highway with Gaarde Street and McDonald Street. Key aspects of the agreement are as follows:

- Much like the recent improvements to the Hall/99W/Greenburg intersections, this will be an ODOT-led project. They have hired the consultant team and will purchase the right-of-way, bid the project, hire the contractor, oversee and inspect construction, and perform all other typical project management functions.
- City staff will continue to be involved in the project design and construction to represent the interests of the city.

The City and County will reimburse ODOT for their share of project costs as indicated below. Project funding designated by this agreement is \$9,444,630 consisting of:

- \$1,820,000 City Contribution [from Transportation Development Tax (TDT) and Traffic Impact Fee (TIF) funds].
- \$2,680,000 Federal Surface Transportation Program (not including city match).
- \$944,630 Oregon Transportation Investment Act (OTIA).
- \$4,000,000 Washington County Major Streets Transportation Improvement Program (MSTIP)

The project cost estimate is currently \$9,100,000. Therefore, this project has ample funding to cover the estimated costs.

The attached figures show the preliminary design of the project.

OTHER ALTERNATIVES

Council could choose not to enter into this agreement. However, this agreement has been based on the previous agreement for the Hall/99W/Greenburg projects. Failure to execute this agreement would stop this project.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

This project is listed in the city's Capital Improvement Plan and Transportation System Plan, and is consistent with the City Council's long-term goal to pursue opportunities to reduce traffic congestion.

DATES OF PREVIOUS CONSIDERATION

The council was briefed on this agreement at its March 19, 2013, workshop meeting.

Fiscal Impact

Cost: \$1,820,000
Budgeted (yes or no): yes
Where Budgeted (department/program): CIP Project # 95033

Additional Fiscal Notes:

The adopted FY 2012-13 budget includes \$242,265 for this project. Figures submitted for the FY 2013-14 Capital Improvement Plan include \$1,825,653 for this project, broken down as follows:

- FY 2012-13: \$25,653 (anticipated to be spent from the adopted budget amount)
- FY 2013-14: \$1,000,000
- FY 2014-15: \$500,000
- FY 2015-16: \$200,000
- FY 2016-17: \$100,000

Attachments

- Pacific_Gaarde_McDonald IGA for signature
 - Project Design Overview
 - Preliminary Design - Intersection Enlargement
-
-

**COOPERATIVE IMPROVEMENT AGREEMENT
2003 OREGON TRANSPORTATION INVESTMENT ACT MODERNIZATION and
SURFACE TRANSPORTATION PROGRAM – Urban
OR 99W: Gaarde/McDonald Intersection Improvements**

THIS AGREEMENT is made and entered into by and between the State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "State," Washington County, acting by and through its Board of County Commissioners, hereinafter referred to as "County," and the City of Tigard, acting by and through its elected officials, hereinafter referred to as "City," all herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. OR 99W (Pacific Highway West) is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). SW Gaarde and SW McDonald streets are a part of the city street system under the jurisdiction and control of City.
2. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. State, by ORS 366.220, is vested with complete jurisdiction and control over the roadways of other jurisdictions taken for state highway purposes. By the authority granted by ORS 373.020, the jurisdiction extends from curb to curb, or, if there is no regular established curb, then control extends over such portion of the right of way as may be utilized by State for highway purposes. Responsibility for and jurisdiction over all other portions of a city street remains with the City.
4. By the authority granted in ORS 810.080 State has the authority to establish marked pedestrian crosswalks on its highway facilities.
5. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.
6. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the

Project. Money so deposited shall be disbursed for the purpose for which it was deposited.

7. The 2003 Oregon Transportation Investment Act Program (OTIA), hereinafter referred to as the "2003 OTIA Modernization Program", provides funding for modernization projects chosen by the Oregon Transportation Commission.
8. In August 2005, the Oregon Transportation Commission approved the projects to be funded under the 2003 OTIA Modernization Program as part of the 2006-2009 Statewide Transportation Improvement Program (STIP) development process. The I-5 OR 99W Tualatin-Sherwood Connector project was included in said STIP, but that project has now been canceled, and a portion of that approved OTIA funding, in the amount of \$1,000,000, has been applied to the OR 99W: Gaarde/McDonald Intersection Improvements Project, as described in Exhibit A, attached hereto and by this reference made a part hereof.
9. On June 25, 2010, State and City entered into Intergovernmental Agreement No. 26,629 to conduct a Joint Planning Study for the 99W/SW Gaarde Street SW McDonald Street Intersection. Any unused OTIA funds remaining from planning phase shall be moved to the design and right of way phase under this Agreement. The anticipated amount of remaining OTIA funds is \$944,630.
10. State and City entered into Cooperative Improvement Agreement No. 10,688 on June 28, 1991 that covers maintenance responsibilities for the same project area as this Agreement. Agreement No. 10,688 is hereby superseded and shall be considered null and void. All maintenance responsibilities covering the project area shall be governed by this Agreement.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, the Parties agree to State's modernization and intersection improvements to OR 99W at SW Gaarde Street and SW McDonald Street, hereinafter referred to as "Project". A Project description, budget and location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The Project may include, but is not limited to, the following elements:
 - a. Replacing the signal at the intersection of OR 99W and SW Gaarde Street and SW McDonald Street;
 - b. Widening OR 99W within the project limits;
 - c. Widening SW Gaarde and SW McDonald streets within the project limits;

- d. Purchasing right of way sufficient to accommodate the widened streets;
and
 - e. Modifying, combining, and removing accesses within the project limits.
2. The Project is estimated to cost \$9,444,630. Due to the uncertainty of cost estimates, the Parties agree to finance the Project at \$9,450,000. Funding will come from the following funding sources: \$944,630 from the 2003 OTIA Modernization Program; \$3,000,000 from the Surface Transportation Program; \$1,500,000 from City and up to \$4,000,000 from County funds. The estimate for the total Project cost is subject to change. City shall be responsible for any nonparticipating costs, and Project costs beyond the State, County, and federal money that is being contributed pursuant to paragraphs 3 and 4 below.
3. County agrees to contribute up to \$4,000,000 of County funds in two or more separate deposits, subject to full contribution of State, Federal, and City funds. County has no other obligations under this Agreement, other than contribution of County funds to State for Project purposes. County funds may only be applied to the following:
 - a. Performance of preliminary engineering, construction engineering, and right of way work for the Project (up to \$2,000,000).
 - b. Project construction costs (up to \$2,000,000).
4. Upon completion of Plans, Specifications, and Estimate (PS&E) review by State Region 1 staff, State shall determine the estimated Project construction cost. State shall next determine the amount of federal, state, and city funds available for project construction, and the amount of County funds that, when combined with other available funds, would be required to complete construction. County's deposits will not exceed a total of \$4,000,000 and will only be used in the amounts and for the purposes specified to complete Project items listed in TERMS OF AGREEMENT, Paragraphs 3a – 3b above. County will have an opportunity to review the estimate in advance of depositing any additional funds on top of the initial deposit as per COUNTY OBLIGATIONS Paragraph 1.
5. Part of this Project will be funded with 2003 OTIA Modernization Program funds in the amount of \$1,000,000. The remaining 2003 OTIA Modernization Program funds which are estimated to be \$944,630, after completion of Planning Phase (see Intergovernmental Agreement No. 26,629), are to be used for the preliminary engineering and right of way phases.
6. Part of this Project will be funded with Federal-Aid Surface Transportation Program (STP) Program funds under Title 23, United States Code. STP urban funds for this Project will be limited to \$3,000,000. The Project will be financed with STP funds at the maximum allowable federal participation amount, with City funds providing the match amount of \$343,363 and any non-participating amount, including all costs in

excess of the available federal funds. STP funds are available for all phases of this Project.

7. The federal funding for this Project is contingent upon approval by the Federal Highway Administration (FHWA). Any work performed outside the scope of work will be considered nonparticipating and paid for at City expense.
8. State considers City a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
9. The funds available under the 2003 OTIA Modernization Program are State Highway Funds. To be eligible for reimbursement under the 2003 OTIA Modernization Program, expenditures must comply with the requirements of Article IX, Section 3a of the Oregon Constitution.
10. City and State have a joint obligation to ensure timely expenditure of 2003 OTIA Modernization Program monies and to comply with the provisions of the bonds that finance the 2003 OTIA Modernization Program.
11. If Project costs are to exceed the available funding at Plans, Specifications, and Estimate (PS&E), State and City agree to decide how to reduce the Project scope to stay in budget, or come up with additional funds and amend the Agreement accordingly. Outstanding scope or budget issues must be resolved prior to submittal of PS&E to Salem or Project will be pulled from the bid letting schedule.
12. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by all Parties.

STATE OBLIGATIONS

1. State, or its consultant, in collaboration with the City, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the Project; identify and obtain all required local, state, and federal studies and permits; acquire all necessary easements and right of way; arrange for all utility relocations; perform or acquire all access modifications; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, and provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project.

2. State shall, upon execution of this Agreement, forward to City a letter of request for an advance deposit to be made to the City's Local Government Investment Pool (LGIP) along with permission and account information for State to draw from the City's LGIP account. The first advance deposit shall be in the amount of \$250,000. Requests for additional deposits for other authorized activities shall be accompanied by an itemized statement of expenditures and an estimated cost to complete Project.
3. State shall, as withdrawals are made from the City's LGIP, provide monthly detailed accounting statements to the City. Said withdrawals shall not exceed the City's monthly share of expenses described in this Agreement.
4. State shall, upon execution of this Agreement, forward to County a letter of request for an advance deposit to be made to the County's LGIP along with permission and account information for State to draw from the County's LGIP account. The first advance deposit shall be in the amount of \$2,000,000. State shall use these funds solely for preliminary engineering and construction engineering. Upon State determination that the Project is ready for construction bidding, State may request additional deposits from County for Project construction costs, in an amount determined under Terms of Agreement Paragraph 4. Any State request for funds shall be accompanied by an itemized statement of Project expenditures and an estimated cost to complete Project. County's contribution for all Project tasks will not exceed \$4,000,000. Any unused County funds left at the end of the Project will be refunded to the County.
5. Upon completion of the Project, State shall either send to City a bill for the amount which, when added to City's advance deposit(s), will equal 100 percent of the total cost for City's share of the Project or State will refund to City any portion of said advance deposit which is in excess of City's share of the actual cost for the Project.
6. The State, at its expense, shall continue to operate and maintain the signals at OR 99W. State and City shall concur on implementation and maintenance of system timing plans along OR 99W including City and State traffic signals, including allowing and maintaining communications systems between City and State traffic signals.
7. State agrees that the portions of land acquired by State for the construction of City street facilities shall be formally relinquished by deed to the City upon completion of the Project. If said land was acquired with any portion of State or federal funds, then said constructed facilities will be formally relinquished by deed to the City upon completion of the Project so long as used for the purposes that they were constructed. If for any reason said facilities are no longer used for the purposes that they were constructed, the land shall automatically revert back to State.
8. If Project related right of way is purchased by State utilizing City funds, State agrees (if not already purchased in the City's name) to relinquish any excess property to the City upon completion of the Project. If Project right of way is purchased utilizing joint funding, State agrees that any excess property be relinquished to the City so long as

used for public roadway purposes. Any excess property obtained for the Project utilizing only State contributed funds shall remain in State's name.

9. State shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in OR 99W streets in such a manner as to provide adequate protection for said detector loops.
10. State shall maintain the OR 99W roadway from curb to curb as well as any stormwater facilities located on State right of way adjacent to OR 99W.
11. State shall cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the Project in order to conform the utilities and other facilities with the plans and the ultimate requirements for the portions of the Project which are on OR 99W.
12. All employers, including State and City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall ensure that each of its contractors complies with these requirements.
13. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
14. State's Project Manager for this Project is Matt Freitag, 123 NW Flanders Street, Portland, OR, 97209, 503-731-4851, matthew.d.freitag@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

CITY OBLIGATIONS

1. City grants State, its contractors and subcontractors, the right to enter onto City right of way for the performance of duties as set forth in this Agreement.
2. City shall upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward an advance deposit to the City's LGIP along with permission and account information for State to draw from the City's LGIP account in the amount of \$250,000 for the City's share of Project design costs. City agrees to make additional deposits for its share of other Project activities as needed upon receipt of a State request for additional deposits for construction or other authorized activities accompanied by an itemized statement of expenditures and an estimated cost to complete.

3. Upon completion of the Project and receipt from State of an itemized statement of the actual total cost of Project costs, City shall pay any amount which, when added to City's advance deposit, will equal City's total costs for the Project as identified in this Agreement. Any portion of said advance deposit which is in excess of the City's share of the total costs will be refunded or released to City.
4. City shall be responsible for 100 percent of power costs associated with all illumination installed as a part of this Project. City shall require the power company to send invoices directly to City.
5. City shall be responsible for and pay to the power company 100 percent of electricity costs for the signal equipment. City shall require the power company to send invoices directly to City.
6. City shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in the city streets in such a manner as to provide adequate protection for said detector loops. City shall also properly maintain the pavement markings and signing installed on city streets as part of the Project
7. City will maintain all street lighting, landscaping features, and street trees added in between the curbs or in medians as a part of the Project.
8. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. City shall ensure that each of its contractors complies with these requirements.
9. City, by execution of Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Agreement.
10. City certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of City, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind City.
11. City's Project Manager for this Project is Michael Stone, City Engineer, 13125 SW Hall Blvd, Tigard OR 97223, 503-718-2759, mstone@tigard-or.gov, or assigned designee upon individual's absence. City shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

COUNTY OBLIGATIONS

1. County shall upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward an advance deposit to the County's LGIP in the amount of \$2,000,000 along with permission and account information for State to draw from the County's LGIP account. County agrees to make additional deposits up to \$2,000,000 for Project costs, in the amounts and for the purposes specified in TERMS OF AGREEMENT Paragraphs 3a – 3b, up to a total contribution not to exceed \$4,000,000 total as needed for authorized activities upon receipt of a State request for additional deposits accompanied by an itemized statement of Project expenditures to date and an estimated cost to complete including the contributions of all other Parties.
2. County certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance County stated funding obligations under this Agreement within County's current appropriation or limitation of its current biennial budget.
3. County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of County, under the direction or approval of its governing body, commission, board officers, members or representatives, and to legally bind County.
4. County's Project Manager for this project is Gary Stockhoff, County Engineer, 1400 SW Walnut Street, MS 18, Hillsboro, OR 97123-5625, gary_stockhoff@co.washington.or.us, and 503-846-7820 or assigned designee upon individual's absence. County shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of the Parties.
2. State may terminate this Agreement effective upon delivery of written notice to City and County, or at such later date as may be established by State, under any of the following conditions:
 - a. If City or County fail to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City or County fail to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If City or County fail to provide payment of its share of the cost of the Project.

- d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State, County, or City with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 5. With respect to a Third Party Claim for which State is jointly liable with City or County (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City or County in such proportion as is appropriate to reflect the relative fault of State on the one hand and of City or County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of City or County on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
 6. With respect to a Third Party Claim for which City or County is jointly liable with State (or would be if joined in the Third Party Claim), City or County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of City or County on the one hand and of State on the other hand in connection with the events which

resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City or County on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's or County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. If City fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill City, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2012-2015 Statewide Transportation Improvement Program, Key #16968 that was approved by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

County/City/State
Agreement No. 28161

CITY OF TIGARD, by and through its
elected officials

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By

Counsel

Date _____

Washington County, by and through its
Board of County Commissioners

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By

County Counsel

Date _____

City Contact:

Michael Stone, City Engineer
13125 SW Hall Blvd
Tigard, OR 97223
503-718-2759
mstone@tigard-or.gov

County Contact:

Gary Stockhoff
County Engineer
1400 SW Walnut Street, MS 18
Hillsboro, OR 97123-5625
503-846-7820
gary_stockhoff@co.washington.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____

Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

State Right of Way Manager

Date _____

By _____

Region 1 Manager

Date _____

By _____

State Traffic Engineer

Date _____

By _____

Region 1 Right of Way Manager

Date _____

By _____

District 2B Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____

Assistant Attorney General

Date _____

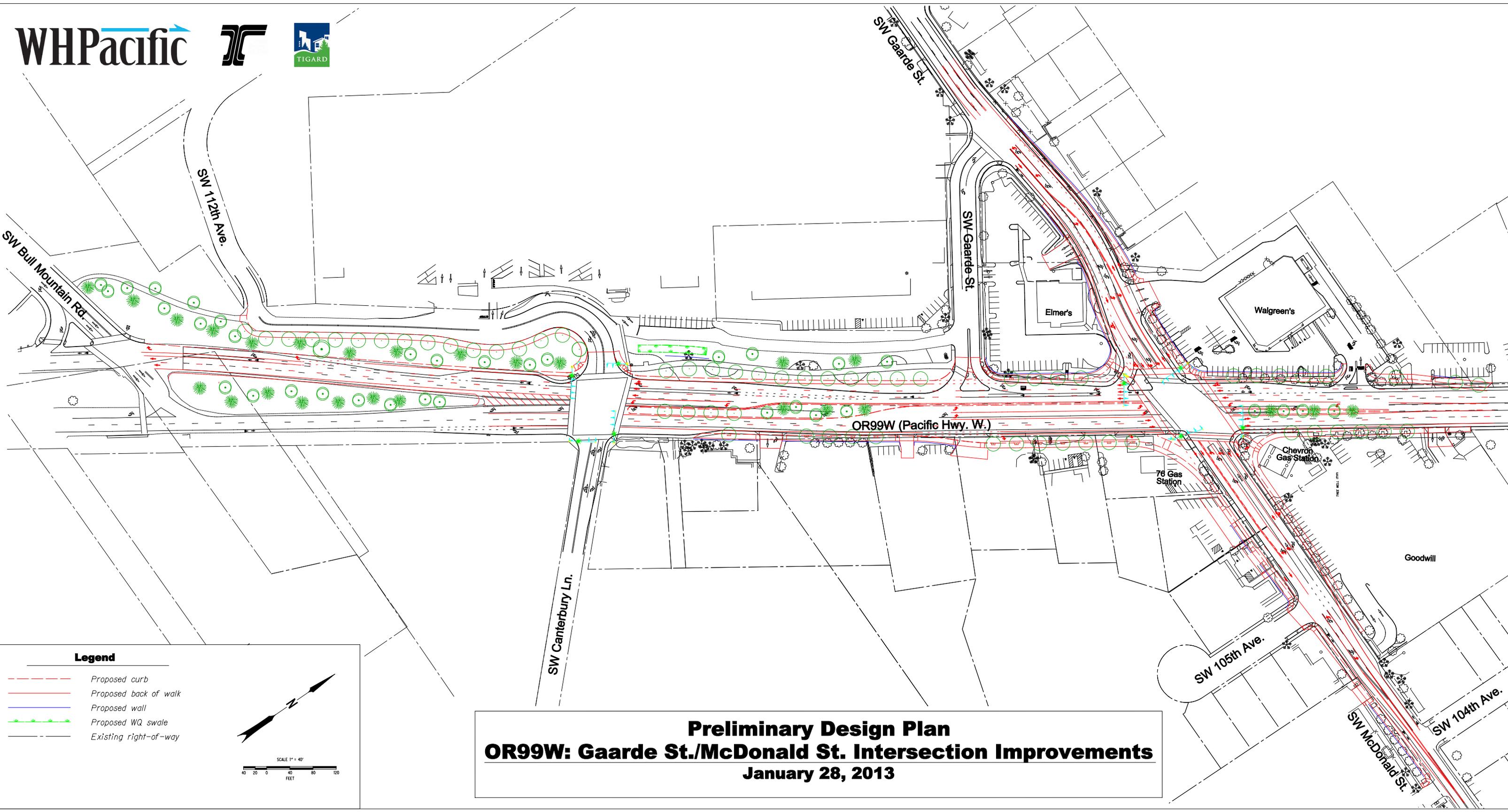
State Contact:

Matt Freitag
123 NW Flanders Street
Portland OR 97209
503-731-4851
matthew.d.freitag@odot.state.or.us

**EXHIBIT A
 PROJECT DESCRIPTION
 City of Tigard
 Washington County
 OR 99W: Gaarde/McDonald Intersection Improvements**

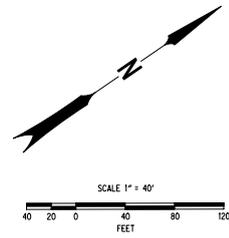
The City of Tigard proposed, and the Oregon Transportation Commission has endorsed, a Federal Transportation Reauthorization Request to improve safety and capacity of this heavily congested intersection of Highway 99W. Considering the fact that the new arterials proposed for addressing traffic demand from 99W to I-5 are likely a number of years away, it is important that the existing route function as safely and efficiently as possible. The planned improvements include improved bicycle, pedestrian and transit connections, access management, improved capacity and additional turn-lanes.

Project Cost Estimate		Project Financing	
Preliminary engineering & design	\$1,300,000	City Contribution	\$1,500,000
Right of way purchase	\$3,000,000	County Contribution up to	\$4,000,000
Construction	\$4,800,000	STP (including match)	\$3,000,000
Total	\$9,100,000	OTIA	\$944,630
		Total	\$9,444,630



Legend

-  Proposed curb
-  Proposed back of walk
-  Proposed wall
-  Proposed WQ swale
-  Existing right-of-way



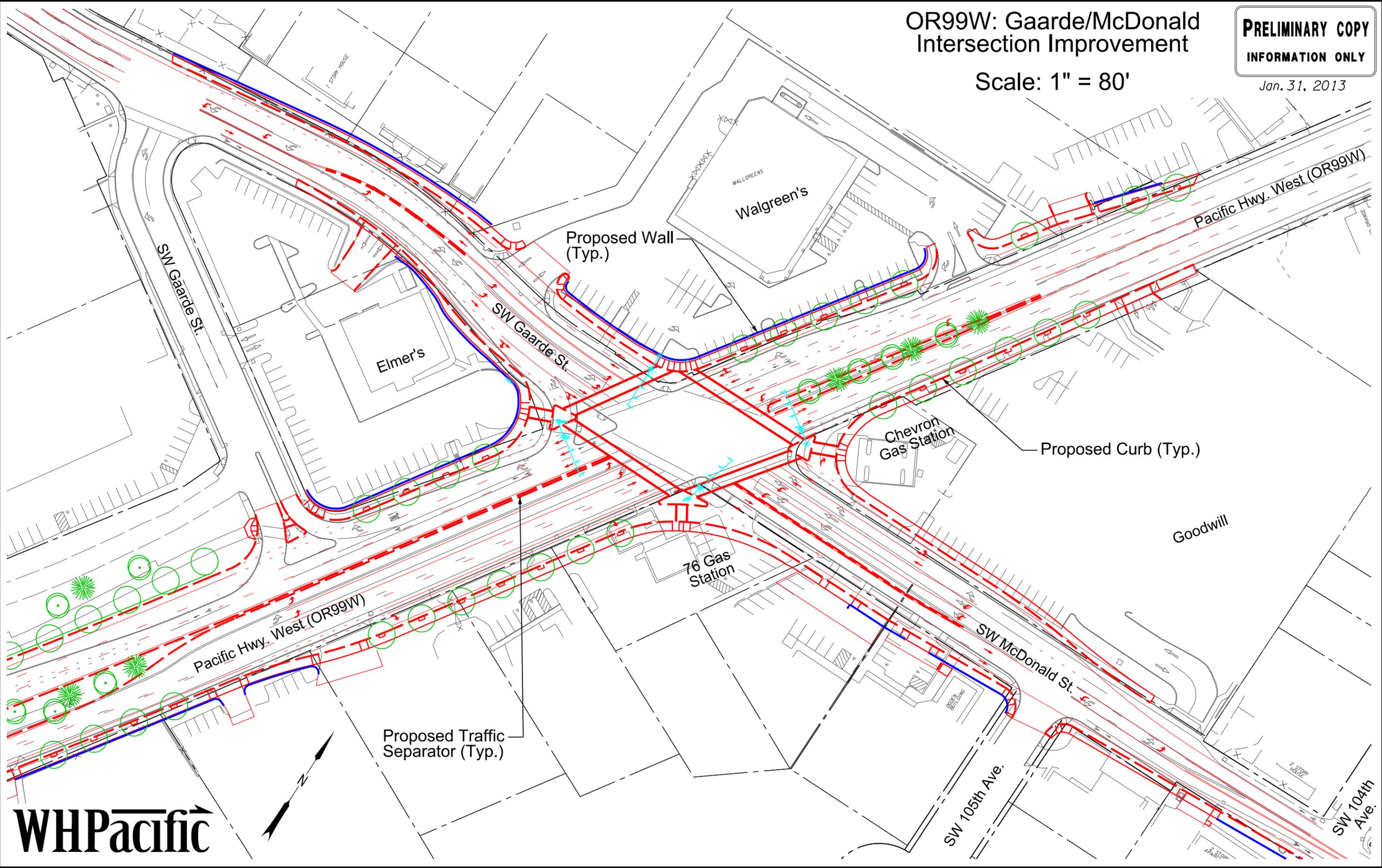
Preliminary Design Plan
OR99W: Gaarde St./McDonald St. Intersection Improvements
 January 28, 2013

OR99W: Gaarde/McDonald Intersection Improvement

Scale: 1" = 80'

PRELIMINARY COPY
INFORMATION ONLY

Jan. 31, 2013



WHPacific

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): Consent Item

Agenda Title: Agree to Coordinate the South Cooper Mountain and River Terrace Planning Efforts - Resolution

Prepared For: Darren Wyss, Senior Planner

Submitted By: Cathy Wheatley, Administrative Services

Item Type: Resolution

Meeting Type: Consent Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

Consider a joint resolution with the City of Beaverton regarding coordination of the South Cooper Mountain and River Terrace Planning Efforts.

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the proposed resolution.

KEY FACTS AND INFORMATION SUMMARY

The Tigard and Beaverton City Councils met on February 12, 2013, for the purpose of discussing coordination and collaboration on the River Terrace Community Plan and South Cooper Mountain planning efforts.

Consensus of both councils was a desire to recognize and acknowledge the mutual benefits in working together closely on matters of mutual interest as the urbanization planning process proceeds.

Attached is a proposed joint Tigard/Beaverton resolution that will be considered by the Beaverton City Council at its February 19, 2013, City Council meeting.

OTHER ALTERNATIVES

Propose adjustments to the draft resolution.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

February 12, 2013 - Joint meeting with the Beaverton City Council.

Attachments

Proposed Resolution

RESOLUTION NO. 4163, City of Beaverton

RESOLUTION NO. 13-, City of Tigard

**A JOINT RESOLUTION OF THE CITY OF BEAVERTON AND CITY OF TIGARD
REGARDING COORDINATION OF THE SOUTH COOPER MOUNTAIN AND
RIVER TERRACE PLANNING EFFORTS**

WHEREAS, the City of Beaverton recently annexed approximately 544 acres along the north side of SW Scholls Ferry Road in the South Cooper Mountain (SCM) area known as Urban Reserve Area 6B, and over the next 18 months intends to complete a concept plan and community plan leading to comprehensive plan and zoning amendments authorizing urbanization; and

WHEREAS, the City of Tigard has annexed approximately 500 acres known as the River Terrace Community Plan (RTCP) area , adjacent to the SCM area annexed by Beaverton along the south side of SW Scholls Ferry Road, and intends to prepare a community plan over the next 18 months based on the West Bull Mountain Concept Plan completed by Washington County in 2010 that will refine land uses identified in the concept plan into city zoning and regulations, and update city infrastructure plans to reflect future urbanization needs; and

WHEREAS, the cities of Beaverton and Tigard are both commencing planning efforts in preparation for future urbanization of areas added to their respective jurisdictions in the general vicinity of SW Scholls Ferry Road and SW 175th/Roy Rogers; and

WHEREAS, the geographic proximity of the two planning areas, and concurrent project timelines, create opportunities for the cities to collaborate on matters of mutual interest, including: transportation; sanitary sewer; stormwater; infrastructure financing strategies; natural resource issues; and public involvement; and

WHEREAS , the Beaverton City Council and the Tigard City Council held a joint meeting on February 12, 2013, for the purpose of discussing coordination and collaboration on the SCM and RTCP planning efforts; and

WHEREAS, the cities recognize and acknowledge the mutual benefits in working together closely on matters of mutual interest as the urbanization planning proceeds; and

WHEREAS, both cities concur that it is advantageous to collaborate on infrastructure financing strategies to potentially eliminate duplicate efforts and lower the costs for each jurisdiction for funding improvements needed to support development in the newly urbanizing areas; and

WHEREAS, both cities agree that timely completion of the planning necessary to accommodate urbanization in SCM and RTCP is important for economic growth and vitality, and that these planning efforts and subsequent capital improvement programming for infrastructure projects needed for urban development, will be prioritized accordingly.

NOW, THEREFORE, BE IT RESOLVED that the City of Beaverton and the City of Tigard agree that it is desirable to coordinate on matters of mutual interest as the planning efforts for SCM and RTCP move forward, and direct staff to collaborate to address planning, extension and financing of infrastructure needed to support planned development in these newly urbanizing areas.

Adopted by the Beaverton City Council this _____ day of February, 2013.

Approved by the Mayor this _____ day of February, 2013.

Ayes: _____ Nays: _____

APPROVED:

DENNY DOYLE, Mayor

ATTEST:

Catherine Jansen, City Recorder

Adopted by the Tigard City Council this _____ day of February, 2013.

Approved by the Mayor this _____ day of February, 2013.

APPROVED:

JOHN L. COOK, Mayor

ATTEST:

Cathy Wheatley, City Recorder

AIS-1115

4.

Business Meeting

Meeting Date: 02/26/2013
Length (in minutes): 10 Minutes
Agenda Title: Hummel Annexation
Submitted By: Cheryl Caines, Community Development

Council
Business
Meeting -

Item Type: Ordinance
Public Hearing - Quasi-Judicial

Meeting Type: Main

Public Hearing
Newspaper Legal Ad Required?: Yes
Public Hearing Publication
Date in Newspaper: 02/14/2013

Information

ISSUE

Consider adoption of an ordinance to annex one parcel (1.01 acre). The applicant's septic is failing and needs access to city sanitary service.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends adopting the attached ordinance annexing the subject territory to the City of Tigard.

KEY FACTS AND INFORMATION SUMMARY

Key Facts:

The annexation includes one (1) parcel totaling 1.01 acre that is developed with a single-family residence. The applicant is requesting to annex to the city to obtain sanitary sewer service because the existing septic system cannot be repaired. All property owners and registered voters in the proposed territory have consented to the annexation. The City invited two adjacent property owners to join the annexation and received no response. Washington County zoning is R6. The parcel will be zoned R-7 upon annexation. This is the closest equivalent city zoning.

Key Findings:

The proposed territory is contiguous to the Tigard City Limits. Urban services are available and of sufficient capacity to serve the subject parcel. The proposed territory is within Metro's Urban Growth Boundary. As outlined in the staff report, the proposed annexation meets the requirements of the Tigard Community Development Code and Comprehensive Plan, state statutes and the Metro Code.

OTHER ALTERNATIVES

Adopt findings to deny the application.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

No applicable council goals.

DATES OF PREVIOUS CONSIDERATION

None.

Fiscal Impact

Cost: Minimal

Budgeted (yes or no): No

Where Budgeted (department/program): N/A

Additional Fiscal Notes:

If approved the proposed annexation territory would likely be transferred to the City's tax roll on July 1, 2013. Annexations must be final (ORS 222.010) by March 31 of the same calendar year for the tax year beginning July 1st. In accordance with Tigard Ordinance 12-09, city property taxes will be phased-in over a three year period.

Attachments

Draft Ordinance

Exhibit A - Legal Description

Exhibit B - Legal Map

Exhibit C - Staff Report

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 2013- _____

AN ORDINANCE ANNEXING ONE (1) PARCEL OF LAND TOTTALLING 1.01 ACRES, APPROVING THE HUMMEL ANNEXATION (ZCA2012-00002) AND WITHDRAWING PROPERTY FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) to annex contiguous territory upon receiving written consent from owners of land in the territory proposed to be annexed; and

WHEREAS, the City of Tigard is authorized by ORS 222.120(5) and 222.520 to withdraw property which currently lies within the boundary of the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on February 26, 2013, to consider the annexation of one (1) parcel Washington County Tax Map (WCTM) 2S109AC, Tax Lot 500) of land located on SW 133rd Avenue, and withdrawal of said parcel from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and on February 4, 2013; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of the annexed property from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning which most closely implements the City's comprehensive plan map designation or to the City designations which are the most similar; and

WHEREAS, the annexation has been processed in accordance with the requirements of Metro 3.09 and has been reviewed for compliance with the Tigard Community Development Code and the Comprehensive Plan and the annexation substantially addresses the standards in Metro 3.09 regulating annexations; and

WHEREAS, the Tigard City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed property from the applicable service districts is in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby annexes the subject parcel as described and shown in the attached **Exhibits "A" and "B"**, and withdraws said parcel from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" (ZCA20012-00002) as findings in support of this decision; a copy of the staff report is attached hereto as **Exhibit "C"** and incorporated herein by this reference.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor and posting by the City Recorder.

SECTION 4: City staff is directed to take all necessary measures to implement the annexation, including filing certified copies of the Ordinance with Metro for administrative processing, filing with state and county agencies as required by law, and providing notice to utilities.

SECTION 5: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District shall be the effective date of this annexation.

SECTION 6: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2013.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2013.

Approved as to form:

John L. Cook, Mayor

City Attorney

Date

JSM JERRY S. MARIS
CONSULTING SURVEYOR

11200 ALLEN AVENUE 641-8609
BEAVERTON OREGON 97005

28 APRIL 1977
JN 27 - 77

LEGAL DESCRIPTION (PARCEL "B" HUMMEL TRACT)

Situate in the Northeast Quarter of Section 9, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon described as follows:

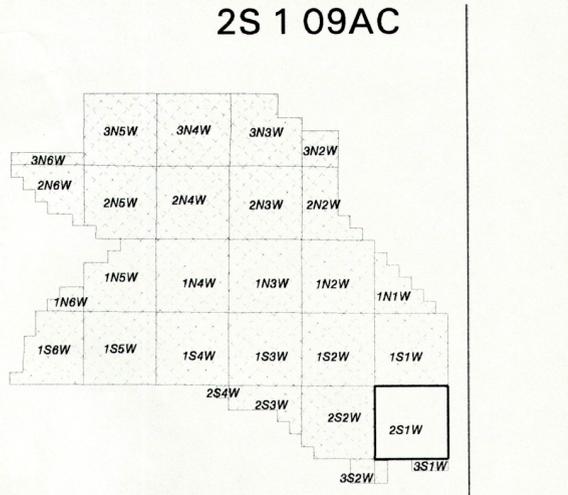
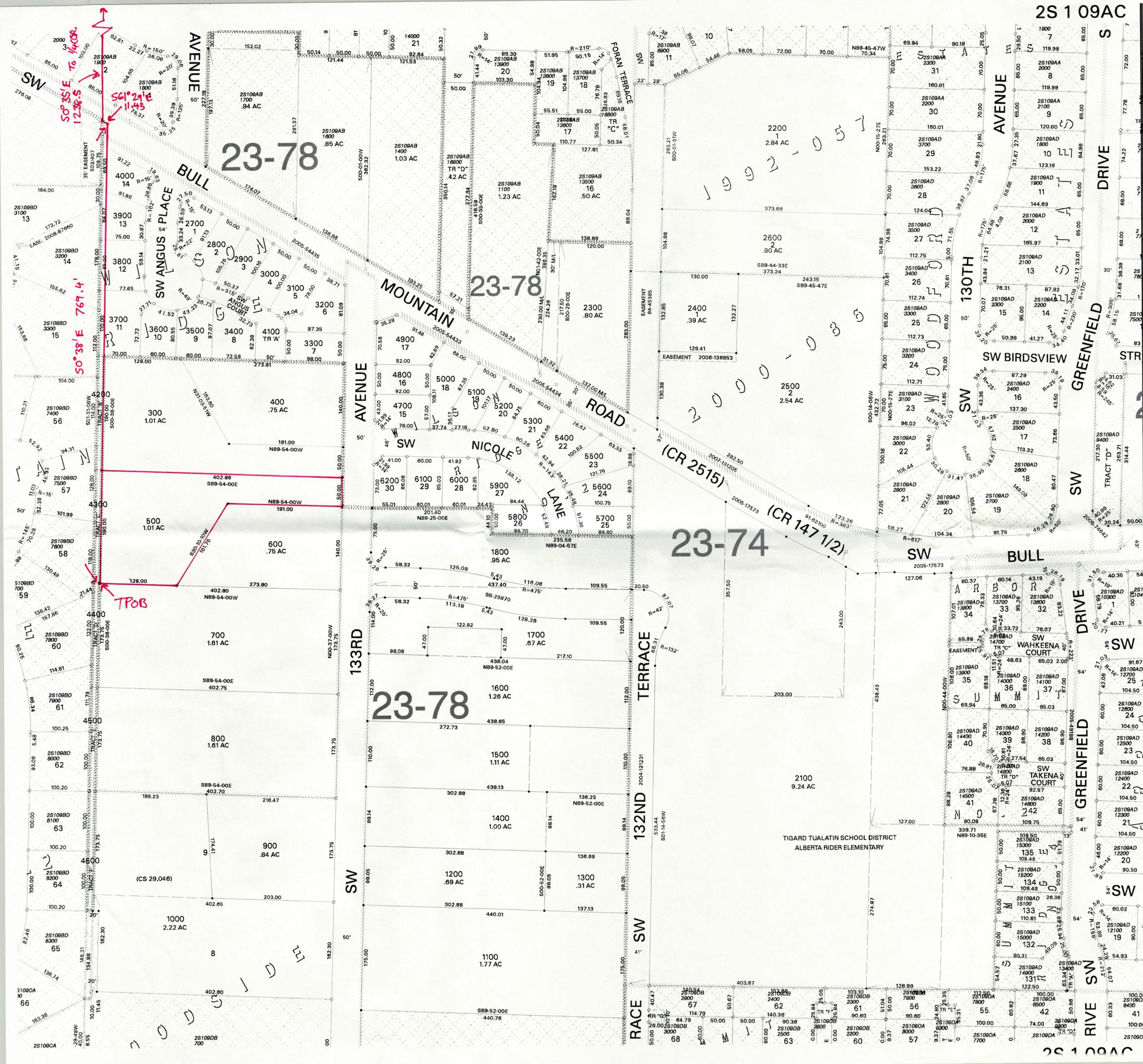
Being a portion of that Tract conveyed to Bill Hummel by Cyril Wilson in May of 1977, and beginning at the Southwest corner thereof, an iron rod with cap set, which according to Deeds is South 0°35' East 1,238.5 feet, South 61°29' East 11.45 feet, and South 0°38' East 769.4 feet from the Quarter Corner on the North line of said Section 9 and running thence on the West line of said Hummel Tract North 0°38' West, 190.0 feet to an iron rod with cap set; Thence South 89°54' East, 402.86 feet to an iron rod with cap set on the East line of said Hummel Tract, also being the West Right-of-Way line of Southwest 133rd Avenue; Thence South 0°37' East, on said East line, 50.0 feet to an iron rod with cap set; Thence North 89°54' West 191.0 feet to an iron rod with cap set; Thence South 30°10'10" West, 161.76 feet to an iron rod with cap set on the South line of said Hummel Tract; Thence on said South line, North 89°54' West, 129.0 feet to the point of beginning, containing 1.01 acres more or less.

ANNEXATION CERTIFIED

BY JF

OCT 19 2012

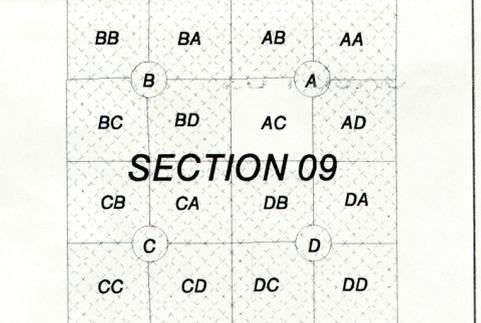
WASHINGTON COUNTY A & T
CARTOGRAPHY



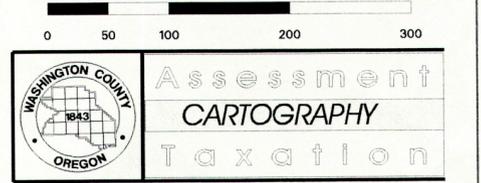
WASHINGTON COUNTY OREGON
SW1/4 NE1/4 SECTION 09 T2S R1W W.M.
SCALE 1" = 100'

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
www.co.washington.or.us



Cancelled Taxlots For: 2S109AC
100,200,1900,2000,2101, ANNEXATION CERTIFIED
BY
OCT 1 9 2012
WASHINGTON COUNTY A & T
CARTOGRAPHY
SCALE 1" = 100'



PLOT DATE: July 30, 2010
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE
Map areas delineated by either gray shading or a cross-hatched
pattern are for reference only and may not indicate the most
current property boundaries. Please consult the appropriate map
for the most current information.
RECEIVED
OCT 2 3 2012
CITY OF TIGARD
PLANNING/ENGINEERING TIGARD

Hearing Date: February 26, 2013 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: HUMMEL ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2012-00002

**APPLICANT/
OWNER:** Bill & Geraldine Hummel
 14695 SW 133rd Ave.
 Tigard, OR 97223

PROPOSAL: A request to annex one parcel (1.01 acres) on SW 133rd Avenue to obtain City of Tigard sanitary sewer service for a septic system that cannot be repaired.

LOCATION: 14695 SW 133rd Avenue; Washington County Tax Assessor's Map 2S109AC, Tax Lot 0500.

COUNTY ZONE: R6: Residential, 5 units/acre minimum density, 6 units/acre maximum density. The purpose of the R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2, Section 300-5, or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

**EQUIVALENT
CITY ZONE:** R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE
REVIEW
CRITERIA:** The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1, Goal 11.1 (Policy 4), Goal 11.3 (Policy 6), and Goal 14.2 (Policy 1-4); ORS Chapter 222; and Metro Code Chapter 3.09.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Council find that the proposed annexation (ZCA2012-00002) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; and Goal 14.2, Policy 1-4. Therefore, staff recommends APPROVAL of ZCA2012-00002 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

The 1.01 acre site is developed with a single family residence and accessory structure. The annexation request has been initiated by the property owners (Bob & Geraldine Hummel) to obtain city sewer for a failing septic system. There is a public sanitary line in SW 133rd to serve the site.

The home is owner occupied and all property owners and registered voters in the proposed territory have consented to the annexation; therefore an election is not required. In accordance with city policy and to prevent the formation of an island, the City invited property owners of two adjacent parcels to join the annexation (tax lots 300 and 400 to the north of the subject property). Neither owner indicated interest in annexing to the City.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1; Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 14.2 (Policies 1-4).

State: ORS Chapter 222

Regional: Metro Code Chapter 3.09

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

Chapter 18.320.020.B: Approval Process and Standards.

Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area;

The City of Tigard Comprehensive Plan's Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to stormwater management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition the comprehensive Plan Glossary includes public safety, parks, and transportation. All services are available to the proposed annexation site and have adequate capacity to serve a single-family dwelling. Each service/facility is discussed in further detail below.

Water – City of Tigard/Tigard Water District. The property lies within the Tigard Water Service Area. The home is currently and will continue to be served with city water. No additions or change of use is proposed with this application. There is adequate capacity to continue serving the site with water.

Sewer – City of Tigard/Clean Water Services. The home is currently served by septic but cannot obtain permits to repair the system because public sanitary service is available in SW 133rd Avenue. Sanitary service is provided by the City of Tigard in this area and there is sufficient capacity to serve the existing single-family residence.

Stormwater – Clean Water Services. Clean Water Services is the current provider of stormwater services in this area. There is a City of Tigard storm line available in SW 133rd Avenue with adequate capacity; however the applicant is not proposing to connect to the storm system at this time.

Streets – City of Tigard Engineering Division. The subject property is located on SW 133rd Avenue, and the portion adjacent to the site is within the Tigard city limits. The proposed annexation will not affect this access; however, the property is within the Washington County Urban Road Maintenance District and will be removed from the district upon annexation.

Police – City of Tigard Police Department. Police services are currently provided by the Washington County Sheriff. If approved, the property will be withdrawn from the Enhanced Sheriff's Patrol District. The City of Tigard Police Department was notified of the proposed annexation and had no objection to the proposed annexation. Tigard Police have adequate capacity to serve one additional single family home and doing so will not significantly reduce the level of services available to other land within the City of Tigard.

Fire – Tualatin Valley Fire and Rescue (TVF&R). The subject property is in Tualatin Valley Fire and Rescue's (TVF&R's) service area. The TVF&R District currently provides services to site, which will not change following annexation. The Fire District has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations.

Parks–City of Tigard. There is an existing City of Tigard neighborhood park on Bull Mountain Road near the proposed annexation site. The addition of one single-family residence will not adversely impact the city's ability or capacity to provide parks.

CONCLUSION: Based upon this review, staff finds that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and have sufficient capacity to provide service. The proposed annexation will not reduce the level of services within the City of Tigard.

2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; and Goal 14, Policy 1- 4. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

Goal 1.1: Citizen Involvement. The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on February 4, 2013: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the subject property on 14695 SW 133rd Avenue. The City published notice of the hearing in *The Tigard Times* for two successive weeks (February 14 and February 21, 2013) prior to the February 26, 2013, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on February 4, 2013.

Goal 11.1: Public Facilities and Services.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.

There is a city stormwater line in SW 133rd Avenue that will be available to serve the site upon annexation; however, the applicant has not indicated any intention of obtaining this service.

Goal 11.3: Public Facilities and Services.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.

City sanitary service is available in SW 133rd Avenue. The applicant is requesting annexation in order to obtain service from this line and will need to obtain the proper City of Tigard permits in order to make the connection to sanitary service.

Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.

The applicable Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C.

Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.

Capacity has been addressed above, consistent with this policy.

Policy 3. The City shall approve proposed annexations based on findings that the request:

A. can be accommodated by the City's public facilities and services; and

The availability of the City's public facilities and services has been addressed above, consistent with this policy.

B. is consistent with applicable state statute.

As reviewed in this report, staff finds that the provisions of ORS 222 have been met, consistent with this policy.

Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.

The subject site's east and west boundaries abut the City of Tigard. Washington County parcels lie to the north and south. Pursuant to the City's annexation policy and to avoid the creation of an island, the City invited the two northern property owners to join the annexation. No property owners responded to the City's invitation. Public services are available as determined in this report.

CONCLUSION: There have been invitations for public participation in the application review process. The city has coordinated with all jurisdictions and agencies within/near the annexation site. The City of Tigard has the services/facilities available and at adequate capacity to serve the site. The proposed annexation is consistent with applicable Comprehensive Plan policies.

Chapter 18.320.020.C

Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar.

FINDINGS: All of the subject property is currently zoned R-6 (Washington County). This zone is intended for residential development at no more than 6 units per acre and no less than 5 units per acre. Table 18.320.1 in the TDC summarizes the conversion of the County's plan and zoning designations to City designations which are most similar. According to this table, the City designation most similar to R-6 is R-7 zoning.

CONCLUSION: Upon annexation the property will be zoned R-7, which most closely implements Washington County's comprehensive plan and zoning designations (R6). This criterion is met.

Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020.B, which

were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 20 days prior to the hearing by mail and to publish notice at least 10 business days prior to the hearing; the City mailed notice on February 4, 2013, and published public notice in *The Tigard Times* for two successive weeks (February 14 & February 21, 2013) prior to the February 26, 2013 public hearing.

Additionally, Chapter 18.390.060 sets forth five factors for consideration when making a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;

FINDINGS: The city's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals and as reviewed above, the annexation proposal is consistent with Tigard Comprehensive Plan goals and policies.

CONCLUSION: The proposal is consistent with the city's acknowledged Comprehensive Plan. Therefore, the proposal complies with statewide planning goals, including citizen involvement, public facilities, transportation, and urbanization.

2. Any federal or state statutes or regulations found applicable;

FINDINGS:

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for the same two week period.

The owners of the subject parcel have signed a petition for annexation to the City. The subject parcel is contiguous to the City's boundary. The City mailed notice on February 4, 2013, and published public notice in *The Tigard Times* for two successive weeks (February 14 & February 21, 2013) prior to the February 26, 2013 public hearing and posted the hearing notice for public view on February 4, 2013 in the Tigard Library, Tigard City Hall, Tigard Permit Center, and at the site on SW 133rd Avenue.

CONCLUSION: Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) & (e) and 3.09.050) below:

FINDINGS:

Metro 3.09.045 (d) and (e)

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;

The Tigard Urban Service Agreement (TUSA) is between the City, County, Metro, and the service Districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. These services are addressed above at the beginning of this report.

The Urban Planning Area Agreement (UPAA) between the City and the County provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the City is the ultimate service provider of urban services within the Tigard Urban Service Area.

The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.”

(B) Any applicable annexation plan adopted pursuant to ORS 195.205;

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This statute is not applicable since the annexation was initiated by the property owner. The applicant has submitted a petition to annex signed by both property owners that are also the registered voters.

(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. These districts are the same within the county and city with the exception of the sewer district, which is the City of Tigard. Planning for these areas will still be considered by the same special districts upon annexation due to existing agreements set up with the City.

(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

(E) Any applicable comprehensive plan; and

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.

The site is adjacent to the City in an area already serviced by sanitary facilities and water. Fire and police protection is provided by county wide services. Other services are offered through the Tigard Urban Services Agreement. The proposed annexation will allow the applicant to obtain city sanitary service. Quality, quantity, or duplication of services is not an issue at this location.

(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.

The property to be annexed is not outside the UGB. This criterion is not applicable.

Metro 3.09.050 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, and that includes at a minimum the following:

The staff report was available February 13, 2013, thirteen days prior to the public hearing. Tigard Development Code requires staff reports be available at least seven days prior to the hearing for Type II on Appeal and Type III applications. No specific number of days is outlined for Type IV procedures; however, the code does state that notice shall be sent at least 10 days prior to the public hearing indicating where all relevant materials and information may be obtained. This would include a staff report. The notice was sent twenty-three days prior to the hearing and no one requested a copy of the staff report. The Development Code states that Metro Code requirements be considered when making the final decision, but the requirements are not listed as approval criteria. Tigard City Council reviews and considers the findings of the staff report when making decisions.

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

As addressed previously in this report, urban services are available to the affected territory.

(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

The proposed territory will remain within Washington County but will be required to be withdrawn from the Washington County Enhanced Sheriff's Patrol District and Urban Road Service District upon completion of the annexation. This withdrawal is incorporated into the proposed ordinance.

(3) The proposed effective date of the boundary change.

The public hearing will take place February 26, 2013. If the Council adopts findings to approve ZCA2012-00002, the effective date of the annexation will be upon filing with the Secretary of State office per Oregon Revised Statutes (ORS 222.180).

(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

The proposed boundary change meets the applicable criteria as demonstrated in this staff report.

(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

CONCLUSION: As shown in the above findings the proposed annexation satisfies the Metro Code regulations related to Local Government Boundary Changes.

(Tigard CDC 18.390.060 continued)

4. Any applicable comprehensive plan policies; and

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

5. Any applicable provisions of the City's implementing ordinances.

FINDINGS: Resolution 12-09 extended previously approved incentives for property owners that voluntary annex into the city limits through February 2013. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

CONCLUSION: Based upon the findings above, all applicable provisions of the city's implementing ordinances are satisfied

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department Public Information Officer, Jim Wolf, and the City of Tigard Greg Berry, Public Works Project Engineer both commented that there were no issues with the project.

SECTION VIII. AGENCY COMMENTS

Century-Link noted that the site was outside the Qwest service area.

Washington County Planning and Development Services and Tualatin Valley Fire and Rescue reviewed the proposal and stated no objections to it.

No other agency comments were received.

SECTION IX. PUBLIC COMMENTS

The City mailed notice to surrounding property owners within 500 feet. No written public comments were received. Two phone calls were received to inquire about future development of the site associated with the annexation. Staff is not aware of any future development plans for the site. The applicant states that annexation is requested to obtain city sanitary service because the existing septic system cannot be repaired.

Cheryl Caines

PREPARED BY: Cheryl Caines
Associate Planner

February 14, 2013
DATE

Tom McGuire

REVIEWED BY: Tom McGuire
Interim Asst. Community Development Director

February 14, 2013
DATE

Business Meeting**Meeting Date:** 02/26/2013**Length (in minutes):** 60 Minutes**Agenda Title:** Legislative Public Hearing: DCA2012-00004 Durham Facility Plan District**Submitted By:** John Floyd, Community Development
Ordinance**Item Type:** Public Hearing - Legislative**Meeting Type:** Council Business Meeting - Main**Public Hearing:** Yes**Publication Date:****Information****ISSUE**

Public Hearing to consider the Planning Commission Recommendation regarding DCA2012-00004, an amendment package to adopt a new plan district to regulate the CWS wastewater treatment plant, and supporting amendments to create a legal foundation for plan districts within the Tigard Development Code.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends Council support the Planning Commission's recommendation to adopt DCA2012-00004, as set forth in the attached draft ordinance.

KEY FACTS AND INFORMATION SUMMARY

The principal purpose of this project is the adoption of new land use regulations for an existing regional wastewater treatment plant within the City of Tigard. These regulations will reside within a new, single-use plan district to be known as Tigard Development Code (TDC) Chapter 18.650: Durham Advanced Wastewater Treatment Facility Plan District. The purpose of this district is to acknowledge the future operation, modification, and growth of the wastewater facility, while avoiding or mitigating off-site impacts that may negatively affect adjoining properties and public facilities.

Associated with this project are a series of supporting text amendments to create consistency and clarity regarding plan districts generally. The first is the proposed creation of Chapter 18.605 (Plan Districts) to establish a clear purpose statement and approval standards for their adoption and modification. At present the TDC lacks any standards and guidance pertaining to the adoption and implementation of plan districts. As a result, existing plan districts vary in naming convention and lack clear maps demarcating where they are to be applied. The proposed amendments are intended to correct these deficiencies.

Please refer to the attached Project Report for the proposed text and map amendments, including additional background information, major issues, and commentary. Major project components are summarized below:

Creation of Chapter 18.605 (Plan Districts) to provide a purpose statement for Plan Districts and approval standards and review processes for their adoption.

Text Amendments to 18.610 (Downtown), 18.620 (Tigard Triangle), 18.630 (Washington Square), and 18.640 (Durham Quarry aka Bridgeport Village) to create a uniform naming convention and include boundary maps to clarify where the regulations apply. Map boundaries are based on those established at the time of adoption of each district.

Creation of Chapter 18.650 to acknowledge and regulate the continued operation and development of the Durham Facility as a primary allowed use within existing property boundaries.

OTHER ALTERNATIVES

The Council may approve, approve with modifications, deny or adopt an alternative to an application for the legislative change or remand to the Commission for rehearing and reconsideration

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

October 11, 2011

June 12, 2012

February 5, 2013

Attachments

Draft Ordinance

Staff Report

Project Report

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE TIGARD ZONING MAP TO INCLUDE EXISTING BOUNDARIES OF THE CITY'S ADOPTED PLAN DISTRICTS; AMENDING EXISTING TIGARD COMMUNITY DEVELOPMENT CODE CHAPTERS 18.600, 18.610, 18.620, 18.630, 18.640 TO ESTABLISH A UNIFORM NAMING CONVENTION FOR PLAN DISTRICTS AND CLARIFY WHERE THE REGULATIONS CONTAINED WITHIN EACH CHAPTER APPLY; AND CREATING TWO NEW CHAPTERS WITHIN THE TIGARD COMMUNITY DEVELOPMENT CODE TO BE KNOWN AS 18.605 AND 18.650 FOR THE PURPOSES OF ESTABLISHING APPROVAL PROCEDURES AND STANDARDS FOR PLAN DISTRICTS AND ESTABLISHING THE DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT.

WHEREAS, the Tigard City Council directed Planning Division staff to prepare amendments to the Tigard Community Development Code pertaining to the purpose and approval procedures for plan districts generally, concurrent with the creation of a new plan district for the Durham Advanced Wastewater Treatment Plant located within the boundaries of the City; and

WHEREAS, amendments to the Tigard Zoning Map and Tigard Community Development Code Chapters 18.600 through 18.640 would increase the legibility of the code to future users through the addition of maps and updated naming conventions; and

WHEREAS, the purpose of creating 18.605 is to establish a clear purpose and procedures for the adoption and application of plan district standards within the City; and

WHEREAS, the purpose of creating 18.650 is to implement regulations appropriate to the unique history of the facility and that support the public interest in maintaining and further developing a regional wastewater treatment facility while minimizing off-site impacts to adjacent residential land uses and other public facilities; and

WHEREAS, notice was provided to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary public hearing; and

WHEREAS, notice of the public hearing was performed in conformance with Community Development Code Chapter 18.390.060.D; and

WHEREAS, the Tigard Planning Commission held two duly noticed public hearings on January 14, 2013 and February 4, 2013 and recommended with a unanimous vote that Council approve the proposed code amendment, as amended; and

WHEREAS, the Tigard City Council held a public hearing on February 26, 2013, to consider the proposed amendment; and

WHEREAS, the Tigard City Council has considered the Planning Commission recommendation; and

WHEREAS, the Tigard City Council has considered the applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

WHEREAS, the Tigard City Council has determined that the proposed development code amendment is consistent with the applicable review criteria, and unanimously approves amendments to the Tigard Community Development Code and Official Zoning Map as being in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Council adopts the findings recommended by the Planning Commission as contained in the January 7, 2013 Staff Report to the Planning Commission, included as **"Exhibit A"** to this Ordinance.

SECTION 2: Tigard Development Code (Title 18) and the Official Zoning Map are amended as shown in **"Attachment 1 of Exhibit A - Durham Advanced Wastewater Treatment Facility Plan District Project Report and Draft Amendments – Planning Commission Recommendation of February 4, 2013."**

SECTION 3: Council further adopts the background history, project issues, and commentary contained in **"Attachment 1 of Exhibit A"** as additional legislative intent for the corresponding code amendments.

SECTION 4: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2013.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2013.

John L. Cook, Mayor

Approved as to form:

City Attorney

Date

**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

CASE NAME: DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT & GENERAL PLAN DISTRICT STANDARDS DEVELOPMENT CODE AMENDMENT

CASE NO.: Development Code Amendment (DCA) DCA2012-00004

PROPOSAL: The City of Tigard proposes legislative amendments to the Tigard Development Code (TDC) and Zoning Map in a combined amendment package to adopt two new chapters and clarify the applicable boundaries of four existing chapters. The City proposes the adoption of Chapter 18.605 (Plan Districts) to provide approval standards for the adoption of future plan districts or the modification of existing and future plan districts. The City and Clean Water Services jointly propose the adoption of Chapter 18.650 to create a new plan district to govern future development within the 106 acre Durham Advanced Wastewater Treatment Facility (Durham Facility). The City also proposes text amendments to TDC Chapters 18.600, 610, 620, 630, and 640 to create a uniform naming convention and add boundary maps to provide clarity as to where the regulations apply; boundary maps to be identical to those adopted with the applicable chapters for illustrative and clarifying purposes only. The City also proposes corresponding changes to the official Zoning Map to add the boundaries of the Durham Facility Plan District and four other existing plan districts which are not presently shown. The proposed amendments for the Planning Commission's review are included in **Attachment 1** and summarized below in Section IV of this report:

APPLICANTS: City of Tigard Clean Water Services
13125 SW Hall Blvd. 2550 SW Hillsboro Highway
Tigard, OR 97223 Hillsboro, OR 97123

ZONES: Chapters 18.600 & 18.605: Citywide
Chapter 18.610: MU-CBD Zoning District
Chapter 18.620: C-G & MUE
Chapter 18.630: MUC, MUE-1, MUE-2, MUR-1, MUR-2, R-4.5, R-7, & R-12
Chapter 18.640: MUC-1
Chapter 18.650: I-P & R-4.5

LOCATION: Citywide and properties identified in the Attached Maps.

**APPLICABLE
REVIEW
CRITERIA:**

Statewide Planning Goals 1, 2, 6, 9, 10, 11 and 13; Metro Urban Growth Management Function Plan Title 4; Comprehensive Plan Goals 1, 2, 6, 9, 10, and 11; and Community Development Code Chapters 18.380 and 18.390.

SECTION II. STAFF RECOMMENDATION

Staff recommends the Planning Commission find in favor of the proposed code text amendments (**Attachment 1**) to improve the existing code by adopting Tigard Development Code Chapter 18.605 Plan District standards; clarifying amendments to Chapters 18.600, 18.610, 18.620, 18.630, and 18.640 of the Tigard Development Code and official Zoning Map; and Chapter 18.650: Durham Advanced Wastewater Treatment Facility Plan District; with any alterations as determined through the public hearing process, and make a final recommendation to the Tigard City Council.

SECTION III. BACKGROUND INFORMATION & PROJECT SUMMARY

The principal purpose of this project is the creation of new land use regulations for an existing regional wastewater treatment plant within the City of Tigard. These regulations will reside within a new, single-use plan district to be known as Tigard Development Code (TDC) Chapter 18.650: Durham Advanced Wastewater Treatment Facility Plan District. The purpose of this district is to acknowledge the future operation, modification, and growth of the wastewater facility, while avoiding or mitigating off-site impacts that may negatively affect adjoining properties and public facilities.

Associated with this project are a series of supporting text amendments to create consistency and clarity regarding plan districts generally. The first is the proposed creation of Chapter 18.605 (Plan Districts) to establish a clear purpose statement and approval standards for their adoption and modification. At present the TDC lacks any standards and guidance pertaining to the adoption and implementation of plan districts. As a result of this lack, the existing plan districts vary in naming convention or clear maps demarcating where they are to be applied. The proposed amendments are intended to correct these deficiencies.

Please refer to **Attachment 1** for the proposed text and map amendments, including additional background information, major issues, and commentary. Major project components are listed below:

- Creation of Chapter 18.605 (Plan Districts) to provide a purpose statement for Plan Districts and approval standards and review processes for their adoption.
- Text Amendments to 18.610 (Downtown), 18.620 (Tigard Triangle), 18.630 (Washington Square), and 18.640 (Durham Quarry aka Bridgeport Village) to create a uniform naming convention and include boundary maps to clarify where the regulations apply. Map boundaries are based on those established at the time of adoption of each district.
- Creation of Chapter 18.650 to acknowledge the continued operation and development of the Durham Facility as a primary allowed use within existing property boundaries. Major components include:
 - Remedies a 1998 legislative oversight that accidentally rendered the Durham Facility a nonconforming land use (grandfathered due to its pre-existing status), making further expansion and modification difficult. Under the new code, wastewater treatment is acknowledged as the primary use of the affected properties.
 - Replaces the split zoning of the facility (R-4.5 Low Density Residential & Industrial Park) with a unified set of land use standards specifically tailored for the Durham Facility. Allowed uses and development standards would be based upon three functional sub-districts: Administrative, Operations, and Floodplain.
 - Land use permits will not be required for a majority of anticipated improvements. However, major projects along Durham road or those with the potential to negatively impact the transportation system will still require a conditional use permit.

- Establishes strict standards to prevent off-site impacts resulting from excessive noise, odors, light intrusion, and unharmonious building design.
- Waives the requirement for Waverly Drive to be extended across the Durham Facility to 85th Avenue as a public street, but requires CWS to maintain an improved but gated connection for emergency service vehicles in a roughly similar alignment.
- Amendment of the Tigard Zoning Map to include the boundaries of the four existing and one new plan district. Map boundaries are based on those established at the time of adoption of each district, and only clarify existing boundaries. No changes to existing uses, standards, or district boundaries are proposed.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

STATEWIDE PLANNING GOALS AND GUIDELINES

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed Code Amendments have a limited scope and the text amendments address only some of the topics in the Statewide Planning Goals, only applicable Statewide Goals are addressed below.

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service to affected government agencies and the latest version of the interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. After the Planning Commission public hearing, additional notice will be published prior to the City Council hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. In excess of the requirements of the TDC, planning staff held a neighborhood workshop on December 18, 2012 to invite input on the proposed Durham Facility Plan District. Notices of the neighborhood meeting were mailed to 466 property owners within 1,000 feet of the plan district. One person attended and did not comment. A project website and a notice in the January edition of Cityscape magazine were also published in order to invite more citizen participation. This goal is satisfied.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework.

FINDING: The Department of Land Conservation and Development (DLCD) has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and standards to review changes to the Tigard Development Code. As discussed within this report, the applicable Development Code process and standards have been applied to the proposed amendment. This goal is satisfied.

Statewide Planning Goal 6 – Air, Water and Land Resources Quality

This goal seeks to maintain and improve the quality of the air, water and land resources of the state. Included within this goal is a requirement that plans should designate areas suitable for use in controlling pollution including, but not limited to waste water treatment plants; and that such areas should be buffered and separated to avoid impacts to air, water, and land resources.

FINDING: Clean Water Services holds the NPDES permit for the Tualatin River Watershed, and provides wastewater treatment to the City of Tigard and other jurisdictions within the watershed. As discussed within the report, the proposed amendments will establish land use controls that acknowledge the continued operation and expansion of a wastewater treatment plant to protect water quality and public health, but ensure that the operation and further development of the plant is buffered from adjacent land uses and does not exceed set thresholds for noise, odor, and light intrusion. This goal is satisfied.

Statewide Planning Goal 9 – Economic Development:

This goal seeks to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The Department of Land Conservation and Development has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City’s Comprehensive Plan Economic Development goals and policies is discussed later in this report under Tigard Comprehensive Plan Goal 9.1 and associated policies. This goal is satisfied.

Statewide Planning Goal 10 –Housing

This goal seeks to provide for the housing needs of citizens of the state.

FINDING: The Department of Land Conservation and Development has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City’s Comprehensive Plan Housing goal and policies is discussed later in this report under Tigard Comprehensive Plan Goal 10.2 and associated Policies. This goal is satisfied.

Statewide Planning Goal 13 – Energy Conservation

This goal seeks to provide for land development and uses that maximize the conservation of all forms of energy.

FINDING: The proposed amendment to create 18.650 would provide greater flexibility to Clean Water Services as it continues to implement technology and partnerships related to on-site energy conservation, energy generation, and nutrient recovery and reuse. This goal is satisfied.

CONCLUSION: Based on the findings above and the related findings below, staff finds the proposed code amendments are consistent with applicable Statewide Planning Goals.

APPLICABLE PROVISIONS OF THE METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

METRO planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the regional land use goals. Because the proposed Code Amendment have a limited scope and the text amendments address only some of the topics in the Urban Growth Management Functional Plan, only the standards of Title 4 (Industrial and Other Employment Areas) apply.

Title 4: Industrial and Other Employment Areas

3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds.

C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.

FINDING: A review of the “Title 4 Employment and Industrial Areas Map as of January 18, 2012” reveals the presence of Industrial Areas within the City of Tigard, including the site of the proposed Durham Facility Plan District. The proposed amendment to adopt 18.650 (Durham Facility Plan District) would not allow land uses

described in subsection 3.07.430.A above. The proposed amendments to 18.610-640 do not change the allowed uses. As a result the proposed amendments meet these standards.

CONCLUSION: Based on the findings above, staff finds that the proposed code text amendment is consistent with the Urban Growth Management Functional Plan.

TIGARD COMPREHENSIVE PLAN

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals and consistent with Comprehensive Plan Goals and Policies. Because the Development Code Amendments have a limited scope and the text amendments address only some of the topics in the Tigard Comprehensive Plan, only applicable comprehensive plan goals and associated policies are addressed below.

Comprehensive Plan Goal 1: Citizen Involvement

Policy 1.1.2: The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.

FINDING: Notices were sent by US Postal Service to affected government agencies and the latest version of the interested parties list. A notice was published in the Tigard Times newspaper and City website prior to the Planning Commission hearing. After the Planning Commission public hearing, additional notice will be published prior to the City Council hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. In excess of the requirements of the TDC, planning staff held a neighborhood workshop on December 18, 2012 to invite input on the proposed Durham Facility Plan District. Notice for the neighborhood meeting was mailed to 466 property owners within 1,000 feet of the plan district and on the City of Tigard website. One person attended and did not comment. A project website and a notice in the January edition of Cityscape magazine were also published in order to invite more citizen participation. This policy is satisfied.

Comprehensive Plan Goal 2: Land Use Planning

Policy 2.1.2: The City’s land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

FINDING: As demonstrated in this staff report, the proposed amendments to the Tigard Development Code are consistent with the Tigard Comprehensive Plan. This policy is satisfied.

Policy 2.1.3: The City shall coordinate the adoption, amendment, and implementation of its land use program with other potentially affected jurisdictions and agencies.

FINDING: The proposed text amendment to create the Durham Facility Plan District was developed through a partnership with Clean Water Services, with the work conducted under the terms and conditions of an intergovernmental agreement signed by both parties. Copies of the proposed amendments were sent to all potentially affected jurisdictions, as further discussed in Section VII below. This policy is satisfied.

Policy 2.1.7: The City’s regulatory land use maps and development code shall implement the Comprehensive Plan by providing for needed urban land uses including:

- A. Residential;**
- B. Commercial and office employment including business parks;**
- C. Mixed Use;**
- D. Industrial;**
- E. Overlay districts where natural resource protections or special planning and regulatory tools are warranted; and**
- F. Public Services**

FINDING: The proposed text amendment to create TDC chapter 18.650 will return a critical public facility to conforming status (presently nonconforming due to a 1998 text amendment), allowing the wastewater treatment facility to provided needed public services to support future urbanization and redevelopment. In

addition, the proposed language in 18.650 would allow accessory industrial land uses to locate within the plan district in order to recover nutrients and energy from the waste stream or treatment processes. This policy is satisfied.

Policy 2.1.12: The City shall provide a wide range of tools, such as planned development, design standards, and conservation easements that encourage results such as:

- A. High quality and innovative design and construction;**
- B. Land use compatibility;**
- C. Protection of natural resources;**
- D. Preservation of open space; and**
- E. Regulatory flexibility necessary for projects to adapt to site conditions.**

FINDING: The proposed text amendments to create the Durham Facility Plan District will establish a wider range of land use tools to ensure high quality and innovative development through design standards and regulatory flexibility; will ensure land use compatibility through defined buffering standards and clear and objective off-site impact standards; will aid in the preservation of open space within the plan district; and will provide regulatory flexibility necessary for Clean Water Services to respond and adapt to an ever-changing regulatory and technological environment. The supporting text amendments will ensure that existing and future plan district chapters will be consistently adopted and implemented in order to achieve similar results. This policy is satisfied.

Policy 2.1.20: The City shall periodically review and, if necessary, update its Comprehensive Plan and regulatory maps and implementing measures to ensure they are current and responsive to community needs, provide reliable information, and conform to applicable state law, administrative rules, and regional requirements.

FINDING: The proposed amendments are in response to community needs for reliable information, and to ensure wastewater treatment continues in compliance with applicable state and federal requirements.

At present, three of the four existing plan districts are not clearly identified with maps showing the areas in which they apply. Moreover, the development code does not establish clear criteria for approval for new plan districts, or modification of the existing ones. The proposed amendments will address these issues by adding maps both within the individual TDC Chapters containing the regulations (18.610-640), and on the official zoning map, to ensure the public is able to clearly identify the presence and boundaries of each district. The addition of proposed Chapter 18.605 would also establish clear criteria for the adoption of new plan districts, and would help to ensure uniformity and clear consistency with the City's various goals and policies.

As the host city, Tigard has an interest in supporting CWS's responsibility to meet strict air and water quality requirements as it treats the region's wastewater at the Durham Facility. The proposed Durham Facility Plan District is intended to provide CWS with sufficient flexibility to both plan and quickly respond to applicable state and federal requirements, while ensuring compatibility with adjoining land uses. Without action by the City to address the facility's nonconforming status, compliance with applicable state and federal requirements, as well as necessary capacity upgrades to accommodate regional growth will be difficult if not impossible.

As described above the amendments respond to community needs. This policy is satisfied.

Policy 2.1.24: The City shall establish design standards to promote quality urban development and to enhance the community's value, livability, and attractiveness.

FINDING: The proposed amendment to create the Durham Facility Plan District will promote quality development in a high profile location through the design standards proposed for the Administrative sub-district. The proposed plan district will also protect the community's value, livability, and attractiveness by masking the operational functions of the facility behind vegetative buffers and screening, and imposing clear and objective standards for noise, odor and glare. At the citywide level, having clear criteria setting forth the purpose and adopting process for plan districts generally will result in more district specific regulations that will enhance the community's value, livability, and attractiveness. This policy is satisfied.

Goal 6.2: Ensure land use activities protect and enhance the community’s water quality.

Policy 6.2.2: The City shall continue cooperation with federal, state, and regional agencies in the management of Tigard’s water resources and the implementation of plans and programs.

FINDING: The proposed text amendment to create the Durham Facility Plan District was developed through a partnership with Clean Water Services, with the work conducted under the terms and conditions of an intergovernmental agreement signed by both parties. The purpose statement of the proposed plan district acknowledges the continued operation, modification, and expansion of the facility. Moreover, the plan district is structured to provide significant flexibility to CWS as it complies with regional service demands and federal and state agencies in its continued management of water resources. This policy is satisfied.

Comprehensive Plan Goal 9: Economic Development

Goal 9.1: Develop and maintain a strong, diversified, and sustainable local economy.

Policy 9.1.3: The city’s land use and other regulatory practices shall be flexible and adaptive to promote economic development opportunities, provided that required infrastructure is made available.

Policy 9.1.6: The City shall promote actions that result in greater, more efficient, utilization of its Metro-designated Employment and Industrial Areas.

FINDING: The proposed Durham Facility Plan District is intended to allow the development of a limited amount of industrial activity within the plan district, provided it is clearly accessory to the treatment process and is based upon the extraction or processing of raw resources recovered, diverted, or otherwise produced by the treatment of wastewater. The intent is to allow the operator of the facility to partner with non-profit or for-profit entities who wish to develop new technologies, establish or expand new businesses or organizations, and provide for more employment opportunities in a sustainable industry.

The proposed Plan District Chapter that will govern the establishment of new plan districts will provide guidance and greater regulatory flexibility and adaptability when trying to adopt new plan districts to address particular economic development issues. With Metro designated employment and industrial areas present in both existing and the proposed new plan district, the proposed amendments are expected to provide for more efficient utilization of these areas.

The applicable economic development policies are satisfied.

Comprehensive Plan Goal 10: Housing

Goal 10.2 Maintain a high level of residential livability.

Policy 10.2.1: The City shall adopt measures to protect and enhance the quality and integrity of its residential neighborhoods.

Policy 10.2.8: The city shall require measures to mitigate the adverse impacts from differing, or more intense, land uses on residential living environments, such as:

- A. Orderly transitions from one residential density to another;**
- B. Protection of existing vegetation, natural resources and provision of open space areas; and**
- C. Installation of landscaping and effective buffering and screening.**

FINDING: The proposed Durham Facility Plan District (18.650) requires substantial buffering and screening around the perimeter of the wastewater treatment facility, and includes clear and objective standards to prevent off-site impacts to adjacent land uses. These impact standards are specific to common land use impacts resulting from wastewater treatment or industrial land uses, and include standards pertaining to noise, odor, glare, and aesthetic impacts. These regulations are intended to protect and enhance the quality and integrity of adjacent residential and civic land uses. The proposed Plan District chapter (18.605) will strengthen the City’s ability to adopt and implement additional plan districts to protect and enhance the City’s residential neighborhoods. Applicable housing policies pertaining to the maintenance of residential livability are satisfied.

Comprehensive Plan Goal 11: Public Facilities and Services

Goal 11.3 Develop and maintain a wastewater collection system that meets the existing and future needs of the community.

Policy 11.3.2: The city shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive wastewater management system for current and projected Tigard residents.

FINDING: The proposed text amendment to create the Durham Facility Plan District was developed through a partnership with Clean Water Services, with the work conducted under the terms and conditions of an intergovernmental agreement signed by both parties. The purpose statement of the proposed plan district acknowledges the continued operation, modification, and expansion of an existing facility operated and maintained by Clean Water Services. Moreover, the plan district is structured to provide significant flexibility to CWS as it complies with regional service demands and federal and state agencies in its continued management of water resources. This policy is satisfied.

Goal 11.4 Maintain adequate public facilities and services to meet the health, safety, education, and leisure needs of all Tigard residents.

Policy 11.4.5: The City shall work in conjunction with partner agencies and districts in the planning and locating of their new facilities.

FINDING: The proposed text amendment to create the Durham Facility Plan District was developed through a partnership with Clean Water Services, with the work conducted under the terms and conditions of an intergovernmental agreement signed by both parties. The purpose statement of the proposed plan district acknowledges the continued operation, modification, and expansion of an existing facility operated and maintained by Clean Water Services. Moreover, the plan district is structured to provide significant flexibility to CWS as it complies with regional service demands and federal and state agencies in its continued management of water resources. This policy is satisfied.

APPLICABLE PROVISIONS OF THE TIGARD DEVELOPMENT CODE

Tigard Development Code Section 18.380.020, Legislative Amendments to this Title and Map, states that legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

FINDING: The proposed text and map amendments are legislative in nature. Therefore, the amendment will be reviewed under the Type IV legislative procedure as set forth in the chapter. This procedure requires public hearings by both the Planning Commission and City Council. This standard is met.

Section 18.390.060.G establishes standard decision-making procedures for reviewing Type IV applications. The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors: 1) The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; 2) Any federal or state statutes or regulations found applicable; 3) Any applicable METRO regulations; 4) Any applicable comprehensive plan policies; and 5) Any applicable provisions of the City's implementing ordinances.

FINDING: Findings and conclusions are provided in this section for the applicable listed factors on which the recommendation by the Commission and the decision by the Council shall be based. This standard is met.

CONCLUSION: Based on the findings above, staff concludes that the proposed code text amendment is consistent with applicable provisions of the Tigard Development Code.

DRAFT PLAN DISTRICT ADOPTION CRITERIA

The analysis below is intended to demonstrate consistency of the proposed Durham Facility Plan District in Chapter 18.650, with the proposed adoption criteria contained in 18.605 (Plan Districts).

- A. The area proposed for the plan district has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the City;**

FINDING: As discussed in the Project report included as Attachment 1 to this staff report, the area proposed for Chapter 18.650 has special problems related to land use history, land use compatibility, and public facility needs to protect the public health and welfare. This criterion is met.

- B. Existing base zone provisions are inadequate to achieve a desired public benefit or to address an identified problem in the area;**

FINDING: As discussed in the Project Report included as Attachment 1 to this staff report, existing base zones are inadequate to achieve the desired public benefit or identify issues of land use compatibility and regional public service provision. This criterion is met.

- C. The proposed plan district and regulations are the result of a study or plan documenting the special characteristics or problems of the area and how a plan district will best address relevant issues; and**

FINDING: The special characteristics and problems of the plan district, and how the proposed regulations address those problems, are documented in the Project Report included as Attachment 1 of the staff report. This Criterion is met.

- D. The regulations of the plan district are in conformance with the Comprehensive Plan.**

FINDING: As demonstrated in the analysis above, the proposed regulations of the plan district are in conformance with the Comprehensive Plan. This criterion is met.

CONCLUSION: The proposed Chapter 18.650 (Durham Facility Plan District) is consistent with proposed adoption criteria in 18.605 (Plan Districts)

SUMMARY

CONCLUSION: As shown in the findings above, staff concludes that the proposed code text and map amendments are consistent with the applicable Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, applicable Comprehensive Plan goals and policies, and the applicable provisions of the City's implementing ordinances. The proposed new plan district in Chapter 18.650 is consistent with the proposed new plan district adoption criteria contained in 18.605. No federal or state statutes or regulations were found to be applicable.

SECTION V. STAFF ANALYSIS

Staff analysis on each of the proposed amendments can be found within **Attachment 1** of this staff report. This includes background information, an issues summary, and the proposed text and map amendments with staff commentary. Proposed code amendments are organized by Development Code chapter number. Even-numbered pages contain commentary on the amendments, which are contained on the opposite (following) odd-numbered page. The commentary establishes, in part, the legislative intent in adopting these amendments.

SECTION VI. OTHER ALTERNATIVES

No Action – The code would remain unchanged. Modifications and expansions to the Durham Facility would be limited, potentially leading to a noncompliance with federal/state environmental regulations and limitations on new development within the City of Tigard and CWS service area. Ambiguities would also remain as to

how the City is to adopt or modify an existing community plan area, and where the existing districts apply.

Alternative Action – In lieu of new plan district regulations, the City could modify the Comprehensive Plan Map and Zoning Map to assign a designation of Heavy Industrial. This would return the Durham Facility to a conforming use, but would not protect existing and adjacent land uses from potentially significant off-site impacts such as noise, odor, and light impacts.

SECTION VII. AGENCY COMMENTS

The **City of Beaverton** was notified of the proposal and had no objections.

City of Tigard Public Works, City of Durham, City of Lake Oswego, City of Tualatin, Washington County, METRO, ODOT, DLCD, DEQ, ODFW, Portland Western and Southern Pacific Railroads, Tigard Tualatin School District, and Tri-Met were notified of the proposed code text amendment but provided no comment.

ATTACHMENTS:

Attachment 1: Durham Advanced Wastewater Treatment Facility Plan District: Project Report and Draft Amendments. (January 7, 2013)

PREPARED BY: John Floyd
Associate Planner

January 7, 2013
DATE

APPROVED BY: Tom McGuire
Interim Assistant Community Development Director

January 7, 2013
DATE

CITY OF TIGARD

**DURHAM ADVANCED WASTEWATER TREATMENT
FACILITY PLAN DISTRICT**

PROJECT REPORT & PROPOSED TEXT/MAP AMENDMENTS

**PLANNING COMMISSION RECOMMENDATION
FEBRUARY 4, 2013**

Staff Contact:
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TABLE OF CONTENTS

Section I:	Project Background.....	3
	Introduction	
	Project Background	
	Site and Vicinity	
	Land Use Regulation – History and Context	
	Intergovernmental Agreement to Establish Plan District	
Section II:	Maps.....	9
	Existing Land Uses	
	Existing Regulations	
	Sensitive Land Areas	
	Existing Trails & Right of Way	
	City of Durham Zoning Map	
Section III:	Project Issues.....	15
	Plan Districts Generally	
	From Master Plan to Dynamic Growth	
	Off-Site Impacts	
	Resource Recovery & Public/Private Partnerships	
	Circulation	
Section IV:	Proposed Development Code Amendments.....	21
	Changes to Zoning District Map	
	Changes to 18.120 Definitions	
	Changes to 18.530 Industrial Zoning Districts.	
	Creation of 18.605 Plan Districts Generally	
	Changes to 18.610 Tigard Downtown District Development & Design Standards	
	Changes to 18.620 Tigard Triangle Design Standards	
	Changes to 18.630 Washington Square Regional Center	
	Changes to 18.640 Durham Quarry Design Standards	
	Creation of 18.650 Durham Advanced Wastewater Treatment Facility Plan District	
Section V:	Appendices.....	89
	A. Technical Memorandum: Background and Suggested Approach for Addressing Odor	
	B. Technical Memorandum: Suggested Approach for Addressing Noise	

SECTION I: PROJECT BACKGROUND

Introduction

This project proposes new land use regulations for an existing regional wastewater treatment plant within the City of Tigard. These regulations will principally reside within a new, single-use plan district. The purpose of this district is to acknowledge the future operation, modification, and growth of the wastewater facility, while avoiding or mitigating off-site impacts that may negatively affect adjoining properties and public facilities. Associated with this project is a new development code chapter intended to govern plan districts generally, as the code presently lacks a clear mechanism for their adoption and administration.

Project Background

Founded in 1970, Clean Water Services (CWS) is a special district charged with managing water quality within the Tualatin River watershed, including the operation of separate stormwater and sanitary sewer systems that service urbanized Washington County. Operating under a watershed based National Pollutant Discharge Elimination System (NPDES) permit, sanitary sewer treatment occurs at four treatment facilities located in Hillsboro, Forest Grove, and the City of Tigard. The second largest of these, Durham Advanced Wastewater Treatment Facility (Durham Facility), began operations in 1976 and replaced 14 decentralized wastewater plants scattered around the region. In 1978 the facility was annexed by the City of Tigard.

The service population of Durham Facility is approximately 210,000 people residing within the cities of Beaverton, Durham, King City, Sherwood, Tigard, Tualatin, portions of Southwest Portland and Lake Oswego, and unincorporated urban areas within Washington County. Durham Facility is designed to clean an average of 26 million gallons of wastewater per day (MGD) in dry weather, and a daily wet weather average of 79 MGD. Average flows consist of approximately 96 percent domestic and 4 percent industrial and commercial waste. Effluent water is discharged to the Tualatin river or for reuse by Tigard High School and nearby golf-courses for irrigation purpose. Biosolid waste (approximately 14 dry tons daily) is removed for use as soil amendments by agricultural users.

During a routine pre-application conference for a new “Fats, Oils, and Grease” building, the City of Tigard discovered that Durham Facility is no longer an allowed land use within either of the zoning districts it straddles. This fact renders the Durham Plant a nonconforming land use, complicating upgrades of the existing facility and prohibiting expansion beyond the current footprint. From a practical and regulatory standpoint, this is not a tenable situation due to potential risks to public health, the difficulties it creates for CWS to comply with state and federal regulations, and the city’s interest in maintaining a cooperative relationship with CWS. Moving the facility would present significant costs to both Tigard and the region that are neither practicable nor quick. As a critical regional facility that cannot be easily relocated, and is charged with meeting stringent state and federal permitting standards, both the City of Tigard and CWS find it prudent and desirable to amend the Tigard Community Development Code to allow necessary expansion and upgrades.

Site and Vicinity

As shown on maps contained in Section II of this project report, Durham Facility encompasses 8 parcels and approximately 106 acres of land within the City of Tigard. Elevation on the site varies by approximately 70 feet, sloping in a southerly direction towards the Tualatin River. Approximately two-thirds of the site consists of an upland area, with the remainder located within Tualatin River floodplain. A steep embankment roughly demarcates these two areas. The upper campus contains administrative offices and extensive landscaping along the northern boundary, which visibly screen the waste processing and recovery facilities occupying the center of the campus. An artificial berm roughly demarcates the western boundary of the upper campus, and is intended to screen the facility from adjacent residential and educational land use. The lower campus is largely undeveloped including restored riparian forest, oak savannah, and wet prairie interspersed with public trails that connect to a regional trail network. Inventoried wetlands cover a significant portion of the lower campus.

As shown on the existing land uses map within Section II of this report, the campus is roughly bounded by Durham Road to the North, railroad tracks to the southeast, the Tualatin River to the South, and a variety of adjoining land uses along the northeastern and western perimeters. Adjacent land uses within the City of Tigard include two light industrial parks, Durham Elementary School, Tigard High School, Waverly Estates Subdivision, and Cook Park. Beyond Durham Road to the north are a mixture of single and multi-family land uses, and a small neighborhood commercial center. Durham City Park adjoins the campus to the east, and Tualatin Country Club lies across the Tualatin River to the south.

As shown on the Trails and Existing Right of Way map in Section II of this report, Durham Facility is roughly bisected by SW 85th Avenue, a designated arterial and bike route, which provides primary access to the facility via Durham Road and Hall Boulevard. Adjoining Durham Facility to the west is Waverly Drive, the primary access road for Waverly Estates Subdivision, which ends at a barricade at the Durham Facility boundary. Unimproved right-of-way connects Waverly Drive with SW 85th Avenue, crossing a restricted but largely unimproved portion of Durham Facility. Public sidewalks and mixed-use trails provide cross-campus connections along 85th Avenue and across the lower campus area, connecting to Cook Park, Durham City Park, and Tualatin Community Park via the Kia-a-kuts Bridge.

Land Use Regulation – History and Context

Following annexation in 1976, the City of Tigard authorized two major expansions in 1990 and 1999 respectively. Both were processed as Conditional Use Permits, with the latter subject to multiple “minor modifications” in subsequent years.

A review of City records revealed the following land use permits applicable to the facility:

- CU88-07 – Authorized construction of the Headworks Building on west side of 85th Avenue.
- CUP90-00002 - Authorized a major modification of the existing conditional use (expansion of Durham Facility).
- CUP90-00003 – Sensitive Lands Review authorizing fill in a designated floodplain.
- VAR90-00015 – Variance to exceed maximum allowable height in the I-P Zone.
- CUP1999-00003 – Major Modification authorizing a three-phased expansion through 2010.

- CUP2000-00001 – Cook Park Expansion, including the construction of an emergency access drive / bike-pedestrian pathway between 85th Avenue and Cook Park. This trail was constructed in part on CWS property.
- SDR2002- Site Development Review for a new 100’ monopole and associated equipment buildings.
- ZCA2003-00007 – Zone Change Annexation to annex three CWS owned parcels and one City of Tigard owned parcel.
- MMD2007-00009 – Minor Modification authorizing a fourth carrier on previously approved monopole.
- MMD2009-00009 allowed changes to two driveway entrances.
- MMD2009-00023 allowed the construction of a 480 square foot pole barn.
- MMD2010-00001 allowed the replacement of an interior heating unit with an exterior heating unit on a 75 sq. ft. pad.
- MMD2010-00007 allowed expansion of the existing headworks building by approximately 2,000 square feet.

As a result of incremental expansion, Durham facility is now within multiple Comprehensive Plan designations and Zoning Districts. The majority of the facility is within Public Institution and Open Space designations, with the more recent expansion within Low Density Residential or Light Industrial designations. Zoning on the property is similarly split, with a majority of the property zoned Industrial Park, and the remainder R-4.5 Low Density Residential. Surrounding land uses are zoned Industrial Park to the east and residential to the north and west. Properties to the south and southeast are located within the Cities of Durham and Tualatin. None of the existing districts allow waste-related land uses, restricting if not prohibiting the future expansion and upgrades of the facility.

Inventoried sensitive land areas are present on a significant portion of the campus, and predominantly in the southern portion of the site near the Tualatin River. The lower campus (approximately 36 acres) is located almost entirely within FEMA 100 year floodplain. Within the floodplain are wetland areas that appear on the City of Tigard Local Wetlands Inventory (Unit 9; Wetlands F-19, F-21, and F-26). Significant habitat areas are also present on the southerly portion of the campus. Steep slopes (greater than 25%) have also been identified, and are scattered around the campus as a result of natural processes and human activity.

1998 Development Code Revisions

The Tigard Community Development Code (TDC) categorizes the existing wastewater treatment facility as a “waste-related” land use (TDC 18.130.070.H). A review of Tigard Development Code Tables 18.510.1 and 18.530.1 reveals that waste-related land uses are no longer an allowed use in either of the zoning districts that govern the facility. This complicates, if not prohibits, future modifications and expansions of Durham Facility.

This nonconformity appears to be the result of text changes to the Tigard Development Code during its last major update and reorganization in 1998. A review of Ordinance No. 98-19 revealed that the land use category for “utilities” was broken up into two separate categories: “basic utilities” and “waste-related”. Of the two categories, the treatment plant clearly falls into the latter as there is little ambiguity in the descriptive language or examples provided. This change in the Development

Code was not reflected in the 1999 conditional use permit which incorrectly classifies the wastewater treatment plant as a “basic utility”. The record is unclear as to how this error was made.

Intergovernmental Agreement to Establish a Plan District

As a matter of policy, the City of Tigard wishes to support the continued operation and upgrade of Durham Facility. This position is reflected in the recently updated Comprehensive Plan (see Goal 11.3 and Policies 11.3.2 & 3) which calls for continued collaboration with CWS in the planning, operation, and maintenance of a wastewater management system. In order to further this policy position, the Community Development Code (Title 18) must be amended.

Two options for amending the development code were evaluated by City of Tigard and CWS staff, including: (1) a zone change and comprehensive plan amendment to assign a Heavy Industrial land use designation, and (2) the creation of a new plan district with site specific regulations to provide flexibility and better protections for adjoining properties. Of the two, both the City of Tigard and CWS prefer the plan district option. While the Heavy Industrial District allows the operation of a wastewater treatment plant, it is a district intended for the operation of intensive land uses that would generally be disruptive to adjacent and established residential, commercial, and civic land uses. As a result, the City’s Heavy Industrial District regulations do not contain standards that can adequately protect sensitive adjacent land uses. In contrast the plan district option is able to provide more flexibility to CWS in performing its mission, while providing superior mitigation of off-site impacts to adjoining residences, schools, and public facilities. This solution was formalized in an Intergovernmental Agreement that was approved by the City Council June 12, 2012.

The signed intergovernmental agreement does not bind the City or CWS to a particular outcome. Rather, it forms a broad framework for mutual cooperation in the development of new land use regulations. Of particular note is Special Term B.3 of the IGA that sets forth the purposes of the Durham Facility Plan District:

Purposes of Durham Facility Plan District. The Durham Facility Plan District is intended to provide standards while preserving CWS’s flexibility in the operation, modification, up-grade and expansion of the Durham Facility. The City and CWS desire to establish through the Durham Facility Plan District a single framework and process allowing for the following:

- a. the expansion of the Durham Facility to accommodate future urban growth or enhanced wastewater treatment capability;*
- b. the adaptation of the Durham Facility to satisfy changes in environmental or regulatory standards and to incorporate technological advances or new methodologies in: wastewater treatment; waste-handling and processing; and wastewater, energy, and nutrient recovery;*
- c. avoidance, management, and/or mitigation of negative off-site impacts on land uses adjacent to the Durham Facility, recognizing that certain impacts are inherent in the operation of a regional wastewater treatment facility and that such impacts should be balanced with the overall community benefit such facilities provide;*

- d. *addressing transportation system impacts from future changes at the Durham Facility;*
- e. *the creation of specific land use and permitting processes for the Durham Facility that will allow permit issuance on a timely basis; and*
- f. *the regulation of land uses, site and building design and environmental impacts from new development within the Durham Facility Plan District, taking into account the specialized operational requirements and the regional service nature of the Durham Facility.*

This purpose statement guides the form and content of the proposed amendments, and forms the basis for a mutually agreed upon proposal for the Planning Commission and City Council to consider.

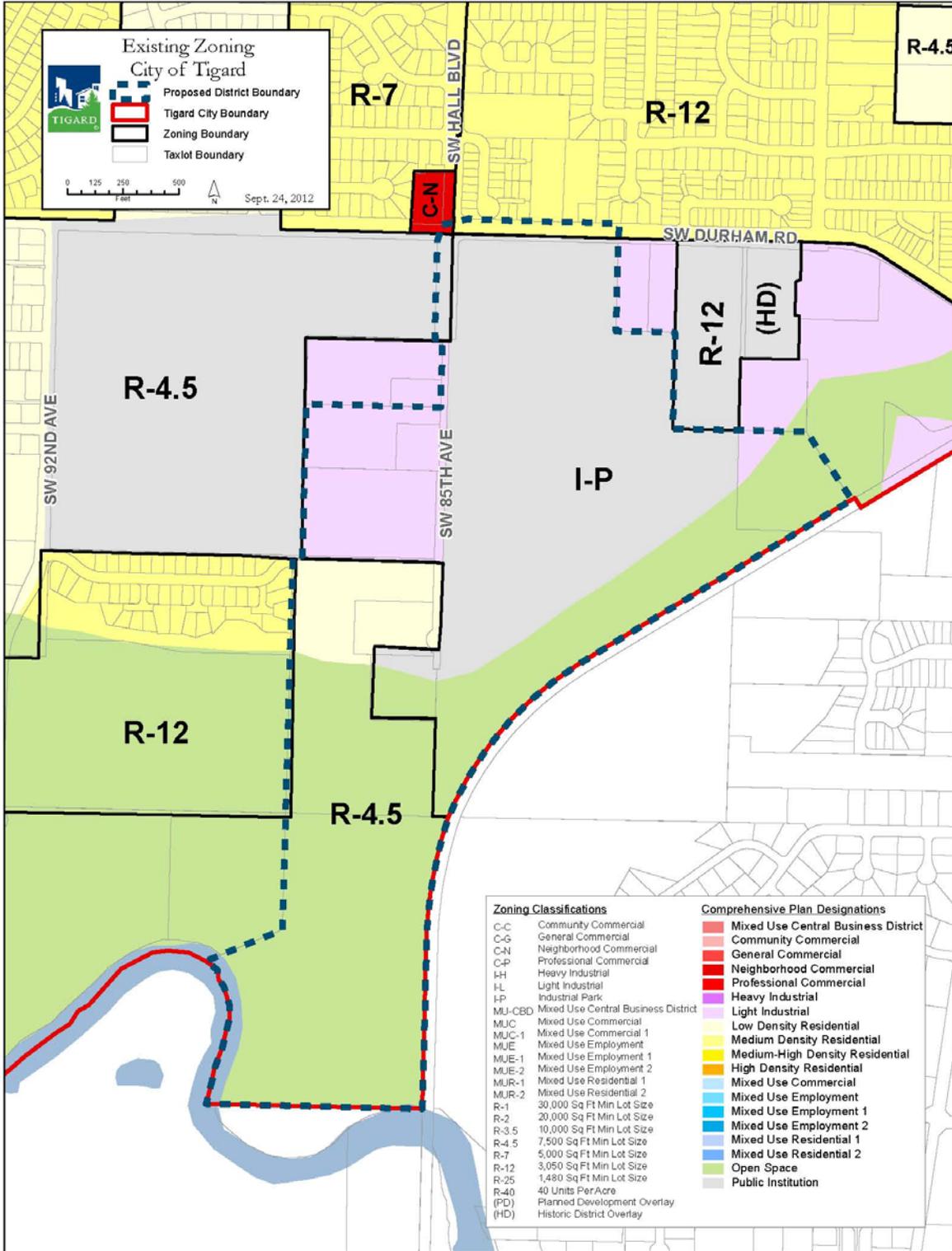
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SECTION II: MAPS

Map 1: Existing Land Uses



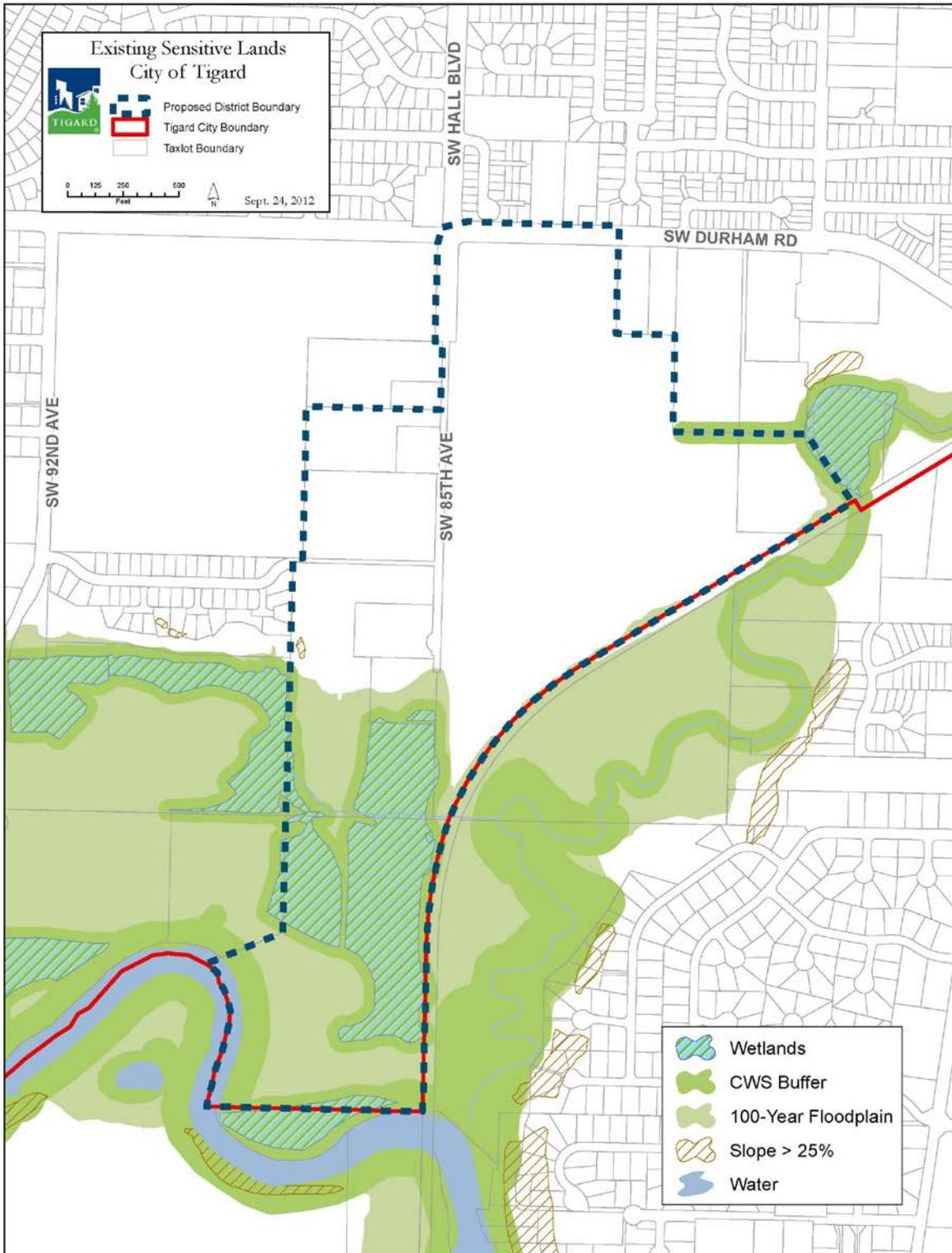
Map 2: Existing Zoning



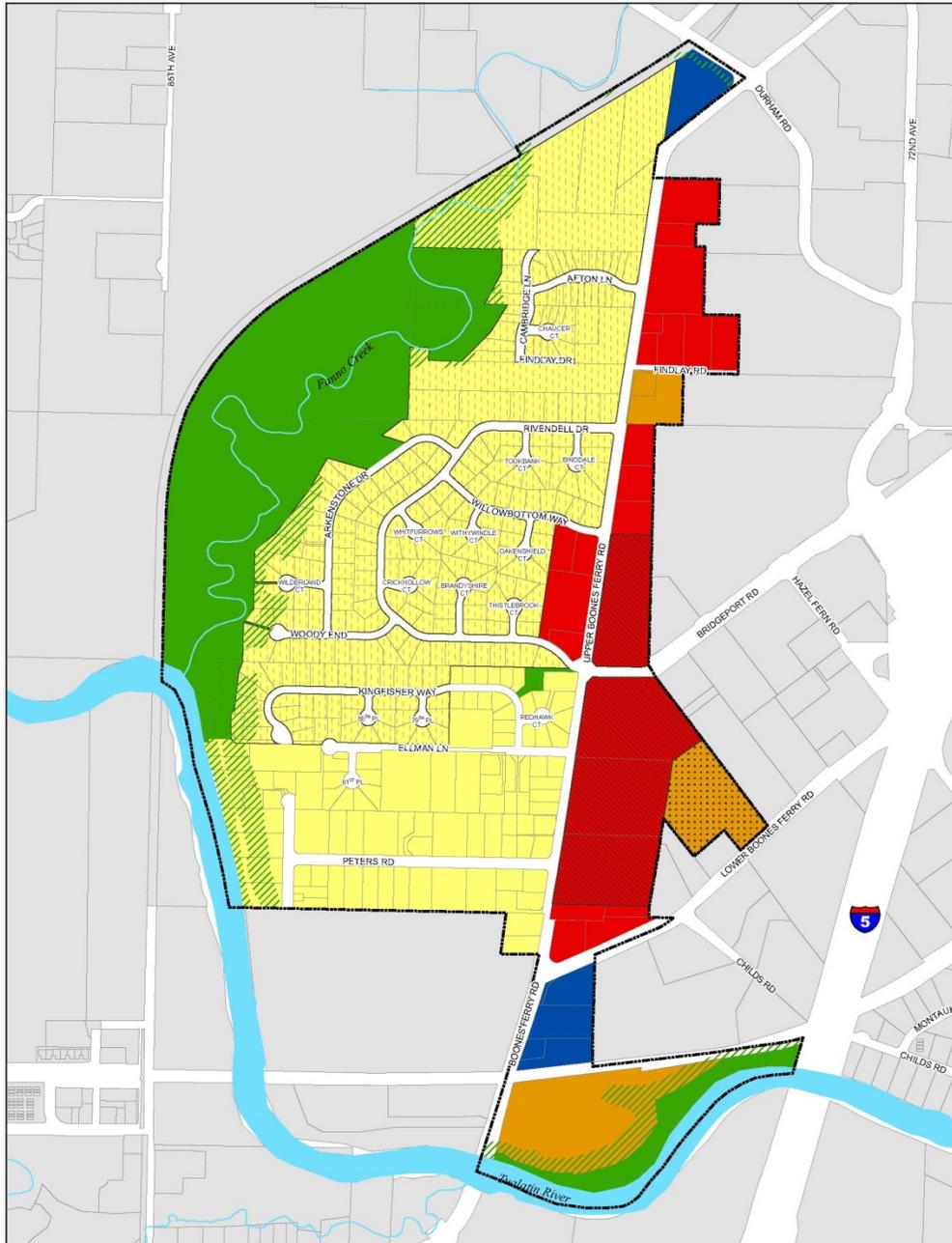
Map 3: Existing Trails & Right of Way



Map 4: Sensitive Lands Within Project Vicinity



Map 5: City of Durham Zoning Map



City of Durham		Zoning Map	
 Single-Dwelling Residential (SDR)	 Business Park Overlay (BPO)	 Density Bonus for Planned Residential Development (DB-PRD)	<p>This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Durham assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". Printed 8/13/2009.</p> <p>1 inch = 500 feet</p> <p>0 250 500 1,000 Feet</p>
 Multi-Dwelling Residential (MDR)	 Multi-Dwelling Design Overlay (MDDO)	 Natural Resources Overlay (NRO)	
 Industrial Park (IP)	 City Boundary		
 Office Park (OP)			
 Natural Resources (NR)			

SECTION III: PROJECT ISSUES

The purpose of this section is to identify key issues to be addressed in the project, followed by recommended code amendments to address the issues.

Project Issue 1: Plan Districts Generally

Issue:

The Community Development Code inadequately regulates the establishment and administration of plan districts. The four existing chapters (Downtown, Washington Square, Tigard Triangle, and Durham Quarry) vary in content and form, and present administrative challenges in their application. These inadequacies generally fall into one of three categories.

- The Development Code does not address the creation or role of plan districts. This includes their general purpose, approval process and criteria, relationship to other regulations, and minimum form and content.
- Existing plan districts are not uniform in structure, are not always clear in their relationship to other regulations, and lack identifying maps of where the districts apply.
- The official Tigard Zoning Map does not identify the boundaries of existing plan districts.

Recommended Actions:

- *Adopt Chapter 18.605 (Plan Districts) to govern the adoption, modification, and administration of existing and future plan districts within the City of Tigard.*
- *Amend Chapters 18.610, 620, 630, and 640 to include maps of plan district areas. These maps will be consistent with existing boundaries as adopted by the City Council.*
- *Amend City of Tigard Zoning Map to clearly identify the boundaries of the four existing plan districts.*

Project Issue 2: From Master Plan to Dynamic Growth

Issue:

A review of land use records indicates the city has historically relied upon strictly phased, ten-year master plans to govern the expansion of Durham Facility. This tool allowed lengthier spacing between conditional use permits, and set clear expectations for Clean Water Services (CWS) and the City as to the timing of public improvements and other conditions of approval. This historical tool is becoming more of a hindrance in the increasingly dynamic and time-sensitive operating environment under which CWS now operates.

Recent evolutions in flow modeling, waste treatment, and resource recovery are resulting in significant increases in efficiency and more precise targeting of improvements to predicted contaminants and flow levels. This efficiency comes with a growing emphasis on modification and enhancement of existing systems in-lieu of raw capacity expansion, and is resulting in a decreased use of the strictly phased master plans that have been the historical basis of land use permitting. This shift makes conditional use permits, the City's historical vehicle for the approval of CWS master plans, less useful for both CWS and the City as physical improvements are increasingly

targeted towards near term demand, with a greater emphasis on modification of existing systems over expansion.

In addition to technological advances, Durham facility is subject to increasing regulation from the Oregon Department of Environmental Quality (DEQ), United States Environmental Protection Agency (EPA), and the United States Department of Agriculture (USDA). These agencies regulate the release and reuse of effluent water, the operation of power generators and flaring, odor control, the disposal of biosolids, and the production of fertilizer from recovered nutrients present in the waste stream. Oversight by these agencies is ongoing through the issuance of operating permits with stringent performance standards. Applicable legal requirements include, but are not limited to, the following:

- Federal Clean Water Act
- Federal Clean Air Act
- 40 CFR Part 503 (Standards for the Use or Disposal of Sewage Sludge)
- ORS 454 (Sewage Treatment and Disposal Systems)
- ORS 468A (Air Quality)
- ORS 468B (Water Quality)

As a result of these technological and regulatory conditions, land use permitting is occurring closer to construction and with increasing frequency. Without clear and objective approval standards to aid in design and permit review, both the City and CWS will be subject to increasing administrative burdens. These increasing administrative burdens may challenge CWS's ability to comply with local, state, and federal regulations in its planning, operation, and expansions of Durham facility. The need to further develop the facility must be balanced with a public interest in ensuring that major improvements with the potential to affect off-site properties are reviewed in a manner that provides for an appropriate level of public involvement.

Recommended Actions:

- *Amend 18.650 to create a single-use plan district that acknowledges the continued operation, modification, upgrade, and expansions of the Durham Advanced Wastewater Treatment Facility into the long-term future.*
- *Adopt clear and objective approval criteria that are flexible in nature and focused on off-site impacts to adjacent land uses or public facilities.*
- *Adopt land use regulations with clearly defined thresholds of review specific to Durham Facility, that include an appropriate level of coordination with affected agencies and opportunities for public comment.*

Project Issue 3: Off-Site Impacts

Issue:

Certain off-site impacts are inherent in the operation of a wastewater treatment plant. These typically include unwanted noise, unpleasant odors, offsite lights and glare, traffic generation, and aesthetic impacts. Local and regional urban growth has surrounded Durham Facility with land uses and populations sensitive to such impacts, including single and multi-family homes, schools, and parks. Moreover, two arterials intersect at the northern boundary of the facility, exposing both stationary and pass-through traffic to these impacts. Durham Road averages 21,000 vehicle trips per day along the northern boundary of Durham Facility, and Hall Boulevard approximately 13,700 vehicle trips per day at its intersection with Durham Road. This close proximity creates the

potential for conflict between normal operation of the Durham Facility and adjoining residents and users, should a facility modification or expansion result in a significant increase in trip generation.

The Tigard Development Code attempts to avoid or mitigate impacts originating from waste-related facilities through site development review (18.360); base zone standards for use, building design, and site planning (18.530); environmental performance standards (18.725); landscaping and buffering standards (18.745); and street standards that address traffic impacts (18.810). At present, the only zoning district to allow a wastewater treatment plant is Heavy Industrial, which allows intensive land uses that would generally be disruptive to adjacent and established residential, commercial, and civic land uses. As such, development standards to protect sensitive land uses do not exist within this district and cannot be utilized within the present context. Moreover, existing environmental performance standards do not provide adequate clear and objective criteria for noise and odor reduction, inhibiting both CWS and the city when designing and reviewing new expansions.

To the degree possible, Clean Water Services strives to avoid, reduce, and mitigate offsite impacts through the use of odor sampling and reduction, noise dampening, glare reduction, and the use of landscape and architectural enhancements on areas visible from Durham Road, Waverly Road, and Cook Park. In recent projects CWS has masked process structures through the use of pitched roofs, masonry exteriors, and a combination of berming and enhanced landscaping intended to screen and soften views from public parks, right of ways, and other adjacent uses. The facility also hosts an annual open house, inviting nearby residents and the general public to tour the facility and engage with CWS staff regarding any concerns they may have.

Recommended Actions:

- *Adopt land use and impact regulations specific to the unique functions of Durham Facility and associated off-site impacts.*
- *Adopt land use regulations that govern use and site/building development by sub-district.*
- *Adopt clear and objective approval criteria to avoid, reduce, and/or mitigate unwanted noise, odors, light and glare, and/or transportation system impacts.*

Project Issue 4: Resource Recovery & Public/Private Partnerships

Issue:

Operational goals at Durham Facility are shifting away from just wastewater treatment, and towards a mixture of wastewater treatment and resource recovery. The aim of resource recovery is to move the operations in a more sustainable direction, both financially and ecologically. Examples of this include the capture of methane to be used in onsite power generation, the use of effluent water for irrigation, the diversion of biosolids to agricultural end users in-lieu of landfills, and the removal of waste stream phosphorus for use as fertilizer. This last example was developed through a public/private partnership between CWS and Ostara, with Durham Facility serving as a testing ground and now production facility for Crystal Green® fertilizer. In a similar manner, waste products from the anaerobic treatment process are being increasingly diverted to energy production and heat re-use. This presently occurs in the capture and use of methane in on-site power-generators. Similarly, heat and other by-products may be captured and reused on-site or at the district level. With an increasing emphasis on resource recovery and waste stream diversion, including some limited onsite processing and manufacturing by for-profit companies or nonprofits,

new land use issues may present themselves. This activity is expected to continue and expand into the future, and present significant economic development opportunities for Tigard and the region.

Recommended Actions:

- *Adopt use regulations and development standards that anticipate the presence of public, non-profit, or for-profit entities and activities engaged in waste stream resource recovery and processing.*
- *Adopt use regulations and development standards to govern the use of treatment byproducts for power generation and heating.*
- *Adopt development standards that address transportation system impacts and other off-site impacts from activities associated with nutrient recovery and energy production.*

Project Issue 5: Site Circulation

Issue:

Durham Facility is a 106 acre campus, occupying a substantial amount of land within Southern Tigard. The combination of the operational needs of the plant, combined with the large campuses of the adjoining schools, has resulted in large superblocks that hinder road and bike/pedestrian connectivity in this area.

Waverly Estates subdivision is the area most affected by this situation. As part of the original subdivision approval (SUB93-0007), the hearings officer required the provision of emergency access between the terminus of Waverly Drive and 85th Avenue. The access was provided through the dedication of right of way, 20 feet wide, for the purpose of bike/pedestrian access and emergency vehicle access.

This right of way was recorded but not improved, and Waverly Drive presently terminates at a road block and not a turnaround. When CWS acquired land on the west side of 85th and expanded under CUP1999-00003, a condition required CWS to maintain emergency vehicle access to Waverly Drive. At present CWS provides emergency vehicle access, but not along the recorded right-of-way, and security fencing now prohibits the pedestrian/bicycle connection between these two streets.

In 2002 CWS constructed a mixed-use trail and emergency access route between the southern terminus of SW 85th and Cook Park. This improvement was approved and constructed as part of the Cook Park expansion project approved under CUP2000-00001. While direct access is not provided to Waverly estates, the trail does provide east-west connectivity for bikes and pedestrians that did not previously exist. This trail was also constructed as a secondary emergency vehicle access to Cook Park, and by extension Waverly estates and other residential subdivisions should 92nd Avenue become blocked for some reason.

Recommended Actions:

- *Adopt connectivity standards that acknowledge the unique security and operational needs of Durham facility.*
- *Adopt connectivity standards specific to the provision of EMS access to Waverly Drive, including:*
 - *Vacation of existing right of way between 85th Ave and Waverly Drive.*
 - *Termination of Waverly Drive with a City approved turnaround.*
 - *Permanent provision of EMS access across Durham Facility to Waverly Estates.*

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SECTION IV: PROPOSED CODE AMENDMENTS

How to Read This Section

This section is organized by Tigard Development Code chapter number. Where changes are proposed to existing chapters of the Tigard Development Code, only the affected Section or Subsection is listed for purposes of brevity.

The proposed amendments and associated commentary are intended to be read in book format, with even number pages on the left and odd numbered pages on the right. Even-numbered pages contain commentary on the amendments, which establish, in part, the legislative basis and intent in adopting these amendments. Odd-numbered pages show the existing language with proposed staff amendments. Text that is to be added to the code is shown with double underlines. Text that is to be deleted is shown with a ~~striketrough~~. All proposed amendments to add or delete existing language are identified in **red font**.

Staff Commentary

Staff is recommending the inclusion of plan district boundaries on the official zoning map, as shown on the opposite page. Inclusion of plan district boundaries is recommended in order to better communicate the presence and location of special land use regulations to users of the map. It is expected to be of particular use to parties unfamiliar with Tigard's land use regulations.

Plan District boundaries for all but the proposed Durham Facility Plan District (currently proposed in this amendment package) are based on previously adopted boundaries as reflected in the following Council Ordinances:

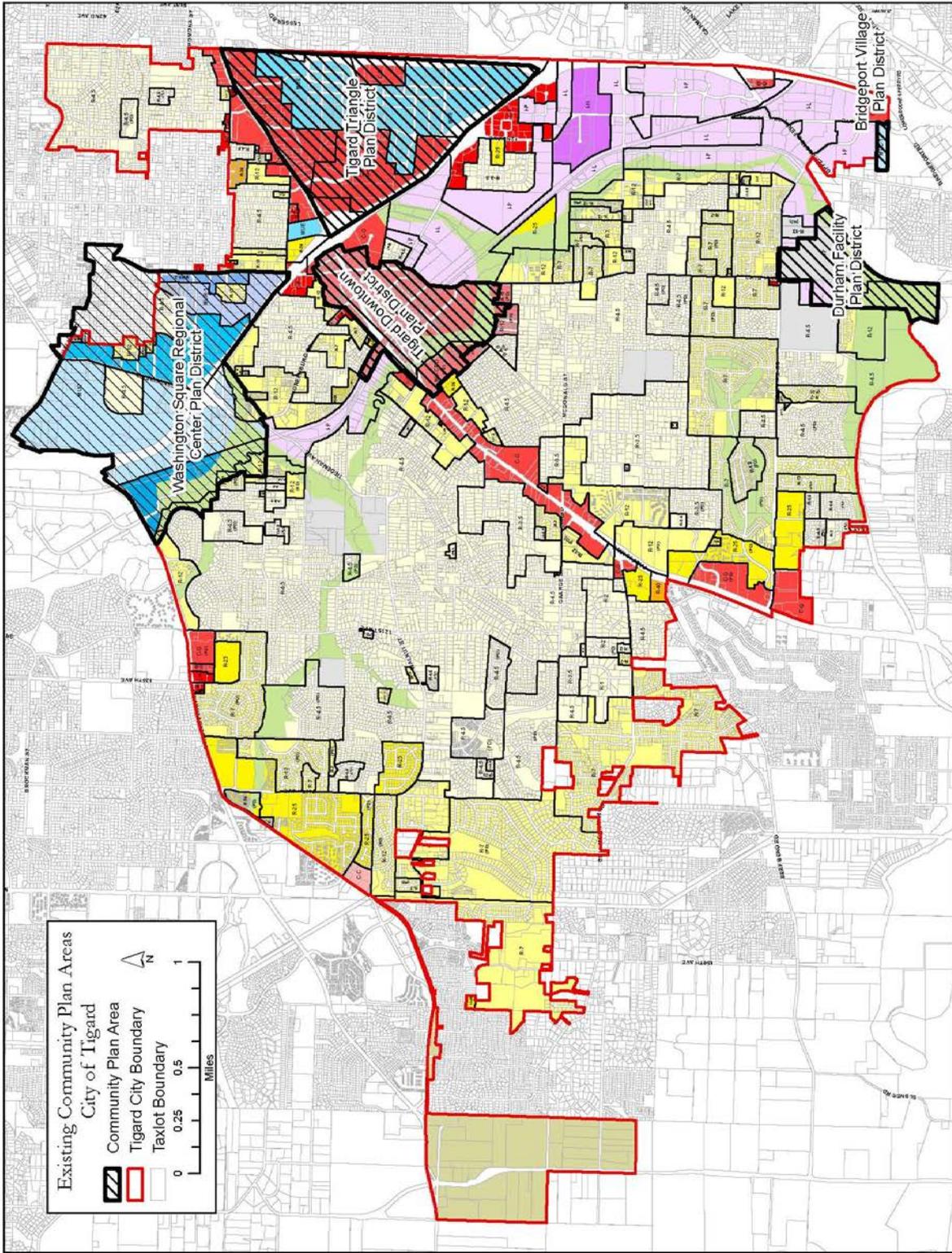
Ordinance No. 10-2: Downtown Plan District

Ordinance No. 96-41 & 97-2: Tigard Triangle

Ordinance No. 00-18: Washington Square Regional Center

Ordinance No. 01-07: Durham Quarry aka Bridgeport Village

Official Zoning Map



Staff Commentary

Staff recommends this statement of intent be abbreviated to remove outdated language regarding the Tigard Triangle and Washington Square design standards.

18.600: ~~COMMUNITY PLAN DISTRICT AREA~~ STANDARDS

LEGISLATIVE NOTES

This ~~section~~ is ~~essentially~~ a “reserve” section for the City to place special subdistrict development and/or design standards. ~~For example, the new design standards under consideration for the Tigard Triangle Plan could be incorporated here. This is also the logical location for special standards related to subdistrict plans for the Washington Square Regional Center and Tigard Town Center, which are designated on the Metro 2040 Growth Management Functional Plan map to become high-density, transit-supportive nodes within the City. The City has not yet undertaken the planning for these special districts.~~

Staff Commentary

Chapter 18.605 is proposed by staff to address Project Issue One as outlined in Section III of this report, namely that the Tigard Development Code does not address the creation or role of plan districts. This includes their general purpose, approval process and criteria, relationship to other regulations, and minimum form and content. Adoption of this chapter would resolve this issue when future plan districts are adopted.

CHAPTER 18.605
PLAN DISTRICTS

Sections:

18.605.010 Purpose

18.605.020 Scope of Plan Districts

18.605.030 Relationship to Other Regulations

18.605.040 Adoption Criteria

18.605.050 Review

18.605.060 Plan District Maps

18.605.010 Purpose

Plan districts address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. An area may be unique based on natural, economic, or historic attributes; be subject to problems from rapid or severe transitions of land use; or contain public facilities that require specific land use regulations for their efficient operation. Plan districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. Each plan district has its own nontransferable set of regulations. This contrasts with base zone provisions that are intended to be applicable in large areas or in more than one area.

18.605.020 Scope of Plan Districts

Plan district regulations may be applied in conjunction with a base zone. The plan district provisions may modify any portion of the regulations of the base zone or other regulations of this Title. The provisions may apply additional requirements or allow exceptions to general regulations.

18.605.030 Relationship to Other Regulations

When there is a conflict between the plan district regulations and base zone, or other regulations of this Title, the plan district regulations control. The specific regulations of the base zone, or other regulations of this Title apply unless the plan district provides other regulations for the same specific topic.

Staff Commentary

Chapter 18.605 is proposed by staff to address Project Issue One as outlined in Section III of this report, namely that the Tigard Development Code does not address the creation or role of plan districts. This includes their general purpose, approval process and criteria, relationship to other regulations, and minimum form and content. Adoption of this chapter would resolve this issue when future plan districts are adopted.

18.605.040 Adoption Criteria

A plan district may be established by a Type IV procedure as set forth in 18.390.060, if all the following adoption criteria are met:

- A. The area proposed for the plan district has special characteristics or problems of a natural, economic, historic, public facility, or transitional land use or development nature which are not common to other areas of the City;
- B. Existing base zone provisions are inadequate to achieve a desired public benefit or to address an identified problem in the area;
- C. The proposed plan district and regulations are the result of a study or plan documenting the special characteristics or problems of the area and how a plan district will best address relevant issues; and
- D. The regulations of the plan district are in conformance with the Comprehensive Plan.

18.605.050 Review

Plan districts and their regulations will be reviewed periodically to determine whether they are still needed, should be continued, or amended. Plan districts and their regulations will be reviewed as part of the process for the update of the Comprehensive Plan.

18.605.060 Plan District Maps

The boundaries of each plan district established shall be shown on maps located at the end of each plan district chapter. In addition, plan district boundaries are identified on the official zoning maps.

Staff Commentary

Proposed changes to 18.610 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series, and (2) the insertion of clearly legible maps to communicate previously adopted boundaries. No changes to existing land use regulations or administrative processes are proposed.

Chapter 18.610
TIGARD DOWNTOWN ~~PLAN~~ DISTRICT DEVELOPMENT AND DESIGN
STANDARDS

18.610.010 Purpose and Procedures

- A. Purpose. The objectives of the Tigard Downtown ~~Plan District Development and Design Standards~~ are to implement the Comprehensive Plan, Tigard Downtown Improvement Plan, and Urban Renewal Plan and ensure the quality, attractiveness, and special character of the Downtown. The regulations are intended to:
1. Facilitate the development of an urban village by promoting the development of a higher density, economically viable, and aesthetically pleasing pedestrian-oriented downtown where people can live, work, play and shop for their daily needs without relying on the automobile. The quality and scale of the downtown urban environment shall foster social interaction and community celebration.
 2. Encourage the integration of natural features and the open space system into Downtown by promoting development sensitive to natural resource protection and enhancement; addressing the relationship to Fanno Creek Park; and promoting opportunities for the creation of public art and use of sustainable design.
 3. Enhance the street level as an inviting place for pedestrians by guiding the design of the building “walls” that frame the right-of-way (the “public realm”) to contribute to a safe, high quality pedestrian-oriented streetscape. Building features will be visually interesting and human-scaled, such as storefront windows, detailed façades, art and landscaping. The impact of parking on the pedestrian system will also be limited. The downtown streetscape shall be developed at a human scale and closely connected to the natural environment through linkages to Fanno Creek open space and design attention to trees and landscapes.
 4. Promote Tigard’s Downtown as a desirable place to live and do business. Promote development of high-quality high density housing and employment opportunities in the Downtown.
 5. Provide a clear and concise guide for developers and builders by employing greater use of graphics to explain community goals and desired urban form to applicants, residents and administrators.
- B. Conflicting standards. The following standards and land use regulations apply to all development within the ~~Downtown~~ Mixed Use Central Business District Zoning District (MU-CBD), whose boundaries are set forth in Map 18.610.B and on the official zoning map. With the exception of public facility and street requirements, if a design standard found in this section conflicts with another standard in the Development Code, the standards in this section shall govern, even if less restrictive than other areas of the code.

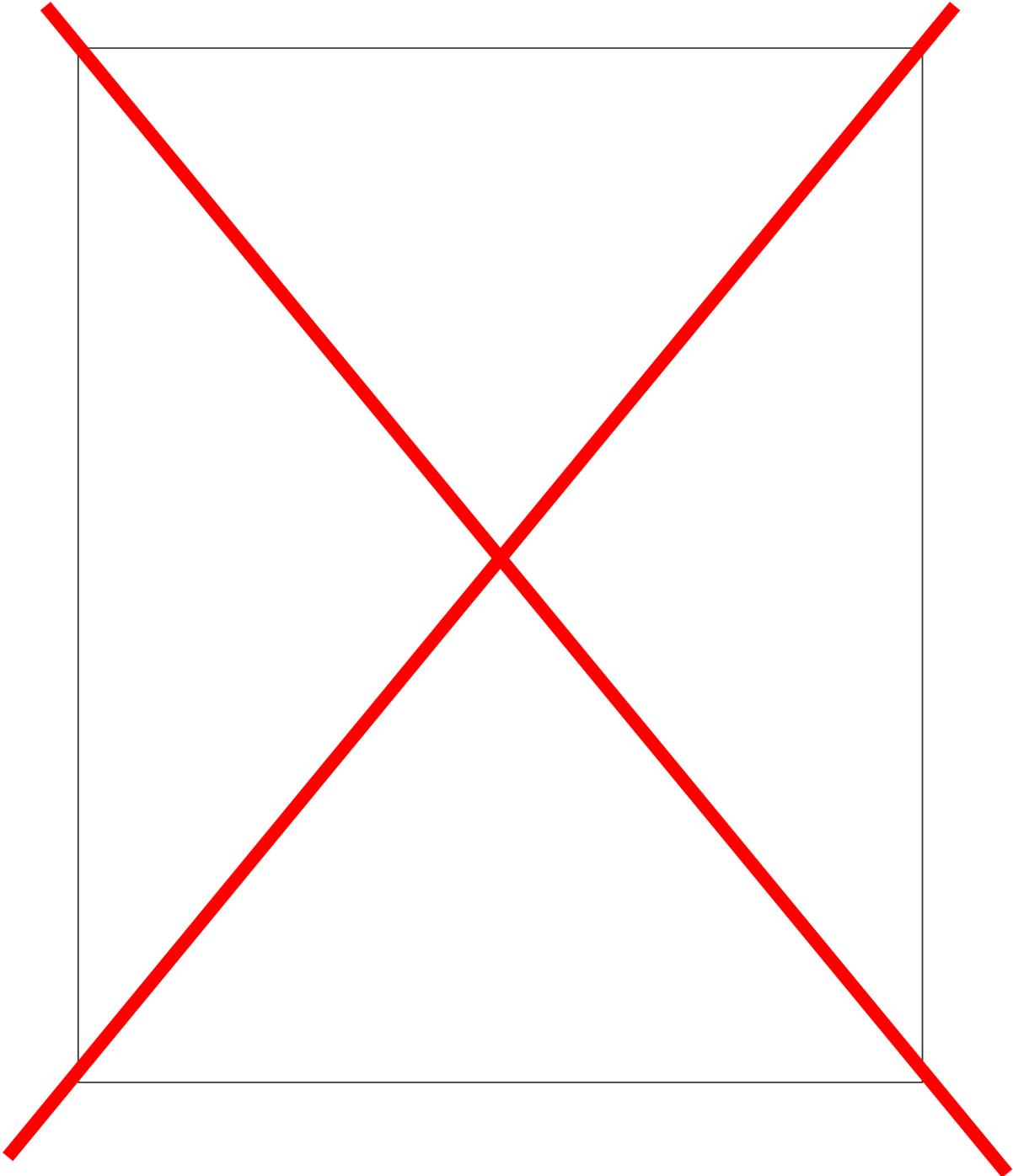
Staff Commentary

This map is proposed for removal because it is difficult to read when printed in black and white, and is labeled “Proposed MU-CBD Sub-Areas.” This title is inaccurate in that these boundaries were adopted by Council under Ordinance No. 10-2, making the graphic outdated and potentially misleading. The replacement map retains the existing boundaries of the sub-areas, but removes the word “proposed” and is redrawn to better print in a black and white format.

18.610.020 Building and Site Development Standards

A. Sub-areas. The four sub-areas located on Map 610.A and described below have different setback and height limits in order to create a feeling of distinct districts within the larger zone.

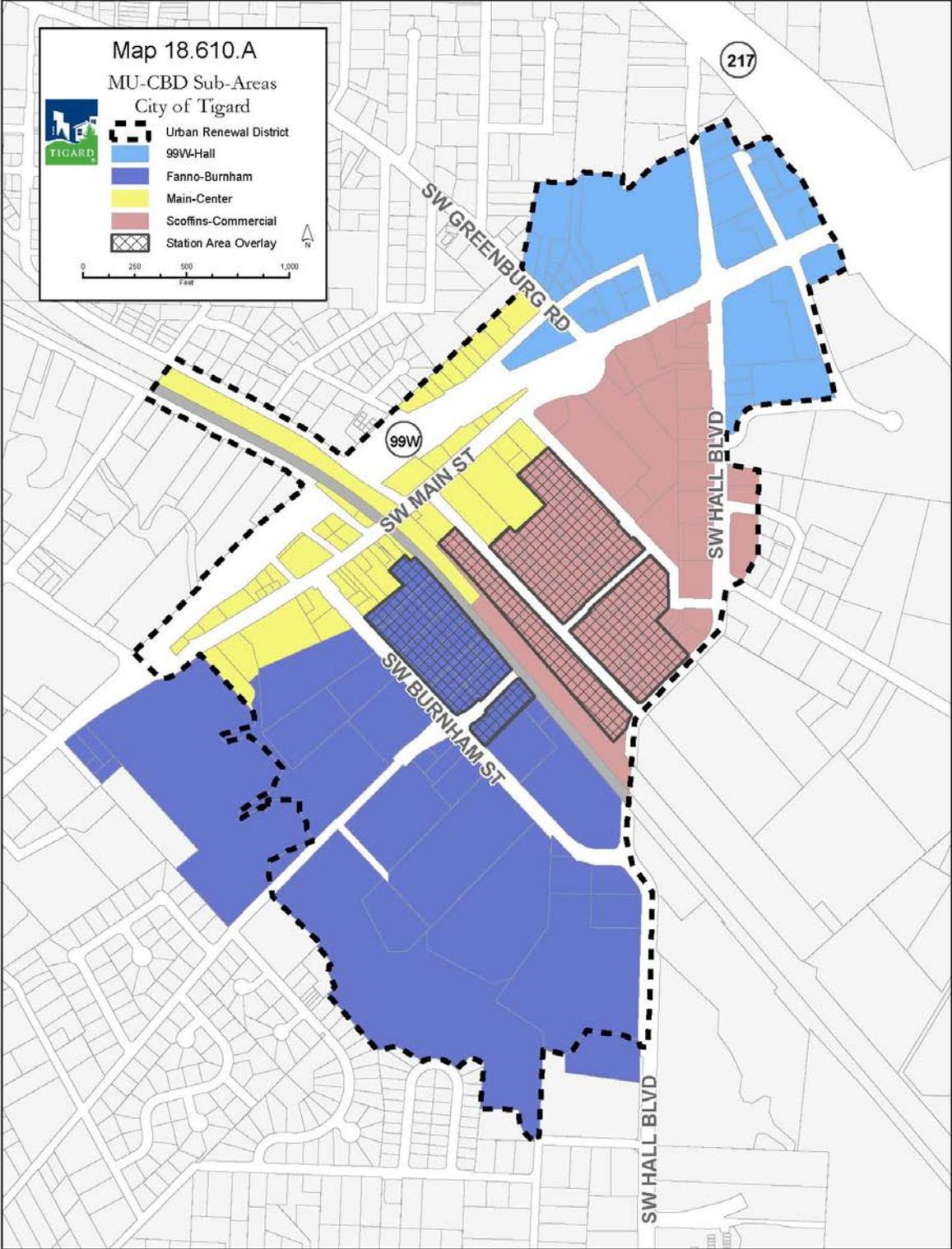
[no change is proposed to the descriptions of the four sub-areas proposed in 18.610.020.A.1-4]



Staff Commentary

This map is proposed as a replacement for existing map 18.610.A. Replacement is recommended by staff because it is difficult to read when printed in black and white, and is inaccurately labeled “Proposed MU-CBD Sub-Areas.” This title is inaccurate in that sub-district boundaries were adopted by Council under Ordinance No. 10-2, making the graphic outdated and potentially misleading. The replacement map retains the existing boundaries of the sub-areas, but removes the word “proposed” and is redrawn to better print in a black and white format.

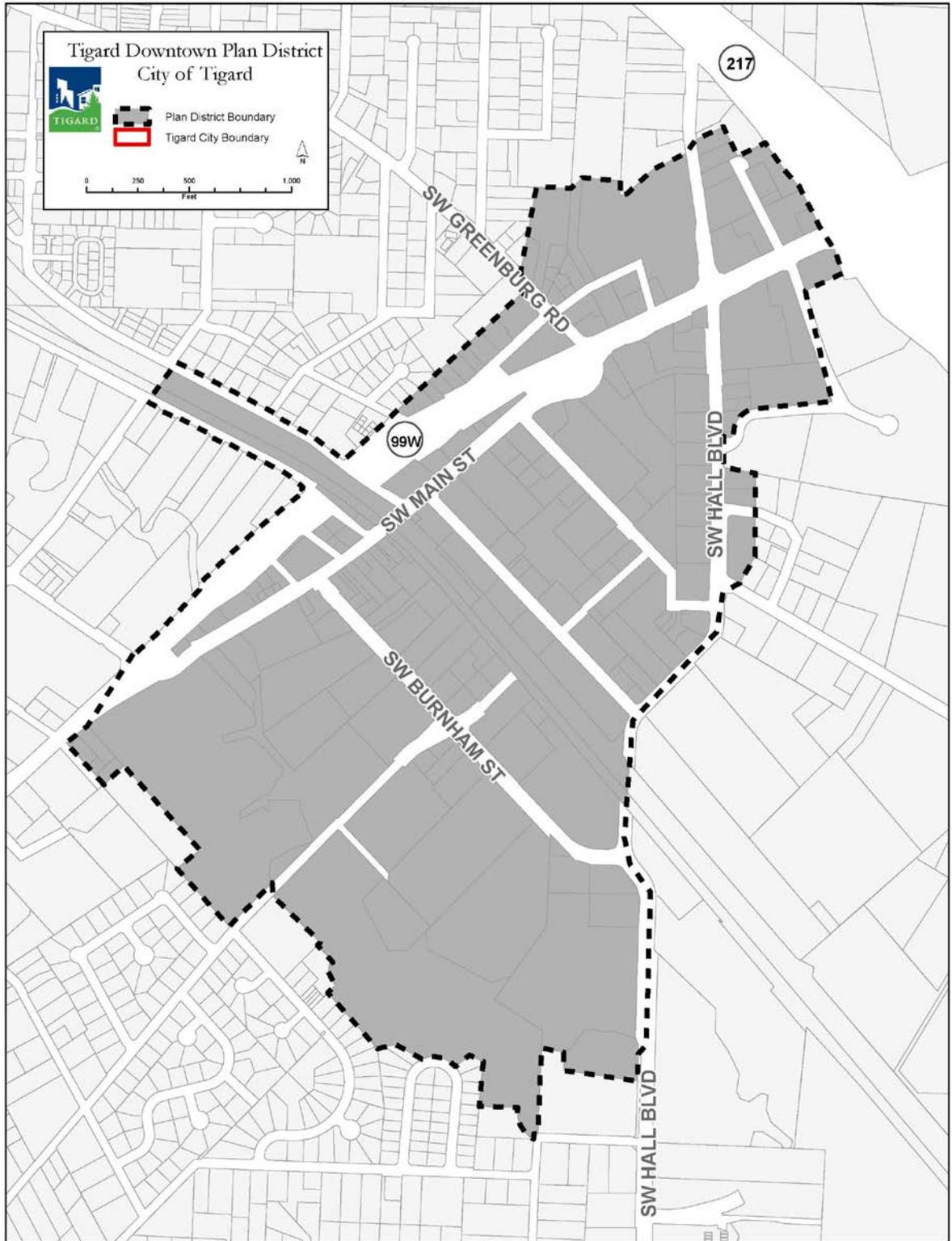
Map 18.610.A



Staff Commentary

Insertion of this map at the end of the chapter is intended to create a uniform structure for all plan districts, and to clearly communicate the plan district boundaries adopted under Ordinance No. 10-2 to users of the Tigard Development Code.

MAP 18.610.B: TIGARD DOWNTOWN PLAN DISTRICT BOUNDARIES



Staff Commentary

Proposed changes to 18.620 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries adopted under Council Ordinances No. 96-41 and No. 97-2. No changes to existing land use regulations or administrative processes are proposed.

CHAPTER 18.620
TIGARD TRIANGLE ~~DESIGN STANDARDS~~ PLAN DISTRICT

Sections:

- 18.620.010 Purpose and Applicability
- 18.620.015 Where These Regulations Apply
- 18.620.020 Street Connectivity
- 18.620.030 Site Design Standards
- 18.620.040 Building Design Standards
- 18.620.050 Signs
- 18.620.060 Entry Portals
- 18.620.070 Landscaping and Screening
- 18.620.080 Street and Accessway Standards
- 18.620.090 Design Evaluation

18.620.010 Purpose and Applicability

- A. Design principles. Design standards for public street improvements and for new development and renovation projects have been prepared for the Tigard Triangle Plan District. These design standards address several important guiding ~~principals~~ principles adopted for the Tigard Triangle Plan District, including creating a high-quality mixed use employment area, providing a convenient pedestrian and bikeway system within the Triangle, and utilizing streetscape to create a high quality image for the area.

- B. Development conformance. All new developments, including remodeling and renovation projects resulting in uses other than single family residential use, are expected to contribute to the character and quality of the area. In addition to meeting the design standards described in this chapter and other development standards required by the Community Development and Building Codes, such developments will be required to:
 - 1. Dedicate and improve public streets, to the extent that such dedication and improvement is directly related and roughly proportional to an impact of the development;
 - 2. Connect to public facilities such as sanitary sewer, water and storm drainage;
 - 3. Participate in funding future transportation and other public improvement projects in the Tigard Triangle Plan District, provided that the requirement to participate is directly related and roughly proportional to an impact of the development.

- C. Conflicting standards. The following design standards apply to all development located within the Tigard Triangle Plan District within both the C-G and the MUE zones. If a standard found in this section conflicts with another standard in the Development Code, standards in this section shall govern.

Staff Commentary

Proposed changes to 18.620 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 96-41 and No. 97-2. No changes to existing land use regulations or administrative processes are proposed.

18.620.015 Where These Regulations Apply

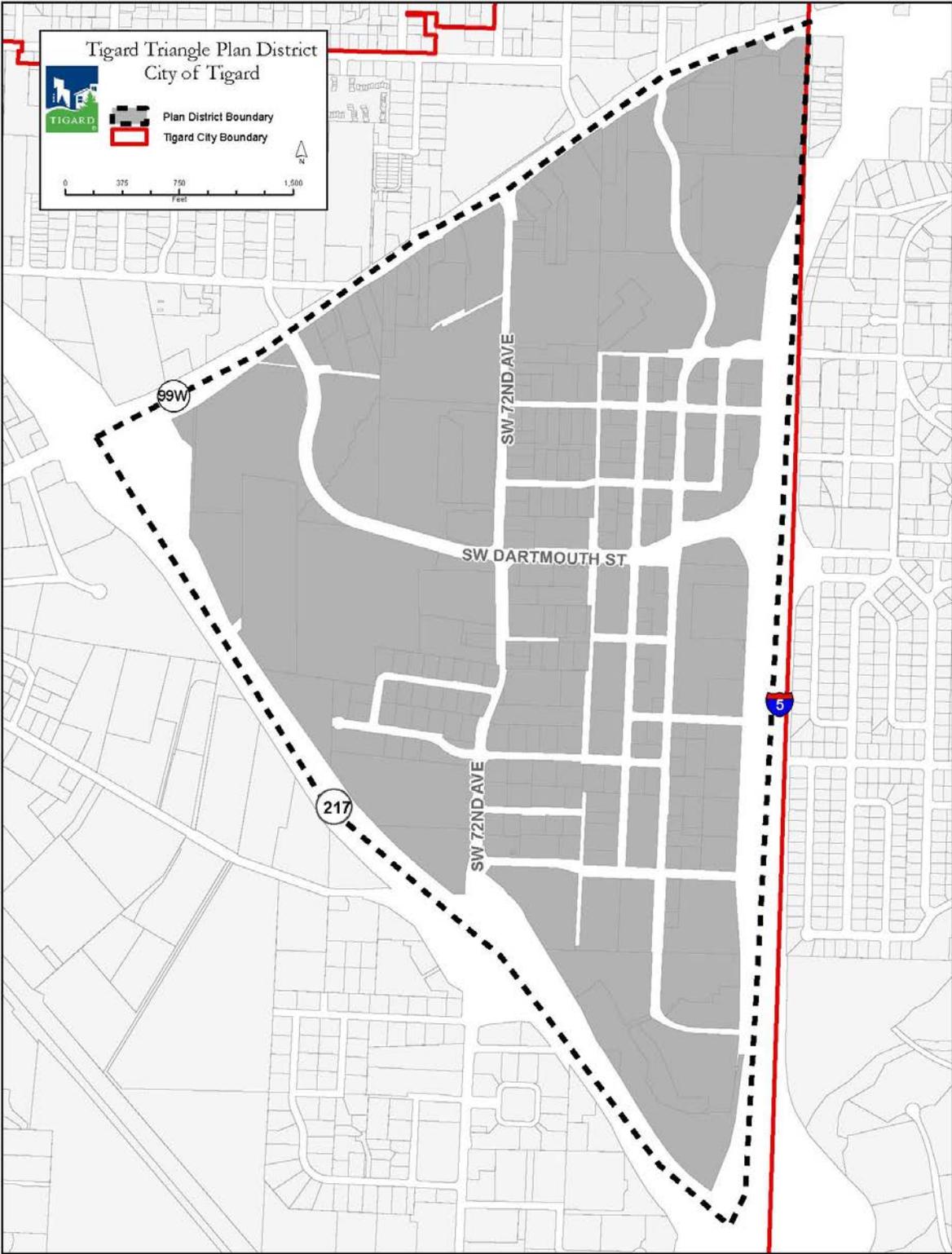
The regulations of this chapter apply to the Tigard Triangle Plan District. The boundaries of this plan district are shown on Map 18.620.A at the end of this chapter, and on the official zoning map.

[no changes proposed 18.620.020-18.620.090]

Staff Commentary

Proposed changes to 18.620 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 96-41 and No. 97-2. No changes to existing land use regulations or administrative processes are proposed.

MAP 18.620.A: Tigard Triangle Plan District Boundaries



Staff Commentary

Proposed changes to 18.630 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 00-18. No changes to existing land use regulations or administrative processes are proposed.

Chapter 18.630
WASHINGTON SQUARE REGIONAL CENTER ~~DESIGN STANDARDS PLAN~~
DISTRICT

Sections:

- 18.630.010 Purpose and Applicability
- 18.630.015 Where These Regulations Apply
- 18.630.020 Development Standards
- 18.630.030 Pre-existing Uses
- 18.630.040 Street Connectivity
- 18.630.050 Site Design Standards
- 18.630.060 Building Design Standards
- 18.630.070 Signs
- 18.630.080 Entry Portals
- 18.630.090 Landscaping and Screening
- 18.630.100 Street and Accessway Standards
- 18.630.110 Design Evaluation

18.630.010 Purpose and Applicability

- B. Design principles. Design standards for public street improvements and for new development and renovation projects have been prepared for the Washington Square Regional Center Plan District. These design standards address several important guiding ~~principals~~ principles adopted for the Washington Square Regional Center, including creating a high-quality mixed use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high quality image for the area.

18.630.015 Where These Regulations Apply

The regulations of this chapter apply to the Washington Square Regional Center Plan District. The boundaries of this plan district are shown on Map 18.630.A located at the end of this chapter, and on the official zoning map.

Staff Commentary

Proposed changes to 18.630 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 00-18. No changes to existing land use regulations or administrative processes are proposed.

18.630.020 Development Standards

- B. Development Standards. Development standards which apply within mixed-use zones in the Washington Square Regional Center Plan District are contained in Table 18.520.2. Existing developments which do not meet the standards specified for a particular district may continue in existence and be altered subject to the provisions of Section 18.630.030.

- E. Adjustments to Density Requirements in the Washington Square Regional Center Plan District. The density requirements shown in Table 18.520.2 are designed to implement the goals and policies of the Comprehensive Plan. These requirements apply throughout the Washington Square Regional Center zoning districts, but the City recognizes that some sites are difficult to develop or redevelop in compliance with these requirements. The adjustment process provides a mechanism by which the minimum density requirements may be reduced by up to twenty-five percent (25%) of the original requirement if the proposed development continues to meet the intended purpose of the requirement and findings are made that all approval criteria are met. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purpose of the code.

18.630.030 Pre-Existing Uses and Developments within the Washington Square Regional Center Plan District Mixed Use Districts

[no further changes proposed for this section]

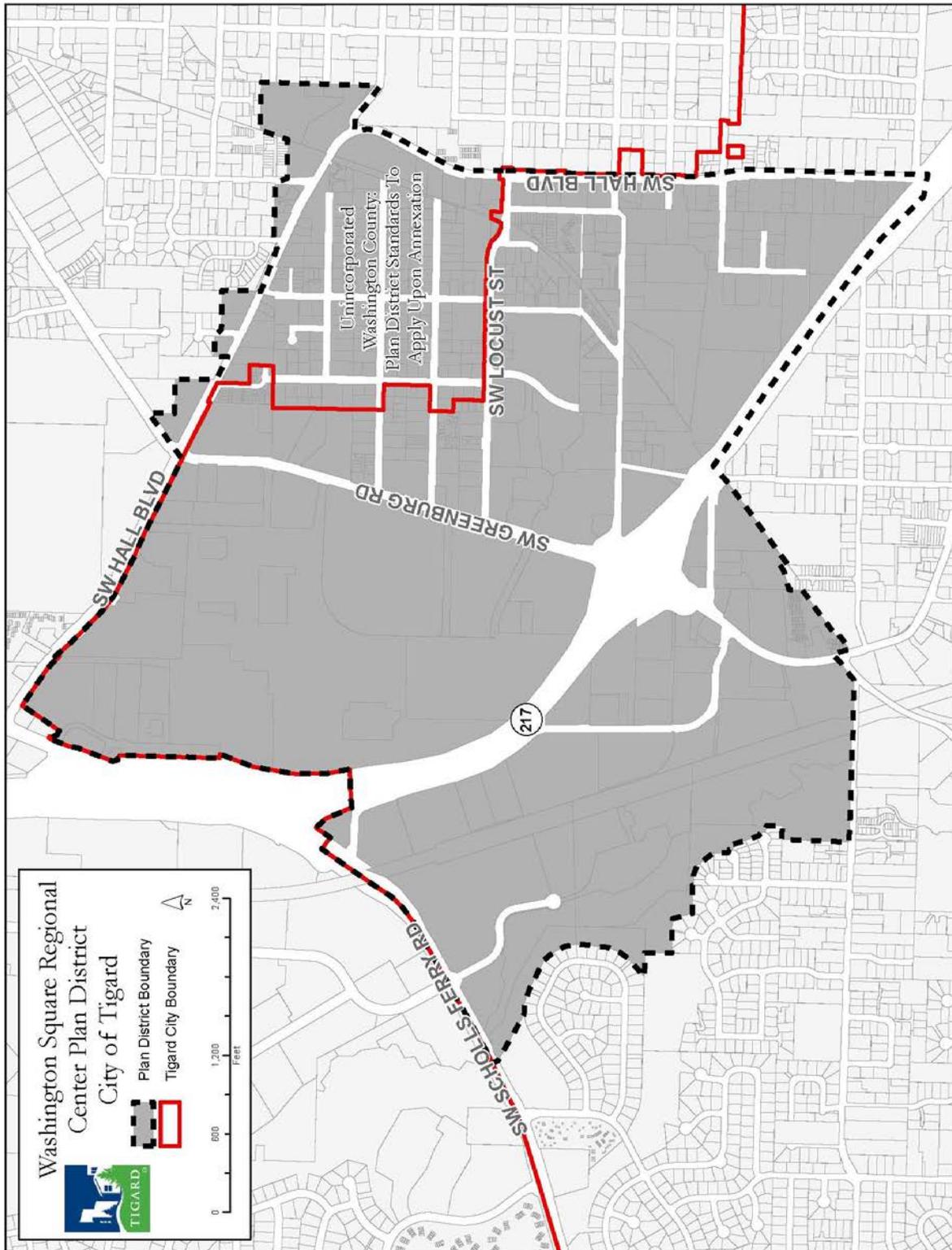
18.630.110 Design Evaluation

The provisions of Section 18.620.090, Design Evaluation, apply within the Washington Square Regional Center Plan District.

Staff Commentary

Proposed changes to 18.630 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code, and (2) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 00-18. No changes to existing land use regulations or administrative processes are proposed.

MAP 18.630.A: Washington Square Regional Center Plan District Boundaries



Staff Commentary

Proposed changes to 18.640 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code; (2) the changing of the name of this district from “Durham Quarry” to “Bridgeport Village” to reflect the current name for the shopping center; and (3) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 01- 07. No changes to existing land use regulations or administrative processes are proposed.

Chapter 18.640

DURHAM QUARRY DESIGN STANDARDS BRIDGEPORT VILLAGE PLAN DISTRICT

Sections:

- 18.640.010 Purpose
- 18.640.015 Where These Regulations Apply**
- 18.640.020 Permitted Uses
- 18.640.030 Conditional Uses
- 18.640.040 Applicability
- 18.640.050 Development Standards
- 18.640.060 Determining Net Acres
- 18.640.070 Signs
- 18.640.080 Reserved
- 18.640.090 Reserved
- 18.640.100 Access
- 18.640.200 Design Standards
- 18.640.300 Design Compatibility Standards
- 18.640.400 Landscaping and Screening
- 18.640.500 Off-Street Parking and Loading
- 18.640.600 Environmental Standards
- 18.640.700 Floodplain District
- 18.640.800 Wetlands Protection District

18.640.010 Purpose

The purpose of this district is to recognize and accommodate the changing commercial/residential marketplace by allowing commercial and residential mixed uses in the approximately seven-acre portion of the ~~Durham Quarry~~ Bridgeport Village site that is within the City of Tigard in the Mixed Use Commercial (MUC-1) Planning District. Retail, office, business services and personal services are emphasized, but residential uses are also allowed. A second purpose is to recognize that when developed under certain regulations, commercial and residential uses may be compatible in the Mixed Use Commercial District.

18.620.015 Where These Regulations Apply

The regulations of this chapter apply to the Bridgeport Village Plan District. The boundaries of this plan district are shown on Map 18.640.A located at the end of this chapter, and on the official zoning map.

Staff Commentary

Proposed changes to 18.640 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code; (2) the changing of the name of this district from “Durham Quarry” to “Bridgeport Village” to reflect the current name for the shopping center; and (3) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 01- 07. No changes to existing land use regulations or administrative processes are proposed.

18.640.040 Applicability

- A. These design standards are applied in the City of Tigard to the ~~Durham Quarry~~ Bridgeport Village Plan District Site. The boundaries of this site are described by the Intergovernmental Agreement dated March 26, 2002.
- B. Conflicting standards. In addition to the standards of Chapter 18.520 (Commercial Zoning District) and other applicable standards of the Development Code, the following design standards apply to all development located within the ~~Durham Quarry~~ Bridgeport Village Plan District within the MUC-1 zone. If a standard found in this section conflicts with another section in the Development Code, standards in this section shall govern.

18.640.070 Signs

In addition to the requirements of Chapter 18.780 of the Development Code, the following standards shall be met:

- A. Zoning district regulations. Residential only developments within the MUC-1 shall meet the sign requirements for the R-40 zone, Section 18.780.130.B; nonresidential development within the MUC-1 shall meet the requirements of the C-P zone, Section 18.780.130.D.
- B. Sign area limits. The maximum sign area limits found in Section 18.780.130 shall not be exceeded; no area limit increase will be permitted.
- C. Height limits. The maximum height limit for all signs except wall signs shall be 10 feet. Wall signs shall not extend above the roof line of the wall on which the signs are located. No height increases will be permitted.
- D. Sign location. Freestanding signs within the ~~Durham Quarry~~ Bridgeport Village Plan District shall not be permitted within the required L-1 landscape areas. (Ord. 09-13)

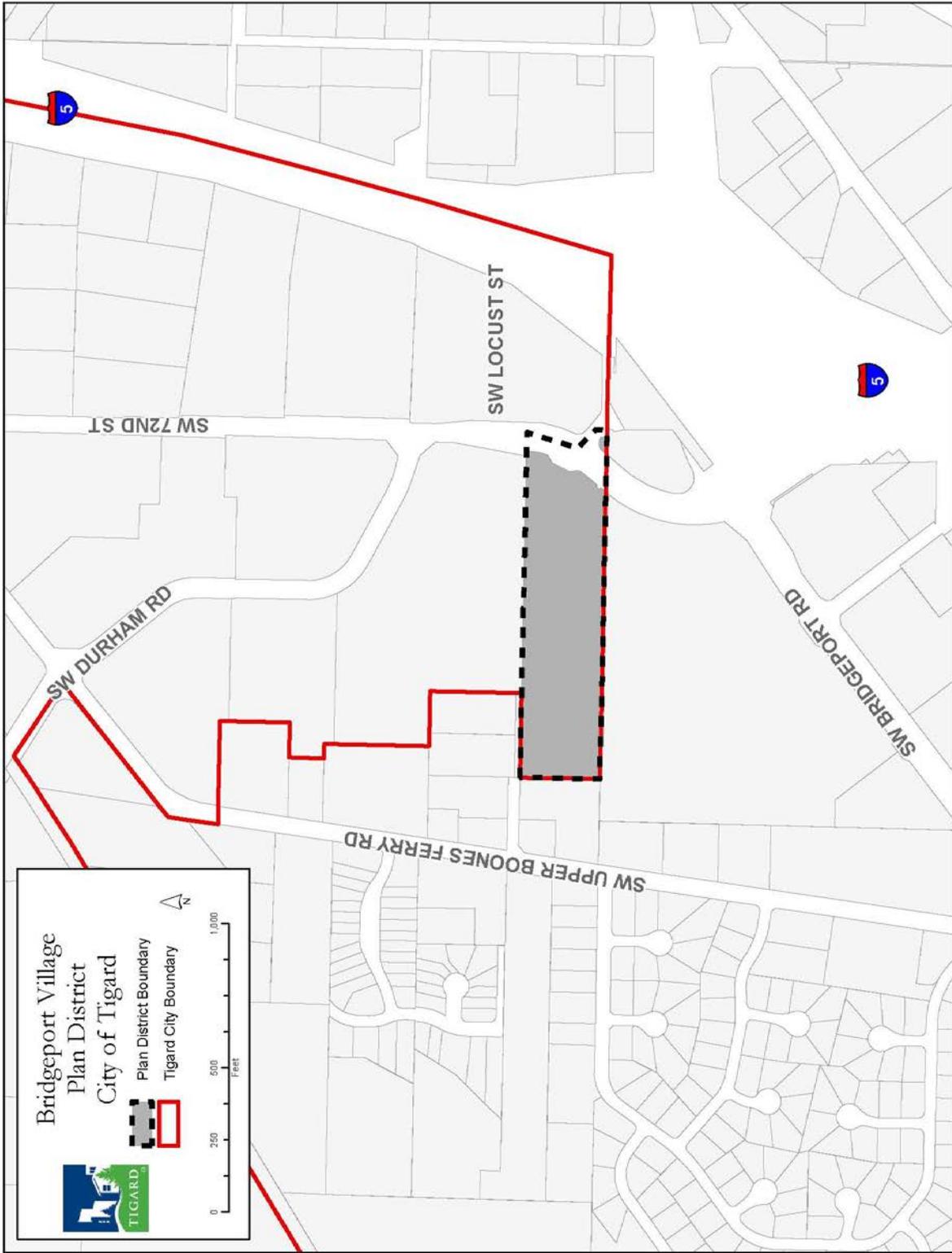
18.640.200 Design Standards

- A. Purpose and applicability.
 - 1. Design principles. Design standards for public street improvements for the ~~Durham Quarry~~ Bridgeport Village Plan District site address several important guiding principles, including creating a high-quality mixed use area, providing a convenient pedestrian and bikeway system and utilizing streetscape to create a high quality image for the area.
 - 2. Development conformance. New development, including remodeling and renovation projects resulting in non-single family residential uses, are expected to contribute to the character and quality of the area. In addition to meeting the design standards described below and other development standards required by the Development and Building Codes, developments will be required to dedicate and improve public streets, connect to public facilities such as sanitary sewer, water and storm drainage, and participate in funding future transportation and public improvement projects within and surrounding the ~~Durham Quarry~~ Bridgeport Village Plan District site.

Staff Commentary

Proposed changes to 18.640 are limited to (1) the establishment of a uniform naming convention for all chapters within the 18.600 series of the Tigard Development Code; (2) the changing of the name of this district from “Durham Quarry” to “Bridgeport Village” to reflect the current name for the shopping center; and (3) the insertion of clearly legible maps to communicate plan district boundaries under Council Ordinance No. 01- 07. No changes to existing land use regulations or administrative processes are proposed.

MAP 18.640.1: Bridgeport Village Plan District Boundary



Staff Commentary

The text amendments on the opposite page establish the name and structure for a new chapter to be inserted as 18.650 of the Tigard Development Code. The purpose of this chapter is to address Project Issues 2 through 5, as outlined in Section III of this project report.

Chapter 18.650
Durham Advanced Wastewater Treatment Facility Plan District

Sections:

- 18.650.010 Purpose
- 18.650.020 Where These Regulations Apply
- 18.650.030 Uses
- 18.650.040 Development Standards
- 18.650.050 Buffering and Screening Standards
- 18.650.060 Connectivity Standards
- 18.650.070 Off-Site Impact Standards
- 18.650.080 Additional Standards for Conditional Uses
- 18.650.090 Discretionary Review
- 18.650.100 Temporary Off-Site Impact Permit

Staff Commentary

The proposed amendments on the opposite page establish the purpose and legislative intent of this chapter. When making interpretations of the text, the Community Development Director or his/her designee will turn to this section for guidance before rendering a decision. The proposed purpose statement is based upon the language of an Intergovernmental Agreement (IGA) to undertake this project (See Appendix V for a copy of the IGA).

18.650.010 Purpose

- A. Purpose: The purpose of this district is to regulate the development of Clean Water Services (CWS) Durham Advanced Wastewater Treatment Facility (Durham Facility) in such a manner that the Durham Facility is able to grow and adapt to new regulatory and environmental conditions, while avoiding or mitigating negative off-site impacts to adjacent land uses. The Durham Advanced Wastewater Treatment Facility Plan District (Plan District) is intended to provide land use regulations that accomplish the following:
1. Allow expansion of the Durham Facility to accommodate regional urban growth;
 2. Allow modification and adaptation of the Durham Facility to satisfy changes in environmental or regulatory standards and to incorporate new technology and methods in wastewater treatment, waste-handling and processing, and wastewater, energy, and nutrient recovery;
 3. Require avoidance, management, and/or mitigation of negative off-site impacts on land uses adjacent to the Durham Facility, recognizing that certain impacts are inherent in the operation of a regional wastewater treatment facility and that such impacts should be balanced with the overall community benefit such facilities provide;
 4. Regulate land uses, site and building design, and environmental impacts from new development within the Plan District, taking into account the specialized operational requirements and the regional service nature of the Durham Facility;
 5. Address transportation system impacts from future changes at the Durham Facility;
 6. Establish specific land use and permitting processes for the Durham Facility that will allow permit issuance on a timely basis; and
 7. Ensure Clean Water Services is able to comply with state and federal regulations pertaining to wastewater treatment and to utilize the most efficient and timely technology available.

Staff Commentary

The amendments on the opposite page reference an official plan district boundary map and set forth the intent and characteristics of the three proposed sub-districts within. As described in Project Issue 3 of Section III, the use of sub-districts is proposed as a tool to limit off-site impacts through differential land uses and development standards appropriate to the function and location of each area.

By describing the intent and characteristics of each sub-district, the code is providing guidance as to the land use goals of each district and how the code is to be interpreted in unanticipated situations or if changes to sub-district boundaries or land use regulations are proposed.

18.650.020 Where These Regulations Apply

- A. Boundaries: The regulations of this chapter apply to the Durham Advanced Wastewater Treatment Facility Plan District. The boundaries of this Plan District, and the sub-districts therein, are shown on Map 18.650.A at the end of this chapter, and on the official zoning map.
- B. Sub-districts: The three sub-areas identified on Map 18.650.A and described below have different land use and development regulations, as set forth in 18.650.030 through 18.650.100.
 - 1. Administrative Sub-District – This area is primarily intended to accommodate the administrative offices, laboratories and other support functions of the treatment plant in an office park setting that is compatible with proximate residential and civic land uses to the north, east and west. The sub-district also contains open space features that are intended to provide a buffer between wastewater treatment operations to the south and impact sensitive land uses and transportation facilities to the north.
 - 2. Operations Sub-District - This area is intended for the continued operation and expansion of the wastewater treatment facilities and accessory land uses. Wastewater treatment processes and accessory resource extraction and processing activities are expected and allowed by-right in this area within an industrial setting.
 - 3. Floodplain Sub-District – This area is within the 100-year floodplain and is constrained by the presence of locally significant inventoried wetlands, buffers, and vegetated corridors. Activities with minimal disturbance such as wastewater conveyance facilities and community recreation uses are allowed within this area.

Staff Commentary

The proposed amendments on the opposite page establish the allowed land uses within each sub-district. Use classifications included in the table are more fully described in existing chapter 18.130 of the Tigard Development Code.

The proposed land uses in Table 18.650.1 reflect a policy acknowledgement that the wastewater treatment plant is the primary land use within the district and is expected to remain as such for the foreseeable future. As such wastewater treatment and accessory land uses are classified as permitted land uses within the district. These accessory uses include public and private agencies partnering with CWS to produce new products and materials from the waste stream. Non-related land uses are no longer allowed within this part of the city, as the land use regulations have been specifically crafted for wastewater treatment. The only conditional land use proposed is limited to Industrial Services within the Administrative Sub-District, and is classified as such due to the potential for off-site impacts along the Durham Road corridor. For a more detailed background and discussion of these recommendations, please see Project Issues 2 and 4 in Section III of this project report.

18.650.030 Uses

- A. Types of Uses: For the purposes of this chapter, uses are regulated within each sub-district of the Plan District in the following four ways:
1. A permitted (P) use is a use which is permitted outright within the applicable sub-district, but subject to all of the applicable provisions of this title.
 2. A restricted (R) use is permitted outright within the applicable sub-district, providing it is in compliance with special requirements, exceptions, or restrictions;
 3. A conditional (C) use is a use the approval of which is at the discretion of the Hearings officer. The approval process and criteria are set forth in Chapter 18.330 of this Title.
 4. A prohibited (N) use is one which is not permitted within the applicable sub-district under any circumstances.
- B. Use Table: Permitted uses within the Durham Facility Plan District are limited to those set forth in Table 18.650.1 of this Chapter. Use classifications identified in Chapter 18.130 but not included in Table 18.650.1 are not allowed within the Durham Facility Plan District. Unanticipated land uses are subject to the provisions of 18.130.030.

Table 18.650.1
Use Table

Land Use	Sub-Districts		
	Administrative Sub-District	Operations Sub-District	Floodplain Sub-District
Waste Related	N	P	N
Office	P	P	N
Basic Utilities	P	P	P
Utility Corridors	P	P	P
Industrial Services	C ¹	P	N
General Industrial	N	R ²	N
Community Recreation	P	P	P
Wireless Communication Facilities	P	P	P

[1] Restricted to support facilities that are clearly accessory to and support the wastewater treatment facility, and conducted entirely indoors with the exception of parking. Support facilities are permitted conditionally within the Administrative Sub-District.

[2] Restricted to industrial land uses that are clearly accessory to the wastewater treatment facility and utilizing raw materials recovered, diverted, and/or produced by the collection and treatment of wastewater.

Staff Commentary

The amendments on the opposite page establish setback and height limits for the proposed sub-districts.

The entire plan district is subject to a fifty foot setback, with the exception of a special setback along Durham Road intended to protect the existing large fountain and landscape buffer. These setbacks represent a significant increase over existing conditions within those portions of the district presently zone R-4.5 and along the Durham Road corridor.

Setback exceptions are set forth for underground and low-profile equipment. These provisions will allow Clean Water Services to replace or retrofit existing venting facilities to better control noise and odor.

For more discussion of these requirements, see also Project Issues 2 and 3 in Section III of this project report.

18.650.040 Development Standards

Development within the plan district is subject to the following development standards. Relief or variation from the applicable requirements of this title may be requested through an adjustment or variance, as set forth in Chapter 18.370 (Variances and Adjustments).

A. Setbacks: Development within the Plan District shall be subject to the following setback standards in order to reduce off-site impacts to adjoining uses and public facilities:

1. Development shall maintain a 50 foot setback from the perimeter of the Plan District, except as set forth in 18.650.040.A.2 through 5 below.
2. Development within the Administrative Sub-District shall be subject to a setback from Durham Road and 85th Avenue right of ways as measured from the southeastern edge and easternmost point of the main ornamental fountain, as set forth in Map 18.650.B.
3. Development located entirely underground is exempted from setback requirements provided all other requirements of this title are satisfied, including buffering and screening standards.
4. Venting facilities related to odor control systems are allowed within the required setback area provided they are flush or nearly flush with finished grade; integrate with existing landscaping through the use of a cover composed of gravel, sand, bark, living groundcover, or similar materials; and comply with all other requirements of this title including off-site impact standards. Ancillary equipment servicing the venting facilities, such as irrigation control panels and enclosed fans, are allowed provided they are low profile or flush with the ground, designed to integrate with existing landscaping, and comply with all other requirements of this title including off-site impact standard.
5. New structures fronting a public road shall maintain a setback of not less than one-half of the projected ultimate road width as measured from centerline of the adjacent roadway, utilizing street width set forth in 18.810.030 of this title (Street Standards).

B. Height Limits: Development shall meet the following sub-district height requirements in order to reduce off-site impacts to adjoining uses and public facilities:

1. Development within the Administrative sub-district shall be subject to a 45 foot height limit.
2. Development within the Operations Sub-District shall be subject to a 50 foot height limit.
3. Development within the Floodplain Sub-District shall be subject to a 30 foot height limit.

Staff Commentary

The amendments on the following page establish general development standards for the facility.

Proposed regulations for lot coverage, accessory structures, signs, and minimum lot size are identical to that of the I-P: Industrial Park zone.

C. Lot Coverage and Landscaping: Development within the plan district shall be subject to the following lot coverage and landscaping standards:

1. Development within the Administrative and Operations Sub-Districts shall be subject to a maximum lot coverage of 75%, inclusive of all buildings and impervious surfaces, and a minimum landscape requirement of 25%.

D. Accessory structures: Accessory Structures shall be subject to the following standards:

1. Accessory structures are permitted and shall meet all applicable development standards.
2. All freestanding and detached towers, antennas, wind-generating devices, and TV receiving dishes, except as otherwise regulated by Wireless Communication Facilities (Chapter 18.798), shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscaped planting screen, in accordance with Chapter 18.745, Landscaping and Screening, shall be provided and maintained around these structures and accessory attachments.

E. Signs: Signage within the plan district shall be subject to the same regulations as that of the I-P: Industrial Park Zoning District.

F. Lot Size: Development within the plan district shall be subject to the following lot size and width regulations:

1. Development within the plan district shall not be subject to a minimum lot size.
2. Development within the plan district shall be subject to a 50 foot minimum lot width.

Staff Commentary

Amendments on the opposite page establish regulations for buffering and screening and connectivity standards.

Buffering and screening standards are determined by sub-district, and utilize standards already present in Chapter 18.745 (Landscaping and Screening). The operations sub-district is subject to the most rigorous standard present in the code, requiring a buffer of 40 feet in width containing trees, shrubs, and a hedge, fence, wall, or berm. Lesser standards are required for the Administrative and Floodplain sub-district due to the less impactful nature of the land uses allowed in those areas.

It should be noted that buffering and screening is only required along the perimeter of the proposed plan district. With traffic on SW 85th Avenue predominantly limited to those accessing the wastewater treatment facility, or incidental pass-through traffic using public trails on CWS property, staff does not recommend a mandatory buffer or screening along the interior of the plan district.

Circulation standards are proposed for modification due to the combination of the operational needs of the plant, combined with the access needs of Tualatin Valley Fire & Rescue, as outlined in Issue 5 (Site Circulation) in Section III of the project report. If adopted, the proposed connectivity standards would relieve CWS of having to extend Waverly Place through to 85th Avenue, while ensuring the development and preservation of a permanent emergency vehicle access to Waverly Estates from 85th Avenue.

For more discussion of these issues, please refer to Project Issues 3 and 5 as described in Section III of this project report.

18.650.050 Buffering and Screening Standards

- A. New Development must conform to the requirements of Landscaping and Screening (see Chapter 18.745), subject to the following exceptions to Buffering and Screening standards set forth in Tables 18.745.1 and 18.745.2:
1. New development within the Administrative Sub-District shall meet buffer standard D along the eastern boundary of the sub-district, as set forth in Table 18.754.2, no buffering or screening is required along the northern and southern boundaries of the sub-district;
 2. The Operations Sub-District shall meet buffer standards F along all boundaries of the sub-district, as set forth in Table 18.754.2, with the exception of the boundary between the Operations Subdistrict and Administrative Subdistrict.
 3. The Floodplain Sub-District shall be subject to buffer standard A as set forth in Table 18.745.2.
 4. In lieu of these standards, a detailed buffer area landscaping and screening plan may be submitted for the Director's approval as an alternative to the buffer area landscaping and screening standards, provided it affords the same degree of buffering and screening as required by the code.

18.650.060 Connectivity Standards

- A. New Development must conform to the requirements of Street and Utility Improvement Standards (see Chapter 18.810), subject to the following exceptions
1. Development within the Plan District is exempted from block standards set forth in 18.810.040.
 2. New development shall provide for emergency vehicle access drive between 85th Avenue and the eastern terminus of Waverly Drive. The access drive shall be improved with an all-weather fire-apparatus access road and key box access in accordance with Tualatin Valley Fire and Rescue Fire and Life Safety Requirements and the Oregon Fire Code.

Staff Commentary

The amendments proposed on the opposite page establish the purpose for off-site impact standards, exceptions to these standards, and their relationship to other regulations that may apply to the operation of the wastewater facility.

The need for new impact standards is discussed in Issue 3 (Off-Site Impacts) of Section III of this project report. It should be noted that these standards are intended as clear and objective design standards for new machinery, equipment, facilities, operations and activities. They are intended as stricter and more clearly measured criteria than those presently contained in Chapter 18.725 (Environmental Performance Standards). Existing standards are unclear and make it difficult for an applicant or staff to demonstrate compliance with off-site impact standards, both at the permitting stage and in an enforcement investigation. The proposed standards are intended to remedy this difficulty.

18.650.070 Off-Site Impact Standards

- A. Purpose: The purpose of this section is to establish standards for negative off-site impacts resulting from noise, odor, and light generated within the boundaries of the Plan District. The standards provide a measurable way to control and regulate the specified off-site impacts, and protects the occupants and operators of land uses adjacent to the Plan District.

- B. Exemptions: The off-site impact standards do not apply to machinery, equipment, facilities and operations that were on the site and in compliance with existing regulations at the effective date of this Chapter, but do apply to new machinery, equipment, facilities, operations, and activities. Documentation is the responsibility of the proprietor of the use if there is any question about when equipment or land uses were brought to the site.

- C. Relationship to other Regulations: The standards set forth in 18.650.070 do not supersede or replace regulations of the Department of Environmental Quality and any applicable County, State, and Federal Regulations.

Staff Commentary

Existing noise standards are set forth in Chapter 18.725 of the development code, and Chapter 6.02.410-470 of the Tigard Municipal Code. The proposed noise standards for the plan district are based upon Oregon Department of Environmental Quality standards, as set forth in Oregon Administrative Rules (OAR) 340-035-0015, and input from CH2MHILL and Clean Water Services (see memorandum “Suggested Approach for Addressing Noise in Tigard’s New Wastewater Treatment District” in Section V of this project report. They differ from existing standards in both decibel levels and that they measure an average over time rather than single incidents.

Noise standards are proposed to be measured from the plan district boundary, and not the nearest noise sensitive unit (i.e. a home, school, or park) in order to ensure compliance over time as adjacent land uses change and grow.

The following graphic is intended to provide an equivalency for decibel levels specified in the proposed code:

Noise Source at a Given Distance	A-Weighted Sound Level in Decibels	Noise Environments	Subjective Impression
Shotgun (at shooter's ear)	140	Carrier flight deck	Painfully loud
Civil defense siren (100 feet)	130		
Jet takeoff (200 feet)	120		Threshold of pain
Loud rock music	110	Rock music concert	
Pile driver (50 feet)	100		Very loud
Ambulance siren (100 feet)	90	Boiler room	
Pneumatic drill (50 feet)	80	Noisy restaurant	
Busy traffic; hair dryer	70		Moderately loud
Normal conversation (5 feet)	60	Data processing center	
Light traffic (100 feet); rainfall	50	Private business office	
Bird calls (distant)	40	Average living room library	Quiet
Soft whisper (5 feet); rustling leaves	30	Quiet bedroom	
	20	Recording studio	
Normal breathing	10		Threshold of hearing

Source: Beranek, 1998.

D. Noise Standards: Development within the Plan District shall comply with the following noise standards:

1. Statistical Noise Levels: Equipment, facilities, operations, or activities within the Durham Facility Plan District shall not produce sounds that exceed in any one hour the noise levels specified in Table 18.650.2, as measured at the Plan District boundary or at the furthest boundary of adjacent industrially-zoned properties:

Table 18.650.2
Noise Standards

Allowable Statistical Noise Levels, dBA[1]	7AM – 10 PM	10 PM – 7 AM
L ₅₀	55	50
L ₁₀	60	55
L ₁	75	60

[1] L_x – Noise level can be equaled or exceeded x% of the time.

2. Impulse Sound: Equipment, facilities, operations, or activities within the Plan District shall not produce any sounds emitted for a duration of less than one second which exceed the sound pressure level of 100dB between the hours of 7am and 10pm, or 80 dB between the hours of 10 pm and 7 am as measured at the Plan District boundary or at the furthest boundary of adjacent industrially-zoned properties.
3. Measurement: Sound level instruments shall conform to the Tigard Municipal Code 6.02.420.

Staff Commentary

Odor standards proposed on the opposite page were developed using input from Tom Card, an odor expert/consultant and as described in a memorandum titled “Background and Suggested Approach for Addressing Odor in Tigard’s New Wastewater Treatment Plan District.” This memorandum can be found in the Section V (Appendices) of this project report. Existing Tigard code prohibits “the emission of odorous gases or other matter in such quantities as to be *readily detectible* [emphasis added] at any point beyond the property line of the use creating the odors.” This standard is difficult to enforce as different people have different thresholds for detection of any given substance. The proposed text amendment attempts to correct this through the use of readily available technology operated by a trained professional.

Using a scentometer is a reliable way to quantify odor strength in terms of “Dilution-to-Threshold” (D/T) ratios. The D/T measurement is the most common method of measuring odors. This allows experts to quantify odors on a commonly recognized scale. To make a D/T measurement, carbon-filtered air is mixed with specific volumes of odorous ambient air. The D/T ratio is a measure of the number of dilutions needed to take the odorous air to its threshold.

A Nasal Ranger is a hand held scentometer that has only six possible output values. These values are 2, 4, 7, 15, 30, and 60 dilutions to threshold (D/T). Based on experience for wastewater odors a Nasal Ranger value of 7 D/T is a clear and almost universally objectionable odor. The next lower value, 4 D/T however, is generally only a problem if it is sustained over a long time period. The lowest value, 2 D/T, is almost imperceptible to any but the most discerning nose.

Comparable D/T Standards are listed in the table below:

Location	Off-site standard or guideline	Averaging times/Comments
Allegheny County WWTP, PA	4 D/T (design goal)	2- minutes
San Francisco Bay Area Air quality district	5 D/T	Applied after at least 10 complaints within 90-days
State of Colorado	7 D/T (scentometer)	
State of Connecticut	7 D/T	
State of Massachusetts	5 D/T	Draft policy and guidance for composting facilities.
State of New Jersey	5 D/T	5-minutes or less; for biosolids/sludge handling facilities.
State of N Dakota	2 D/T (scentometer)	
City of Oakland, CA	50 D/T	3-minute
City of San Diego, CA	5 D/T	5-minutes
City of Seattle WA, WWTP's	5 D/T	5-minutes
Wilsonville, OR	5 D/T	& H2S of 5PPB – both 1-hour averaged.
Spokane, WA	5D/T	& H2S of 5PPB

Glare Standards are based upon standards used successfully by other jurisdictions in the region and are intended to protect adjacent properties from unwanted light intrusion. For purposes of comparison, one foot-candle is approximately the amount of light a birthday candle generates when measured one foot from the flame.

- E. Odor Standards: Development within the Durham Facility Plan District shall comply with the following odor standards:
1. Equipment, facilities, operations, or activities shall not generate off-site facility odors detectable at the following scentometer levels using the Nasal Ranger ® field scentometer or equivalent device, as measured at the Plan District Boundary:
 - a. Any one instantaneous measurement of 7 or greater dilutions to threshold (D/T); or
 - b. Ten consecutive readings equal to or greater than 4 D/T occurring over a minimum four-hour period, to a maximum one-week period.
 2. If development is found to be noncompliant with the odor standards contained within 17.650.070.B above, Clean Water Services (CWS) shall be responsible for the following:
 - a. Every scentometer reading in excess of 4 D/T or greater shall be tracked to the source of the odor by a trained and certified scentometer operator; and
 - b. If the source of the odor is found to originate from equipment, facilities, operations, or activities within the Durham Facility Plan District, CWS shall submit a report within 90 days of the notice of violation that identifies the cause of the off-site odor and the steps required to stop, reduce, and/or mitigate the odors.
- F. Glare Standards: Development within the Durham Facility Plan District shall comply with the following standards:
1. Glare sources shall be hooded, shielded, or otherwise located to avoid direct or reflected illumination in excess of 0.5 foot candles, as measured at the Plan District boundary or at the furthest boundary of adjacent industrially-zoned properties.

Staff Commentary

The proposed language on the opposite page is intended to provide clarity as to what documentation is required from an applicant or property owner at the time of permit application, and from whom the city can accept a report measuring an off-site impact.

- G. Documentation: The following provisions shall apply at the time of permit application or a request for enforcement:
1. When reviewing a permit application, the City may accept an evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed development will meet the off-site impact standard or standards in question. The evaluation and explanation shall provide a description of the use or activity, equipment, processes and the mechanisms, or equipment used to avoid or mitigate off-site impacts.
 2. If the City does not have the equipment or expertise to measure and evaluate a specific complaint regarding off-site impacts, it may request assistance from another agency or may contract with an independent expert to perform the necessary measurements. The City may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source.

Staff Commentary

This section sets forth how a project is to be reviewed for compliance with land use standards, and represents a major change from existing requirements.

All development will fall into two review processes: (1) a conditional use permit review followed by building permits, or (2) directly to building permits. All development not requiring a conditional use is permitted outright without a site development review or associated minor modification, and may proceed directly to a building permit. City staff will verify conformance with land use standards as part of normal building permit review. The reason for this recommended change is discussed in Project Issues 2 and 4, as found in Section III of this project report.

18.650.080 Discretionary Review

- A. Development classified as a conditional use in Table 18.650.1 shall be reviewed in accordance with the procedures and requirements set forth in 18.330 (Conditional Use) of this title.
- B. Development meeting one or more of the following criteria shall be reviewed in accordance with the procedures and requirements set forth in 18.330 (Conditional Use) of this title.
 - 1. An increase in vehicular traffic to and from the site in excess of 100 vehicles per day;
 - 2. The opening of a new access way onto Durham Road, or the improvement of the existing access way onto Waverly Drive for other than emergency vehicle access.
- C. Development not meeting the criteria of 18.650.080.A or 18.650.080.B is exempted from site development review as set forth in 18.360. Review for compliance with applicable standards shall be performed in conjunction with obtaining a building permit.

Staff Commentary

The following standards only apply to conditional uses within the administrative sub-district, and are intended to protect the Durham Road corridor from incompatible development that may present unwanted aesthetic impacts.

18.650.090 Additional Standards for Conditional Uses within the Administrative Sub-District

- A. Purpose: Conditional Uses are permitted within the administrative sub-district, but have the potential to create unpleasant aesthetic impacts to nearby land uses and travelers upon Durham Road and Hall Boulevard. These standards are intended to reduce off-site impacts and ensure new development associated with these activities presents the appearance of a high quality office campus regardless of the interior activity
- B. Standards: Conditional Uses within the Administrative Sub-District shall be subject to the following development standards in addition to those set forth in 18.330.030 and 18.330.050:
1. Outside Storage - There shall be no outside storage of materials or equipment associated with a conditional use in the Administrative Sub District, other than incidental delivery and temporary staging of materials and equipment.
 2. Ground-Floor Windows – All street facing elevations along public streets shall include a minimum of 50% of the ground floor wall area with windows or glazed doorway openings. The ground floor wall area shall be measured from three feet above grade to nine feet above grade the entire width of the street facing elevation. Glazing covered with applied window film shall not be considered in the calculation to meet this standard.
 3. Building Facades – Facades that face a public street shall extend no more than 50 feet without providing at least one of the following features: (a) variation in building materials; (b) a building off-set of at least 1-foot; (c) a wall area that is entirely separated from other wall areas by a projection, such as an arcade; or (d) by other design features that reflect the building’s structural system.
 4. Building Materials – Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board, fiber cement products, or vinyl siding may not be used as exterior finish materials.
 5. Roofs - Rooflines shall be designed as an extension of the primary materials used for the building and should respect the building’s structural system and architectural style.
 6. All roof-mounted equipment must be screened from view from adjacent public streets. Solar heating and photovoltaic panels are exempted from this standard.

Staff Commentary

The section proposed on the opposite page is intended to provide for temporary waiver from off-site impact standards. These permits are intended for unexpected situations or where the strict application is impractical when dealing with things like major repairs, unexpected system breakdowns, temporary construction, and the like. As part of the permit review, the City will ensure that appropriate mitigation measures are in place, including a 24-hour telephone line that is available for nearby residents to get information or to lodge complaints about the project directly to Clean Water Services.

On February 4, 2013 the Planning Commission made three specific edits to these standards.

1. They moved to clarify the title and purpose of the chapter to make clear where the location of these standards apply (only the administrative subdistrict), and what the desired policy goal was (the appearance of a high quality office campus).
2. Amended the glazing standards to prohibit applied window film, and ensure that only glazed doorways may contribute to the ground floor window standard.
3. Expanded the prohibited building materials list to include fiber cement products.

18.650.100 Temporary Off-Site Impact Permit

- A. Intent: Specific permits may be granted as deemed necessary to allow activities that protect the public health and welfare, and where strict compliance with Noise, Odor, and/or Light Standards may be inappropriate because of special circumstances that render strict compliance unreasonable, impractical, or would result in the reduction or cessation of wastewater treatment.
- B. Method of Review: Temporary off-site impact permits to noise, odor, and/or light standards shall be processed as a Type I procedure as governed by 18.390.030, using approval criteria listed in Subsection 18.650.090.D below.
- C. Exceptions: Responses to an unexpected failure of a critical waste treatment process are exempted from the requirement for a temporary off-site impact permit for up to three business days, whereupon the facility operator shall submit a complete application for a Temporary Off-Site Impact Permit.
- D. Approval Criteria: The Director shall approve, approve with conditions, or deny an application for a temporary off-site impact permit based on a finding that the following approval criteria are satisfied:
 - 1. The strict application of the noise, odor or light standards set forth in 18.650.070 is unreasonable, impractical, or threatens public health;
 - 2. A demonstration that consideration for impact sensitive land uses and appropriate mitigation measures have been incorporated into the request;
 - 3. A public outreach plan will be implemented, including a 24-hour telephone contact number for information and or to lodge complaints about the project; and
 - 4. The off-site impact permit is limited in time and scope.

Staff Commentary

The proposed map on the opposite page sets forth the plan district boundary and sub-districts within the district boundary. Note the plan district extends to the far side of the right-of-way along SW Durham Road and SW 85th Avenue. This boundary recommendation was requested by CWS in order to ensure that as the roadways are widened in the future, the point at which off-site impacts are measured becomes further away and not closer to the facility. Staff finds the users of the public right of way are less sensitive to off-site impacts such as noise, lights, and odors due to the heavy traffic in the area, and as such the request will not impact nearby sensitive land uses.

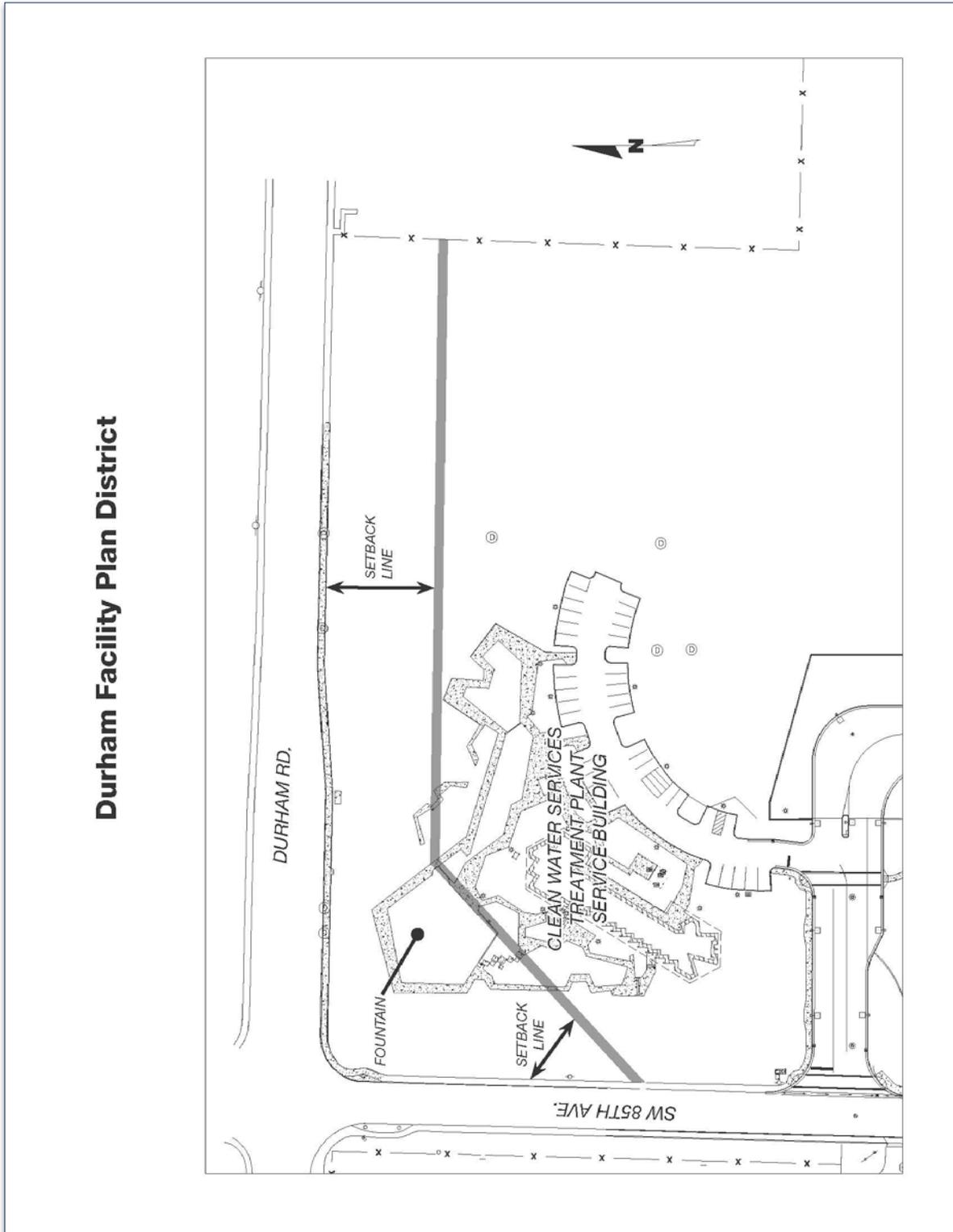
Map 18.650.A: Plan District Boundaries and Sub-Districts



Staff Commentary

The proposed graphic on the opposite page establishes a setback line from Durham Road which is intended to preserve the existing fountain and landscaped open space in front of Durham Facility.

Map 18.650.B: Setback Line from Durham Road



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SECTION V: APPENDICES

Technical Memorandum

TO: John Floyd/COT, Tom McGuire/COT
FROM: Randy Naef/CWS
CC: Nate Cullen, Tom Card/EMS, Lynne Chicoine, Tim Brooks
DATE: September 25, 2012
SUBJECT: Background and Suggested approach for Addressing Odor in Tigard's New Wastewater Treatment Plan District

This memo was prepared to help provide decision support information as to whether and how an odor regulation could be implemented as part of the plan district process.

I have taken information from several tech memos from Tom Card, our odor expert/consultant with Environmental Management Consulting (with some assistance from CH2M Hill regarding Wilsonville, Spokane, and Denver). It is of interest to note that he recommends against a quantitative standard because of known problems with these types of standards. However there are mitigating considerations that make a quantitative standard desirable from both the City's and the Districts standpoints.

There have been extensive studies concerning odor regulations over the last few years suggesting a high level of interest in it. The studies have involved reviewing local, state, national, and international regulations. The memo provides a summary of these regulations by type, and provides some example threshold values for the quantitative regulations.

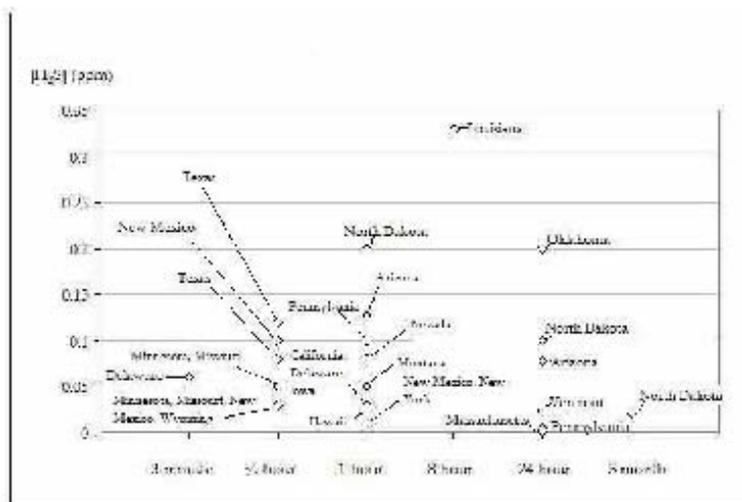
Existing Types of Regulations

Current odor regulations fall into one or more of the following categories:

Compound-specific ambient air limits.

The most common compound used is hydrogen sulfide (H₂S). However, ammonia and mercaptans have also been included in some regulations. There is a National Ambient Air Standard for hydrogen sulfide of 30 ppbv averaged over a 24 hour period. However, this standard is only used for planning purposes (new facilities that are major sources of air pollutants must demonstrate that they will comply with this standard). Many states have ambient air standards for H₂S as well. Figure 1 (Skrtec 2006) shows how the state standards compare. Note that Oregon is not on the list.

Figure 1. Summary of State H₂S Standards (concentration and averaging times).



To provide perspective to these numbers, experience indicates that the normal odor threshold for H₂S is 1 ppbv (0.001 ppmw). Most people notice it at 10 ppbv, and most people are annoyed at 100 ppbv and start to complain. At 1,000 ppbv (1 ppmw) almost any one will complain.

The advantage of a standard like this is that at concentrations over 10 ppbv it is easily quantitatively and objectively measured. However, it requires a \$15,000 instrument (Jerome 631-X). At concentrations between 0.1 and 10 ppbv it still can be measured, but not easily.

There are two main disadvantages of this type of standard:

1. H₂S only dominates odors most of the time, but not all of the time. There are many odor sources (wastewater solids, livestock, even pulp mills) where H₂S is not the dominant odorous compound. Therefore this type of regulation would be limited to sources where H₂S is dominant.
2. H₂S naturally occurs in any natural anaerobic liquid impoundment. Therefore, there are many locations where H₂S odors can be present, but with no man-made source. These natural sources rarely exceed 10 ppbv, so if the standard is above that, then this problem is mitigated.

However, in spite of these limitations, this type of regulation could be implemented for wastewater treatment plants if realistic values such as the following were chosen:

1. Never to exceed value off-site of 100 ppbv.
2. Maximum one hour average of 30 ppbv.

It could be possible, but unlikely, that a wastewater treatment plant could meet these standards and still generate complaints. Therefore, with this type of regulation, additional language would also be necessary to manage possible non-H₂S odors.

Non-Quantitative Nuisance Statues

The overwhelming majority of odor regulations fall into this category. The State of Oregon Statue is a nuisance statue. The City of Portland Statue reads:

33.262.070 Odor

A. Odor standard. Continuous, frequent, or repetitive odors may not be produced.

The odor threshold is the point at which an odor may just be detected

B. Exception. An odor detected for less than 15 minutes per day is exempt.

Typically these statutes are brief, but can elaborate on how a nuisance is determined. The advantages of this type of statute is that it covers all odor sources. The disadvantage is that it is subjective and based on the judgment of someone or group of individuals who may or may not have some sort of back agenda.

Quantitative Limits Based on Olfactometry/Scentometer

Whenever there is significant knowledge of odor sources and those sources have been quantified, quantitative limits can be implemented based on predicting ambient odor concentrations from a stack or impoundment (atmospheric dispersion modeling) or measuring ambient levels with a scentometer (Nasal Ranger).

For the atmospheric dispersion modeling approach, this type of standard can be implemented in either of two ways:

1. Measure the stack concentration of a source and predict the maximum offsite ambient concentration from the source.
2. Pick a maximum offsite ambient concentration, and back model the required maximum source concentration that will provide that.

A fundamental problem with this approach, that is often ignored, is that this approach utilizes two different types of measurement technology that have different absolute scales and different error characteristics. Source strength odors are measured by laboratory olfactometers with the sample taken and transported to the laboratory in a Tedlar bag. These measurements are very repeatable (precise) but the accuracy is unknown for most mixtures of compounds. The current European method (EN 13725) produces blank values (ultrapure air in a Tedlar bag) of between 25 and 50 dilutions to threshold (D/T). Therefore, no source lower than this can be measured.

Ambient odors are measured with a scentometer (Nasal Ranger) and have a range of 0 to 60 D/T. A laboratory sample with a 100 D/T will normally have a Scentometer D/T of 5 to 20. In addition, odors follow Steven's Law (persistence) where some compounds can be diluted by 90%, but the perception of odor only reduces by about 50%. Therefore, you need to choose either a laboratory olfactometer/model approach or a scentometer approach, they really cannot be mixed. Also note that the scentometer only has six values that it can output. They are 2,4,7,15,30, and 60 D/T. This can be a problem because most odors become a problem at around 5 D/T, so 4 is normally too low and 7 is normally too high. The take away lesson here is the laboratory olfactometer's can't measure ambient odors and scentometer's can't measure source odors.

In spite of these problems, this type of approach has been fairly widely implemented. Table 2 provides examples of quantitative standards used in this approach. The values for the City of Seattle include both the West Point and the Brightwater Wastewater Treatment Plants.

Table 2. Example D/T Standards.

Location	Off-site standard or guideline	Averaging times/Comments
Allegheny County WWTP, PA	4 D/T (design goal)	2- minutes
San Francisco Bay Area Air quality district	5 D/T	Applied after at least 10 complaints within 90-days
State of Colorado	7 D/T (scentometer)	
State of Connecticut	7 D/T	
State of Massachusetts	5 D/T	Draft policy and guidance for composting facilities.
State of New Jersey	5 D/T	5-minutes or less; for biosolids/sludge handling facilities.
State of N Dakota	2 D/T (scentometer)	

City of Oakland, CA	50 D/T	3-minute
City of San Diego, CA	5 D/T	5-minutes
City of Seattle WA, WWTP's	5 D/T	5-minutes
Wilsonville, OR	5 D/T	& H2S of 5PPB – both 1-hour averaged.
Spokane, WA	5D/T	& H2S of 5PPB
Denver, CO	15 D/T	

These have never run up against an aggressive court test, and if they did, they would likely fail. Most of the time, the non-scentometer methods are never actually tested for compliance. The scentometer standards are tested routinely, but require trained staff on scentometers to implement. Expert's observations of people using scentometers is that the measurements are not very good, even if trained.

Technology Based Standards

This type of standard either specifies a specific technology (type of odor scrubber) or best work practice to manage odors. If the technology or work practice standard is implemented, then it is assumed that the ambient odor level is acceptable. This is not really germane here.

Zoning or Setback Distances

This is a subset of the technology standards. For this approach the regulation assumes that if you are far away enough from your neighbors, they can't smell you. This is commonly used for agricultural installations. There may be something here that may help you, if setbacks can be established to eliminate the offsite odor issue.

(References: Mahin (2004). Measurement and Regulation of Odors in the USA ; **Skrtic (2006).** Hydrogen Sulfide, Oil and Gas, and People's Health. **Master's Thesis, UC Berkeley.)**

EMC's Initial Summary and Recommendations

Based on this and the previous sections' texts EMC has difficulty recommending voluntarily implementing a quantitative standard. Indeed, most of the standards that exist today were implemented as a last resort to solve some intractable problem between the public and the odor source. However, if an odor standards approach is implemented the following are EMC's recommendations, in order of preference. All of them have fundamental problems/risks. Suggested thresholds are provided, but these are subject to discussion and refinement.

1. Use of a scentometer (Nasal Ranger) with a property line limit of 7 D/T instantaneous, 4 D/T four hour average.
 - a. Pros
 - i. Quantitative
 - ii. Good for all compounds
 - iii. Protective of both source and public
 - iv. Fairly extensive track record of success in agriculture
 - v. Can inexpensively confirm that your plant is in compliance prior to final agreement.
 - b. Cons
 - i. Requires trained staff
 - ii. Requires Nasal Ranger
 - iii. Staff training wears off (most people do not use it enough to get good at it).
 - iv. Some people may think the 7 D/T is too high. Most people can clearly identify wastewater odors at 7 D/T. However, the Nasal Ranger only can provide values of 2, 4 or 7, and 4 is too low.
 - v. Unlikely that the local regulatory staff would do this(sampling).
2. Atmospheric Dispersion Model Predicted Maximum Value of 5 D/T offsite (Based on Laboratory Olfactometry of Sources) at a One Hour Average.
 - a. Pros
 - i. Quantitative
 - ii. Based on EMC observations, Durham WWTP should be compliant as is.
 - iii. Used successfully at West Point in Seattle for 20 years.
 - iv. If this standard is met, you really can't smell this. The public is fully protected.
 - b. Cons
 - i. Difficult to fully test (source test plus model).
 - ii. A little too conservative for the treatment plant, certain process/atmospheric anomalies could put you over the limit.
 - iii. It is a substantial project (\$50,000 to \$100,000) to fully execute and document the source test and dispersion model, if required.
 - iv. How/if to address/confirm actual compliance?
3. Ambient H₂S standard of 30 ppbv for a one hour average.
 - a. Pros
 - i. Quantitative
 - ii. Easy to measure (But requires \$15,000 instrument).
 - iii. Complies with Federal Standard
 - iv. Most, but not all, wastewater treatment plants in compliance with this don't have off site odor complaints.
 - b. Cons
 - i. Does not cover all odors
 - ii. Not completely protective of the public by itself.
 - iii. Will likely need to buy a Jerome 631-X (\$15,000).

Summary Regarding the 'Scentometer' Approach to a Quantitative Standard

Background Summary:

A Nasal Ranger is a hand held scentometer that has only six possible output values. These values are 2, 4, 7, 15, 30, and 60 dilutions to threshold (D/T). Based on experience for wastewater odors a Nasal Ranger value of 7 D/T is a clear and almost universally objectionable odor. The next lower value, 4 D/T however, is generally only a problem if it is sustained over a long time period. The lowest value, 2 D/T, is almost imperceptible to any but the most discerning nose.

Recommendation:

Based on the information provided, and if a quantitative standard is necessary, it would our opinion that a confirmed and valid Nasal Ranger value of 7 or above would suggest that there would be a negative impact on neighbors. This level of odor will get an almost instant negative response from most of the general public. Therefore the threshold for instantaneous measurement should be 7 D/T by a trained Nasal Ranger operator with the odor clearly identified as a wastewater odor.

One of the short comings of the Nasal Ranger approach is that it always takes some time to respond to odor complaints, so if a member of the public does complain, the Nasal Ranger team will likely not be able to respond for possibly up to 24 hours. In order to accommodate this, a longer term lower standard should also be available. If an observer with a Nasal Ranger detects a D/T value of 4 at least 10 times over a period of 4 hours to 1 week, this would also suggest a legitimate negative impact on neighbors. This would allow for repeated visits to the same location to determine if there were a sustained odor issue.

Note that for all these values the odor does need to be connected to the wastewater treatment plant. All observations should be made with known contemporaneous wind speed and direction values to assure that the odors are not from roof vents or wastewater collection systems.

Proposed Regulatory Language:

1. All odor measurements will be made using the Nasal Ranger® field scentometer operated by a trained and certified operator.
2. The facility owner will be considered to be out of compliance if the off-site facility odor is at the following scentometer levels:
 - a. If any one instantaneous measurement is 7 or greater dilutions to threshold (D/T).
 - b. If 10 consecutive readings equal to or greater than 4 D/T occur over a minimum four-hour, to a maximum one-week period.
 - c. For every scentometer reading of 4 D/T or greater, the scentometer operator will track the odor to the source to provide assurance that the facility is the odor source.
3. If the facility is out of compliance by the above clause, the facility shall submit a report within 90 days of the notice of violation that identifies the cause of the off-site odor and the steps required to control the odors to the limits in the above clause.

Suggested Approach for Addressing Noise in Tigard's New Wastewater Treatment District

PREPARED FOR: Randy Naef/Clean Water Services
PREPARED BY: Lynne Chicoine and Dave Baker
REVIEWED BY: Tim Brooks, Winterbrook Planning
DATE: September 5, 2012
PROJECT NUMBER: 422389

Background

The city of Tigard expressed interest in Clean Water Services (CWS) proposing updated noise limits for the new Wastewater Treatment District. The updated limits will benefit both CWS and the city of Tigard by providing limits that are more clearly defined technically and that are measurable.

CH2M HILL recommends that CWS propose that the new Wastewater Treatment District address environmental noise by using the same limits as Division 35 of Chapter 340 of the Oregon Administrative Rules. OAR 35.340 lists regulations for Industry and Commerce that are typically applied to wastewater treatment plants throughout the State. The proposed regulations include applicable limits from OAR 35.340 and are attached at the end of this memorandum.

Comparison of Proposed Noise Limits with Current City of Tigard Code Limits

The city of Tigard noise limits are currently called out in the Tigard Municipal Code (TMC) Chapter 6.02, Article 5. The noise limits are mostly generic and are not applicable to a wastewater treatment facility. Industrial noise, to which the operation of a wastewater treatment facility could be argued is similar, is listed as an exception to the noise limit during hours of 7 a.m. to 8 p.m. under 6.02.450.F.

The environmental noise regulations in the Oregon Administrative Rules are proposed for the new Wastewater District because:

- The OAR sections are complete and clear on multiple technical issues.
- The OAR limits are representative of those typically applied to wastewater treatment plants.

Following is discussion of some specific issues.

Technical Definitions

Noise is a very technically detailed subject. The proposed regulations put forth technically accurate definitions pertaining to noise. The definitions are consistent with OAR 340-035-0015.

Noise Level Frequency Weighting

Environmental noise typically includes noise in a wide range of frequencies. The audible range of frequencies will vary among individuals, but is approximately 20 hertz (hz) to 20,000 hz. However, the human ear does not detect noise in all frequencies equally well. The middle frequencies are heard much better than noise in the lower and upper frequencies. To evaluate overall noise levels in a way that approximately duplicates the function of the human ear, almost all environmental noise limits are stated in terms of A-weighted sound pressure level decibels, abbreviated as dBA. Most regulatory limits for human exposure to overall noise (both environmental and

occupational), including the DEQ rules, are stated as dBA. The proposed limits for the wastewater treatment facility would use dBA units.

Measurement Averaging Time

The DEQ specifies a one-hour period over which their statistical noise limits apply. This is an important issue as the measured sound level at any particular location can vary considerably with averaging time.

Noise Level Measurement Descriptor

Noise levels will vary over time. This is taken into account in most noise regulations by specifying the limits as either a statistical noise level or as an overall limit on a noise energy average basis. Statistical limits are stated as L_{xx} , where the xx value is the percentage of time for which a noise level can be exceeded. For example, an L_{50} limit of 50 dBA means that 50 dBA is allowed to be exceeded 50% of the time in the averaging period specified in the regulation. The DEQ overall A-weighted noise limits are clearly stated as statistical noise levels.

Compliance Determination Procedures

The DEQ guidance document includes an identification of the appropriate noise monitoring location for compliance determination as either; 1) no more than 25 feet from the noise sensitive building where the noise is loudest, or 2) on the property line, whichever is farther from the noise source.

Noise Limits for Properties with No Noise-Sensitive Units

The TMC includes numerical noise level limits that apply for property on which no noise-sensitive units are located, for example 85th Avenue. The DEQ noise rules apply to noise sensitive properties which avoids the potential requirement to meet a noise limit in an area where it will provide no benefit.

Noise Limits Apply to Source Only

The TMC noise limits as currently stated apply to any particular source of noise. However, there is sometimes confusion over the application of the limits. For example, the measured noise level at any location is typically affected by multiple sources. The noise levels currently measured at the west property line of the Durham AWWTF often exceed the TMC limits. However, the noise is usually dominated by non-AWWTF noise sources such as traffic and general urban background noise. The relatively steady noise from the AWWTF has been shown to be lower than the limits by measurements made when non-AWWTF noise is minimal. The proposed limits will apply only to the noise source so that compliance is not affected by noise sources outside the control of the District.

Examples of Typical Noise Levels

Following is information that can be used to generally describe acoustical environments with noise in the range of the proposed regulation and identifies some noise regulations from other jurisdictions that would be similar to our proposed regulation.

Table 1 shows typical sound levels measured in the environment and industry and gives a context or reference for various noise levels.

Table 1. Typical Sound Levels for Environment and Industry

Noise Source at a Given Distance	A-Weighted Sound Level in Decibels	Noise Environments	Subjective Impression
Shotgun (at shooter's ear)	140	Carrier flight deck	Painfully loud
Civil defense siren (100 feet)	130		
Jet takeoff (200 feet)	120		Threshold of pain
Loud rock music	110	Rock music concert	
Pile driver (50 feet)	100		Very loud
Ambulance siren (100 feet)	90	Boiler room	
Pneumatic drill (50 feet)	80	Noisy restaurant	
Busy traffic; hair dryer	70		Moderately loud
Normal conversation (5 feet)	60	Data processing center	
Light traffic (100 feet); rainfall	50	Private business office	
Bird calls (distant)	40	Average living room library	Quiet
Soft whisper (5 feet); rustling leaves	30	Quiet bedroom	
	20	Recording studio	
Normal breathing	10		Threshold of hearing

Source: Beranek, 1998.

Figure 1 shows additional noise levels for urban and suburban environments.

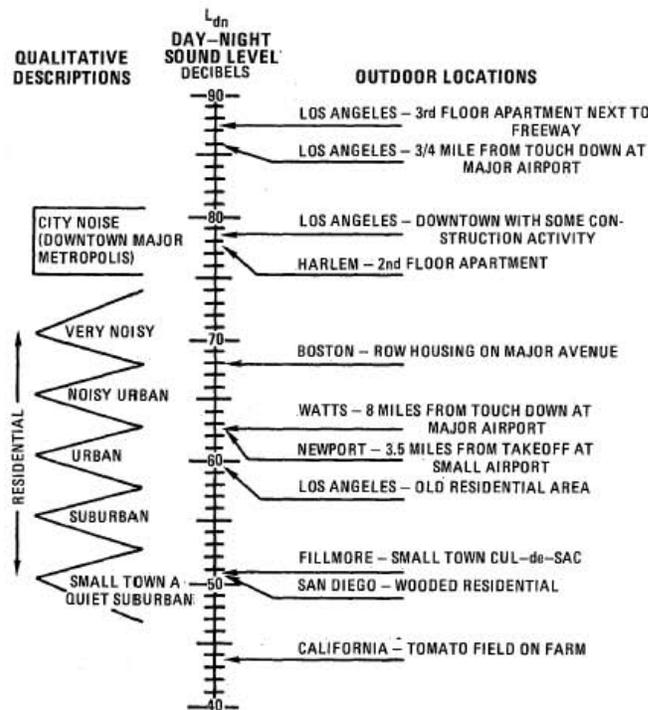


Figure 1. Typical Noise Levels from Urban and Suburban Environments. (Source: *Information On Levels Of Environmental Noise Requisite To Protect Public Health And Welfare With An Adequate Margin Of Safety*, US Environmental Protection Agency, Office of Noise Abatement and Control, March 1974.) $X \text{ dBA } L_{dn} = X-10 \text{ } L_{50} \text{ dBA}$ (night time)

Noise Regulations in Other Jurisdictions

Regulations from nearby regional jurisdictions or jurisdictions with similarities to Oregon are as follows:

- The State of Washington has environmental noise limits in WAC 173-60. The limits vary, depending on the land use designations of the noise source and noise receiving properties. For noise from an industrial property, the limits for residential receiving property are 60 dBA during the day and 50 dBA at night. As with the DEQ limits, higher noise levels are allowed for short term periods during any one hour.
- The City of Portland, Oregon has noise limits of 65 dBA during the day and 60 dBA during the night for residential receiving areas and industrial noise sources.
- The State of Minnesota limits L_{50} noise levels in residential areas to 60 dBA during the daytime and 50 dBA during the night.

- The State of Colorado limits daytime noise (defined as 7 am to 7 pm) to 55 dBA and nighttime (defined as 7 pm to 7 am) noise to 50 dBA.
- The City of Anchorage, Alaska has noise limits of 60 dBA during the day and 50 dBA during the night for residential areas regardless of the land use of the noise source.

PROPOSED REGULATION

xx.xxx.xxx Noise

A. General provisions.

- 1 It is the intent of these requirements to establish standards for noise generated at the site.
- 2 The City may grant specific variances from these standards as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the District or because of special circumstances which would render strict compliance unreasonable, or impractical due to special physical conditions or cause, or because strict compliance would result in reduction in or cessation of wastewater treatment.
 - a. Variances may be limited in time.
 - b. The District will make its request in writing to the City and will state in a concise manner the facts to show cause why such variance should be granted.

B. Noise requirements.

1. A noise source is a source which generates noises by a combination of equipment, facilities, operations or activities employed in the treatment of wastewater and associated recovery of resources.
2. A noise sensitive property is a real property normally used for sleeping or normally used for schools or libraries.
3. An appropriate measurement point shall be that point on the noise sensitive property, which is further from the noise source:
 - a. 25 feet toward the noise source from that point on the noise sensitive building nearest the noise source; or
 - b. The point on the noise sensitive property line nearest the noise source.
4. Statistical Noise Level - The District will not cause or permit the operation of a noise source if the statistical noise levels generated by that source and measured at an appropriate measurement point, exceed in any one hour, the levels specified as follows:

Allowable Statistical Noise Levels, dBA ⁽¹⁾	7 AM-10 PM	10 PM – 7 AM
L ₅₀	55	50
L ₁₀	60	55
L ₁	75	60

(1) L_x – Noise level can be equaled or exceeded x% of the time.

5. Impulse Sound – The District will not cause or permit the operation of a noise source if a sound is emitted for a duration of less than one second which exceeds the sound pressure level of 100 dB between the hours of 7AM and 10 PM or 80 dB between the hours of 10 PM and 7 AM as measured at an appropriate measurement point.
6. Measurement - Sound level instruments shall conform to the Tigard Municipal Code 6.02.420.

AIS-1177

6.

Business Meeting

Meeting Date: 02/26/2013
Length (in minutes): 30 Minutes
Agenda Title: Renew Annexation Incentives - Resolution
Submitted By: Carol Krager, City Management

Council
Business
Meeting -

Item Type: Resolution **Meeting Type:** Main

Public Hearing
Newspaper Legal Ad Required?: No
Public Hearing Publication
Date in Newspaper:

Information

ISSUE

Consider a resolution to renew annexation incentives, which defines incentives for voluntary annexation of unincorporated lands to the municipal city limits.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that council consider whether or not to adopt the proposed resolution amending Resolution No. 07-13 extending voluntary annexation incentives until February 2014. Adopting the resolution would preserve the incentives for another year, pending council reconsideration of incentives at some future date.

KEY FACTS AND INFORMATION SUMMARY

As stipulated in Resolution 12-09, council's annual review of its annexation policy, including annexation incentives, is to occur in February 2013.

Resolution 07-13 approved the following annexation incentives: 1) waiver of the city annexation application fee for all annexation requests, and 2) phasing in of city property taxes over a three-year period at the rate of 33%, 67%, and 100%. In July of 2007, City Council passed a second resolution (Resolution 07-47) to subsidize payment of Metro's annexation mapping fee for applicants. City staff then began the practice of assisting applicants with property descriptions, provided it does not involve field work, and to waive the pre-application conference fee. Resolutions extending the incentives were subsequently adopted annually.

Attachment 1 provides an updated resolution extending the current incentives to February 2014.

OTHER ALTERNATIVES

1. Not adopt the 2013 resolution, allowing the incentives to expire.
2. Amend the resolution, such as remove, add or modify incentives.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

NA

DATES OF PREVIOUS CONSIDERATION

Fiscal Impact

Cost: TBD
Budgeted (yes or no): yes
Where Budgeted (department/program): Community Development

Additional Fiscal Notes:

The fiscal impact of maintaining these incentives is highly variable and related mostly to development activity. For example, in 2013 it is anticipated that almost \$800 will be paid for Metro filing fees. In 2011, there was one annexation by the city for which the resolution does not apply and one by a landowner that has been put on hold by the owner. In 2010, there was only one annexation in Metzger and the City lost approximately \$3,349 in fees and paid \$150 in Metro mapping fees. Also a small amount of staff time was spent assisting the owner with the required property description. However, over the five-year period that the incentives have been in place the City has foregone and spent about \$30,775. It is estimated that by 2012 foregone fees will have been covered by new property tax revenue from annexed properties. If activity increases significantly, the budget may need an adjustment to compensate for the fees and staff time.

In addition to the forgone fee revenue, the City also did not receive the full amount of property taxes. It is estimated that, during the last five years, the City did not receive about \$8,600 in property tax revenue because of the tax phase-in incentive.

Attachments

Annexation Incentives Resolution

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-

A RESOLUTION AMENDING RESOLUTION 07-13 TO EXTEND THE INCENTIVES FOR VOLUNTARY ANNEXATION OF UNINCORPORATED LANDS TO THE MUNICIPAL CITY LIMITS TO FEBRUARY 2014.

WHEREAS, Resolution 07-13 establishes policy to guide city actions pertaining to annexation of unincorporated lands to the municipal city limits, and provides incentives to annex, including waiver of the city annexation application fee until July 1, 2008 and phasing in of increased property taxes over a three-year period at the rate of 33 percent, 67 percent, and 100 percent, for properties that annex during the period of March 13, 2007, to February 2008 per Oregon Administrative Rule (OAR 150-222.111); and

WHEREAS, Resolution 07-47 amends Resolution 07-13 to expand the incentives to include city payment of the Metro mapping/filing fee until July 1, 2008; and

WHEREAS, the city's operational and administrative procedures have been to assist in the preparation of legal descriptions as long as they do not require field survey work and to waive the pre-application conference fee for individual property owners interested in voluntary annexation; and

WHEREAS, Resolution 08-12 amends Resolution 07-13 to extend the offer of incentives to annex until February, 2009; and

WHEREAS, the City Council passed Resolution 09-12 on February 24, 2009 to continue to offer incentives to property owners who voluntarily annex to the city until February 2010; and

WHEREAS, the City Council passed Resolution 10-12 on February 9, 2010 to continue to offer incentives to property owners who voluntarily annex to the city until February 2011; and

WHEREAS, the City Council passed Resolution 11-08 on February 22, 2011 to continue to offer incentives to property owners who voluntarily annex to the city until February 2012; and

WHEREAS, on December 6, 2011, City Council set goals for 2012 including Goal 4, Annexation to a) Re-evaluate the city's annexation policy, and b) Develop a philosophy and approach to consider annexations, including islands; and

WHEREAS, in furtherance of its goals the City Council passed Resolution 12-09 on February 28, 2012, continuing its policies embodied in previous resolutions and formalizing a process for annual review of its annexation policy and incentives; and

WHEREAS, the City Council passed Resolution 12-38 on October 2, 2012 establishing additional incentives of phased in property taxes for certain properties that annex pursuant to ORS 222.170(1), referred to as "triple majority" annexation.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Resolution 07-13 is hereby amended to renew the offer of incentives to annex until February 2014, including:

- Waiver of the city annexation application fee;
- Phasing in of increased property taxes for properties annexed since March 13, 2007, through February, 2014, per Oregon Administrative Rule (OAR 150-222.111);
- City payment of the Metro mapping/filing fee;
- Assistance in the preparation of legal descriptions, not to include field survey work; and
- Waiver of the pre-application conference fee for individual property owners interested in voluntary annexation.

SECTION 2: Resolution 07-13 is hereby amended to establish an additional incentive for properties that annex pursuant to ORS 222.170(1), referred to as “triple majority” annexation, including:

- Phasing-in of increased property taxes for properties that annex through the triple majority process since August 1, 2011, per Oregon Administrative Rule (OAR 150-222.111), under the following terms:
 - For the assessment year of annexation of a property until July 1, 2014, 0.00 percent of the increased property taxes;
 - For the assessment year beginning July 1, 2014, 33 percent of the increased property taxes;
 - For the following assessment year beginning July 1, 2015, 67 percent of the increased property taxes;
 - For the next following and subsequent assessment years, 100 percent of the increased property taxes.

SECTION 3: The incentives recited in Section 2 of this resolution are retroactive as to any property annexed into the city limits by way of voluntary triple majority annexation approved by Council on or after August 23, 2011.

SECTION 4: The City Council shall continue to review its annexation policy and associated incentives in February of every year.

SECTION 5: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

AIS-1168

7.

Business Meeting

Meeting Date: 02/26/2013

Length (in minutes): 10 Minutes

Agenda Title: Adopt a Resolution of Necessity to Acquire Property for the 92nd Avenue Sidewalk Project

Prepared For: Mike Stone

Submitted By: Kristie Peerman,
Public Works Council
Business Meeting -

Item Type: Resolution

Meeting Type: Main

Public Hearing

Newspaper Legal Ad Required?: No

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Shall the council adopt a resolution of necessity to acquire property for the 92nd Avenue sidewalk project?

STAFF RECOMMENDATION / ACTION REQUEST

Adopt the resolution.

KEY FACTS AND INFORMATION SUMMARY

Under the 92nd Avenue sidewalk project, the city plans to construct a sidewalk along one side of 92nd Avenue from Waverly Drive (at the south end of the Tigard High School property) to Cook Park. This section of 92nd Avenue currently has no sidewalks and is a highly-traveled pedestrian route. The project will provide a place for pedestrians to walk that is off the paved roadway.

In order to construct the sidewalk, the city needs to acquire easements and private property for right of way; property must be acquired from one property owner.

The city's standard practice is to negotiate with the property owner and purchase the property at fair price. However, as a last resort, it is sometimes necessary to acquire property and easements via condemnation. If there is a possibility that condemnation may be required, the federal property acquisition process dictates that a resolution of necessity be adopted before negotiations begin. The city follows the federal process to ensure it will qualify for federal funding opportunities now and in the future.

If council adopts the resolution of necessity, the city (or the city's agent) will enter into negotiations with the property owners to buy the required easements and properties, or portions of the properties, at the appraised value. Should negotiations prove unsuccessful, the resolution authorizes the city to proceed with condemnation .

OTHER ALTERNATIVES

The council could choose not to adopt the resolution and could direct staff how to proceed with easement and right of way acquisition. Failure to acquire the property will affect the city's ability to construct the project.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

This project is included in the 2012-2013 *Capital Improvement Plan*.

DATES OF PREVIOUS CONSIDERATION

The council was briefed on this resolution of necessity in executive session on January 22, 2013.

Fiscal Impact

Cost: \$50,000

Budgeted (yes or no): Yes

Where Budgeted (department/program): Gas Tax & Traffic Impact Fee Funds

Additional Fiscal Notes:

There is \$100,000 in the 2012-2013 *Capital Improvement Plan* to acquire property and easements for this project.

Attachments

Resolution

Exhibits to Resolution

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 13-**

A RESOLUTION DECLARING THE NEED TO ACQUIRE A RIGHT OF WAY AND EASEMENTS ON PROPERTY FOR THE PURPOSE OF CONSTRUCTING STREET IMPROVEMENTS ALONG 92ND AVENUE AND AUTHORIZING IMMEDIATE POSSESSION OF THE PROPERTY

WHEREAS, the City Charter grants the City of Tigard (“City”) the authority to acquire land for public purposes; and

WHEREAS, the City is authorized by ORS 223.005 et seq. and ORS 35.015 et seq. to purchase, acquire, take, use, enter upon and appropriate land and property within or without its corporate limits for the purpose provided in those statutes; and

WHEREAS, the construction of the 92nd Avenue Sidewalk (Waverley Drive to Cook Park)(the “Project”) is an approved capital improvement project identified in the City of Tigard *Transportation System Plan* and *Capital Improvement Plan*; and

WHEREAS, the City needs to construct the Project for the health, safety, benefit, and general welfare of the public by addressing traffic and pedestrian flow and safety issues in the area; and

WHEREAS, the City needs to acquire an interest in the Property (as defined below) on which to construct and maintain the needed street improvements that are part of the Project (including sidewalks, drainage systems, utilities, street-related easements, and other aspects of the Project); and

WHEREAS, immediate possession of the Property is necessary in order to complete the Project in a timely and efficient matter; and

WHEREAS, to allow for acquisition of the Property in a timely and efficient manner, a resolution of necessity is necessary to allow the City to take all measures necessary to acquire the Property, including the exercise of eminent domain, if needed.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City hereby finds and declares that certain property located in the City of Tigard, Washington County, Oregon is immediately needed and required for the Project, which includes construction, operation, maintenance, repair, and improvement of 92nd Avenue. The property on which the City needs to acquire right of way and a easements is described and depicted in the attached and incorporated exhibits (Exhibit A-1 through Exhibit D-2) (collectively, the “Property”).

SECTION 2: The City hereby finds that the acquisition of the Property is necessary and is in the public interest, and the improvements to the Property will be planned, designed,

located and constructed in a manner that will be most compatible with the greatest public benefit and the least private injury or damage.

SECTION 3: The city manager, city's agent, and the city's real estate attorney are authorized to negotiate and enter into an agreement with the owner and other persons who have an interest in the Property as to the compensation for right of way and easements on the Property.

SECTION 4: In the event that no satisfactory agreement can be reached on the acquisition of right of way and easements on the Property, the city's real estate attorney is directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire such interests in the Property, including exercise of eminent domain, and upon the filing of such proceedings, possession of the Property therein may be taken immediately to the extent provided by law.

SECTION 5: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2013.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

Exhibit A-1

A PORTION OF THAT TRACT OF LAND DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 88-40164, LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON. SAID PORTION LYING ON THE SOUTHEASTERLY SIDE OF THE CENTERLINE OF SOUTHWEST 92ND AVENUE, COUNTY ROAD NUMBER 2076, AS SHOWN ON THE INCLUDED EXHIBIT 'B'.

CENTERLINE OF SOUTHWEST 92ND AVENUE:

BEGINNING AT STATION 0+00, SAID POINT ALSO BEING ON THE CENTERLINE OF SOUTHWEST DURHAM ROAD, COUNTY ROAD NUMBER 429, THENCE PARALLEL WITH AND 25.0 FEET WEST OF THE WEST LINE OF THAT TRACT OF LAND CONVEYED TO TIGARD UNION HIGH SCHOOL BY DEED RECORDED IN BOOK 329 AT PAGE 222, WASHINGTON COUNTY DEED RECORDS, SOUTH 01°04'30" WEST 1,484.00 FEET TO THE POINT OF CURVATURE AT STATION 14+84.0 P.C.; THENCE 217.4 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE WESTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°17'30" WEST, 214.8 FEET) TO THE POINT OF TANGENCY AT STATION 17+01.4 P.T.; THENCE SOUTH 31°30'30" WEST, 111.9 FEET TO THE POINT OF CURVATURE AT STATION 18+13.2 P.C.; THENCE 213.8 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE EASTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°32'45" WEST, 211.3 FEET) TO THE POINT OF TANGENCY AT STATION 20+26.8 P.T.; THENCE PARALLEL WITH AND 25.0 FEET EAST OF THE WEST LINE OF THE JOHN SCHECKLA TRACT AND A SOUTHERLY PROLONGATION OF SAID WEST LINE SOUTH 01°35' WEST, 712.4 FEET TO AND TERMINATING AT A RADIUS POINT OF A 50.0 FOOT RADIUS TURN AROUND AT STATION 27+39.3.

EASEMENT AREA:

BEGINNING AT A POINT ON THE CENTERLINE OF AFORESAID SOUTHWEST 92ND AVENUE AT STATION 15+48.25; THENCE TO A POINT AT STATION 15+48.25, 30.37 FEET LEFT OF CENTERLINE; THENCE IN A STRAIGHT LINE TO A POINT AT STATION 15+62.63, 33.11 FEET LEFT OF CENTERLINE; THENCE TO A POINT ON AFORESAID CENTERLINE AT STATION 15+62.63.

BASIS OF BEARINGS IS WASHINGTON COUNTY ROAD FILE FOR COUNTY ROAD NUMBER 2076 FILED IN BOOK 45 AT PAGE 343.

EXCEPTING ANY PORTION LYING OUTSIDE OF SAID TRACT DESCRIBED IN DOCUMENT NUMBER 88-40164.

EXCEPTING ANY PORTION LYING WITH THE PUBLIC RIGHT-OF-WAY.

CONTAINS 26 SQUARE FEET MORE OR LESS.

PREPARED BY CESNW, INC.

2796 stm ease.DOC

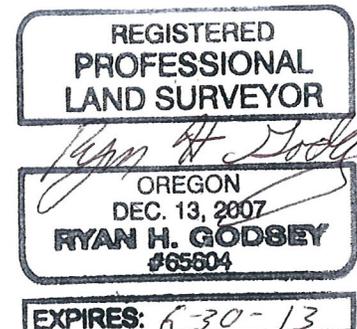


Exhibit A-2

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DECEMBER 13, 2007
RYAN H. GODSEY
65604

RENEWS: 6/30/13

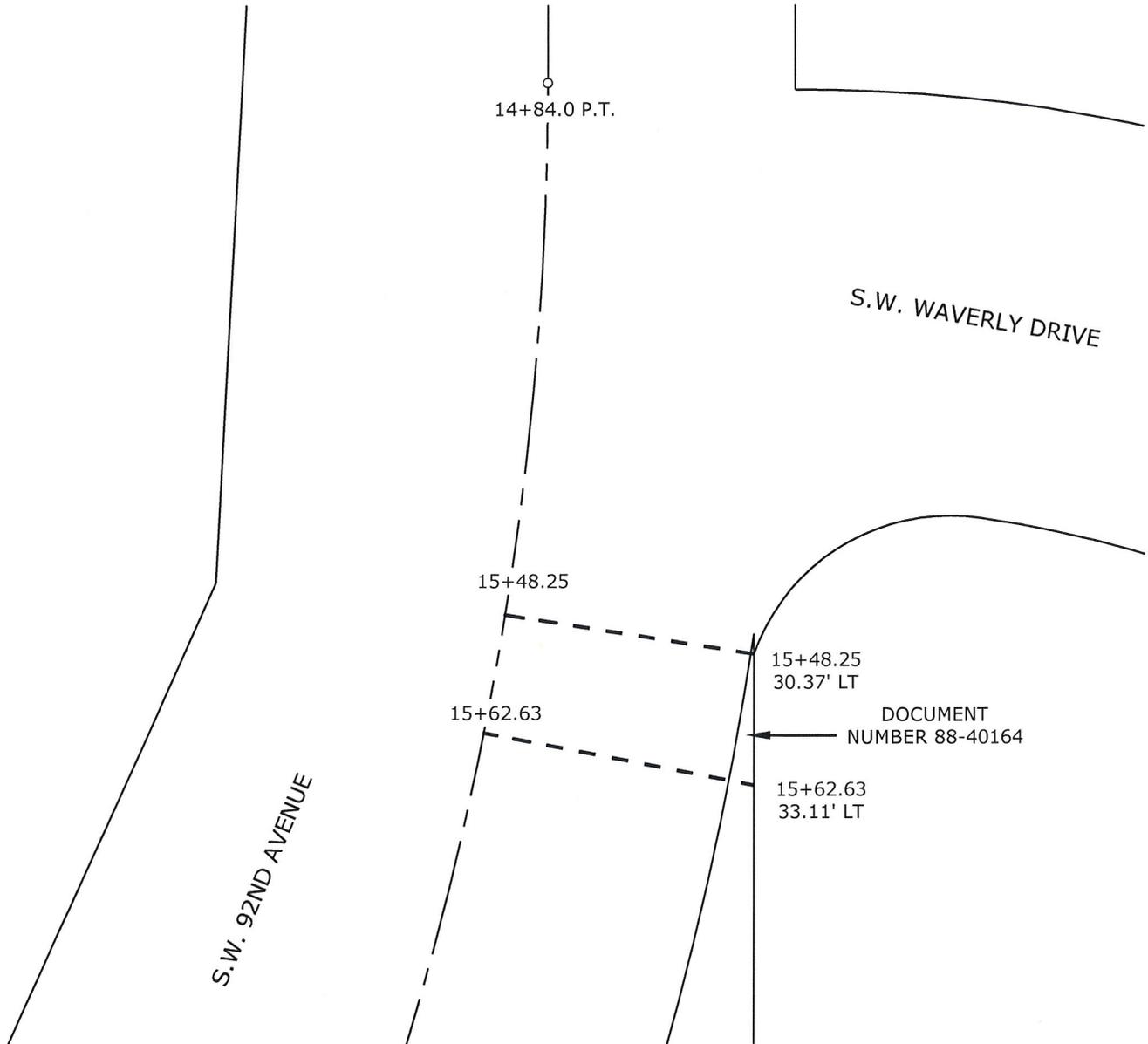


Exhibit B-1

A PORTION OF THAT TRACT OF LAND DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 88-40164, LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON. SAID PORTION LYING ON THE SOUTHEASTERLY SIDE OF THE CENTERLINE OF SOUTHWEST 92ND AVENUE, COUNTY ROAD NUMBER 2076, AS SHOWN ON THE INCLUDED EXHIBIT 'B'.

CENTERLINE OF SOUTHWEST 92ND AVENUE:

BEGINNING AT STATION 0+00, SAID POINT ALSO BEING ON THE CENTERLINE OF SOUTHWEST DURHAM ROAD, COUNTY ROAD NUMBER 429, THENCE PARALLEL WITH AND 25.0 FEET WEST OF THE WEST LINE OF THAT TRACT OF LAND CONVEYED TO TIGARD UNION HIGH SCHOOL BY DEED RECORDED IN BOOK 329 AT PAGE 222, WASHINGTON COUNTY DEED RECORDS, SOUTH 01°04'30" WEST 1,484.00 FEET TO THE POINT OF CURVATURE AT STATION 14+84.0 P.C.; THENCE 217.4 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE WESTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°17'30" WEST, 214.8 FEET) TO THE POINT OF TANGENCY AT STATION 17+01.4 P.T.; THENCE SOUTH 31°30'30" WEST, 111.9 FEET TO THE POINT OF CURVATURE AT STATION 18+13.2 P.C.; THENCE 213.8 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE EASTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°32'45" WEST, 211.3 FEET) TO THE POINT OF TANGENCY AT STATION 20+26.8 P.T.; THENCE PARALLEL WITH AND 25.0 FEET EAST OF THE WEST LINE OF THE JOHN SCHECKLA TRACT AND A SOUTHERLY PROLONGATION OF SAID WEST LINE SOUTH 01°35' WEST, 712.4 FEET TO AND TERMINATING AT A RADIUS POINT OF A 50.0 FOOT RADIUS TURN AROUND AT STATION 27+39.3.

EASEMENT AREA:

BEGINNING AT A POINT ON THE CENTERLINE OF AFORESAID SOUTHWEST 92ND AVENUE AT STATION 15+90.2 THENCE TO A POINT AT STATION 15+90.2, 40.00 FEET LEFT OF CENTERLINE; THENCE ALONG A LINE PARALLEL WITH AND 40.00 FEET SOUTHEASTERLY OF SAID CENTERLINE TO A POINT AT STATION 18+13.2P.C., 40.00 FEET LEFT OF CENTERLINE; THENCE TO A POINT ON SAID CENTERLINE AT STATION 18+13.2P.C..

BASIS OF BEARINGS IS WASHINGTON COUNTY ROAD FILE FOR COUNTY ROAD NUMBER 2076 FILED IN BOOK 45 AT PAGE 343.

EXCEPTING ANY PORTION LYING OUTSIDE OF SAID TRACT DESCRIBED IN DOCUMENT NUMBER 88-40164.

EXCEPTING ANY PORTION LYING WITH THE PUBLIC RIGHT-OF-WAY.

CONTAINS 2,326 SQUARE FEET MORE OR LESS.

PREPARED BY CESNW, INC.

2796 TCE north.DOC



Exhibit B-2

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
DECEMBER 13, 2007
RYAN H. GODSEY
65604

RENEWS: 6/30/13

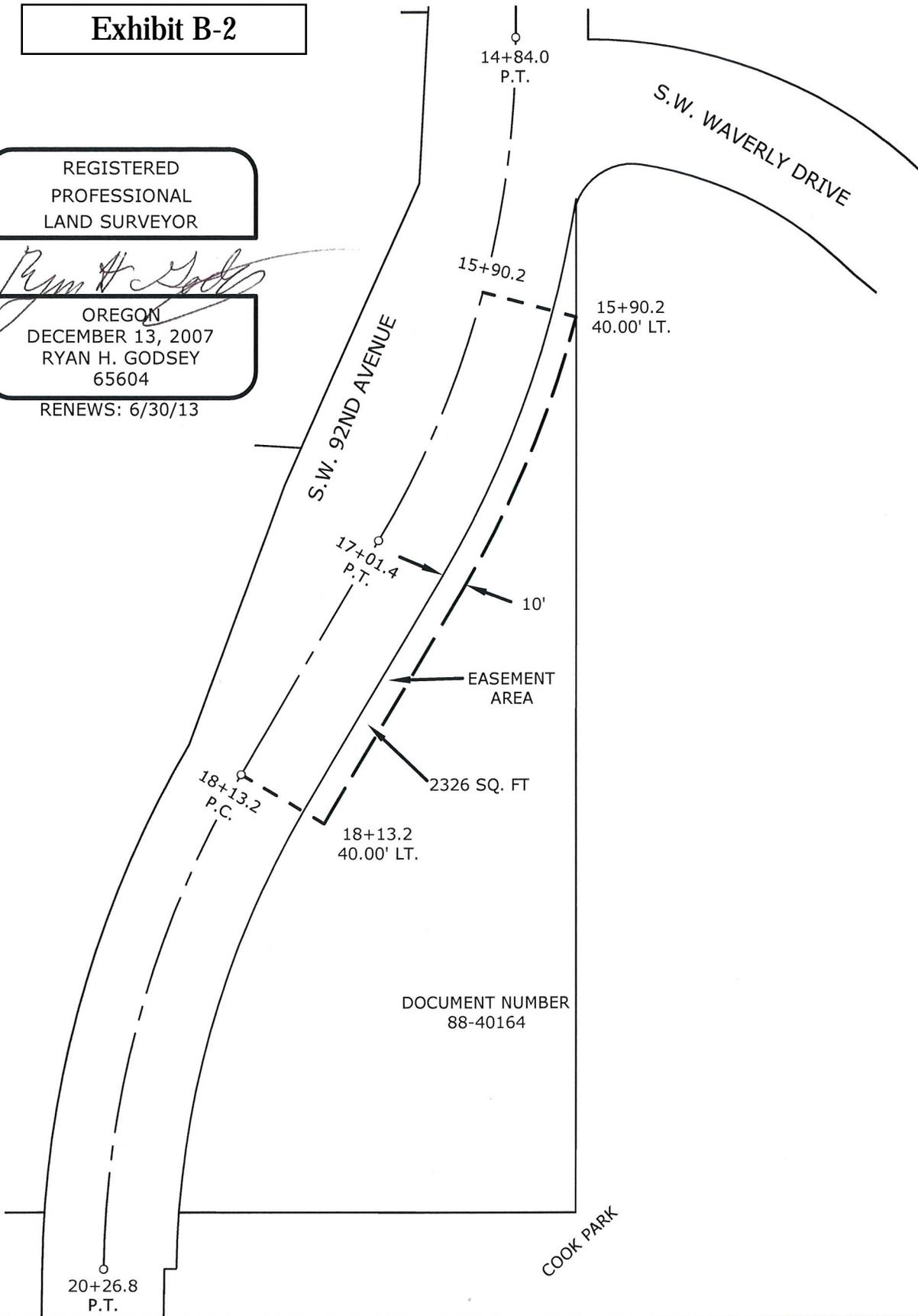


Exhibit C-1

A PORTION OF THAT TRACT OF LAND DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 88-40164, LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON. SAID PORTION LYING ON THE SOUTHEASTERLY SIDE OF THE CENTERLINE OF SOUTHWEST 92ND AVENUE, COUNTY ROAD NUMBER 2076, AS SHOWN ON THE INCLUDED EXHIBIT 'B'.

CENTERLINE OF SOUTHWEST 92ND AVENUE:

BEGINNING AT STATION 0+00, SAID POINT ALSO BEING ON THE CENTERLINE OF SOUTHWEST DURHAM ROAD, COUNTY ROAD NUMBER 429, THENCE PARALLEL WITH AND 25.0 FEET WEST OF THE WEST LINE OF THAT TRACT OF LAND CONVEYED TO TIGARD UNION HIGH SCHOOL BY DEED RECORDED IN BOOK 329 AT PAGE 222, WASHINGTON COUNTY DEED RECORDS, SOUTH 01°04'30" WEST 1,484.00 FEET TO THE POINT OF CURVATURE AT STATION 14+84.0 P.C.; THENCE 217.4 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE WESTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°17'30" WEST, 214.8 FEET) TO THE POINT OF TANGENCY AT STATION 17+01.4 P.T.; THENCE SOUTH 31°30'30" WEST, 111.9 FEET TO THE POINT OF CURVATURE AT STATION 18+13.2 P.C.; THENCE 213.8 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE EASTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°32'45" WEST, 211.3 FEET) TO THE POINT OF TANGENCY AT STATION 20+26.8 P.T.; THENCE PARALLEL WITH AND 25.0 FEET EAST OF THE WEST LINE OF THE JOHN SCHECKLA TRACT AND A SOUTHERLY PROLONGATION OF SAID WEST LINE SOUTH 01°35' WEST, 712.4 FEET TO AND TERMINATING AT A RADIUS POINT OF A 50.0 FOOT RADIUS TURN AROUND AT STATION 27+39.3.

EASEMENT AREA:

BEGINNING AT A POINT ON THE CENTERLINE OF AFORESAID SOUTHWEST 92ND AVENUE AT STATION 18+13.2P.C.; THENCE TO A POINT AT STATION 18+13.2P.C, 40.00 FEET LEFT OF CENTERLINE; THENCE ALONG A LINE PARALLEL WITH AND 40.00 FEET SOUTHEASTERLY OF SAID CENTERLINE TO A POINT AT STATION 20+01.60, 40.00 FEET LEFT OF CENTERLINE; THENCE TO A POINT ON SAID CENTERLINE AT STATION 20+01.60.

BASIS OF BEARINGS IS WASHINGTON COUNTY ROAD FILE FOR COUNTY ROAD NUMBER 2076 FILED IN BOOK 45 AT PAGE 343.

EXCEPTING ANY PORTION LYING OUTSIDE OF SAID TRACT DESCRIBED IN DOCUMENT NUMBER 88-40164.

EXCEPTING ANY PORTION LYING WITH THE PUBLIC RIGHT-OF-WAY.

CONTAINS 1,723 SQUARE FEET MORE OR LESS.

PREPARED BY CESNW, INC.

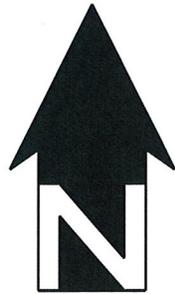
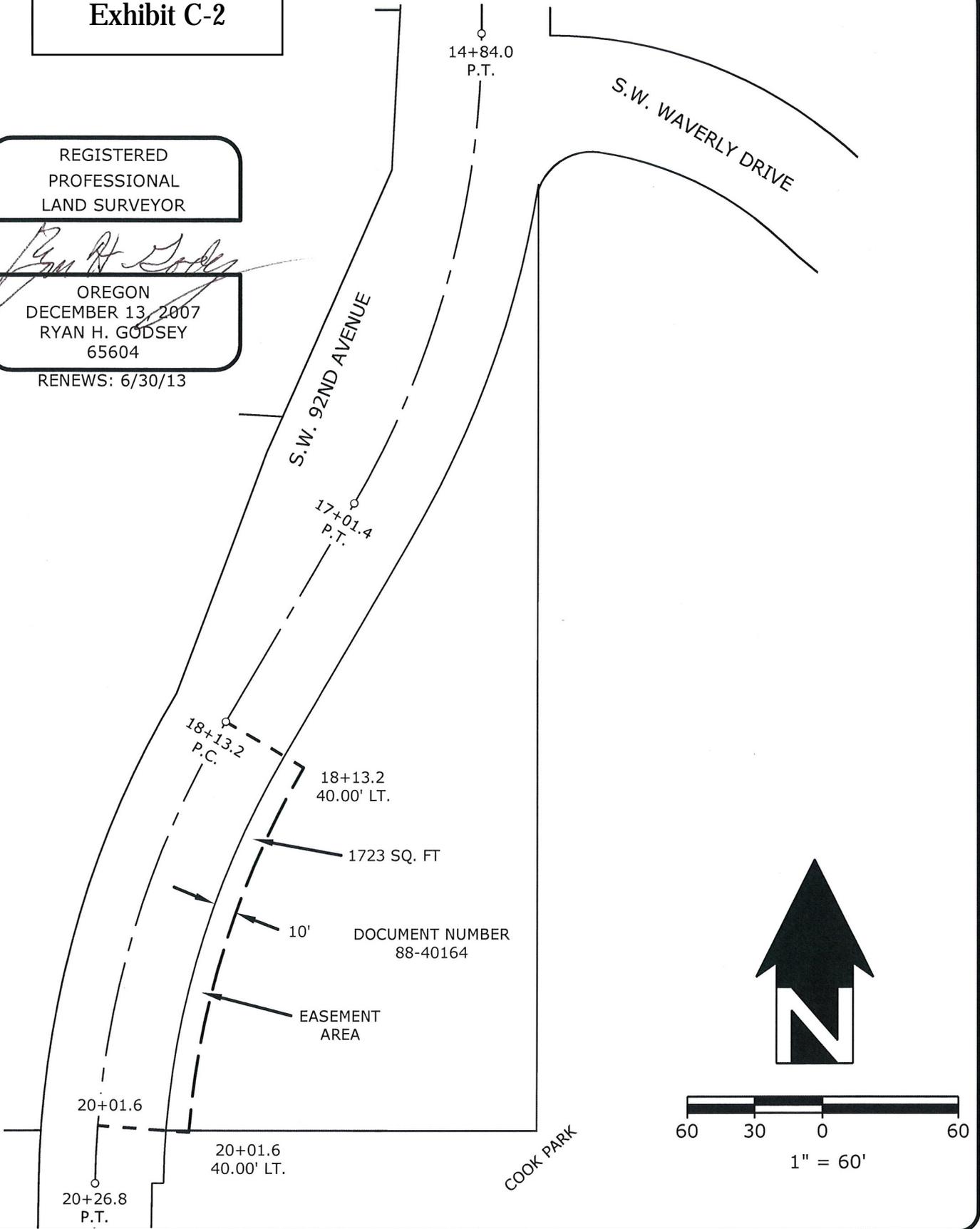


Exhibit C-2

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Ryan H. Godsey
OREGON
DECEMBER 13, 2007
RYAN H. GODSEY
65604

RENEWS: 6/30/13



1" = 60'

CES | NW 13190 SW 68th Parkway, Suite 150
Tigard, Oregon 97223
503.968.6655 www.cesnw.com

DATE
2-04-13

EXHIBIT

C-2

Exhibit D-1

A 5 FOOT WIDE STRIP OF LAND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN WASHINGTON COUNTY DEED DOCUMENT NUMBER 88-40164, LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF TIGARD, WASHINGTON COUNTY, OREGON. SAID 5 FOOT STRIP LYING ON THE SOUTHEASTERLY SIDE OF THE CENTERLINE OF SOUTHWEST 92ND AVENUE, COUNTY ROAD NUMBER 2076, AS SHOWN ON THE INCLUDED EXHIBIT 'B', THE CENTERLINE OF WHICH BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 0+00, SAID POINT ALSO BEING ON THE CENTERLINE OF SOUTHWEST DURHAM ROAD, COUNTY ROAD NUMBER 429, THENCE PARALLEL WITH AND 25.0 FEET WEST OF THE WEST LINE OF THAT TRACT OF LAND CONVEYED TO TIGARD UNION HIGH SCHOOL BY DEED RECORDED IN BOOK 329 AT PAGE 222, WASHINGTON COUNTY DEED RECORDS, SOUTH 01°04'30" WEST 1,484.00 FEET TO THE POINT OF CURVATURE AT STATION 14+84.0 P.C.; THENCE 217.4 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE WESTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°17'30" WEST, 214.8 FEET) TO THE POINT OF TANGENCY AT STATION 17+01.4 P.T.; THENCE SOUTH 31°30'30" WEST, 111.9 FEET TO THE POINT OF CURVATURE AT STATION 18+13.2 P.C.; THENCE 213.8 FEET ALONG THE ARC OF A 409.26 FOOT RADIUS CURVE CONCAVE EASTERLY (THE LONG CHORD OF WHICH BEARS SOUTH 16°32'45" WEST, 211.3 FEET) TO THE POINT OF TANGENCY AT STATION 20+26.8 P.T.; THENCE PARALLEL WITH AND 25.0 FEET EAST OF THE WEST LINE OF THE JOHN SCHECKLA TRACT AND A SOUTHERLY PROLONGATION OF SAID WEST LINE SOUTH 01°35' WEST, 712.4 FEET TO AND TERMINATING AT A RADIUS POINT OF A 50.0 FOOT RADIUS TURN AROUND AT STATION 27+39.3.

BASIS OF BEARINGS IS WASHINGTON COUNTY ROAD FILE FOR COUNTY ROAD NUMBER 2076 FILED IN BOOK 45 AT PAGE 343.

EXCEPTING ANY PORTION LYING OUTSIDE OF SAID TRACT DESCRIBED IN DOCUMENT NUMBER 88-40164.

EXCEPTING ANY PORTION LYING WITH THE PUBLIC RIGHT-OF-WAY.

CONTAINS 1,448 SQUARE FEET MORE OR LESS.

PREPARED BY CESNW, INC.

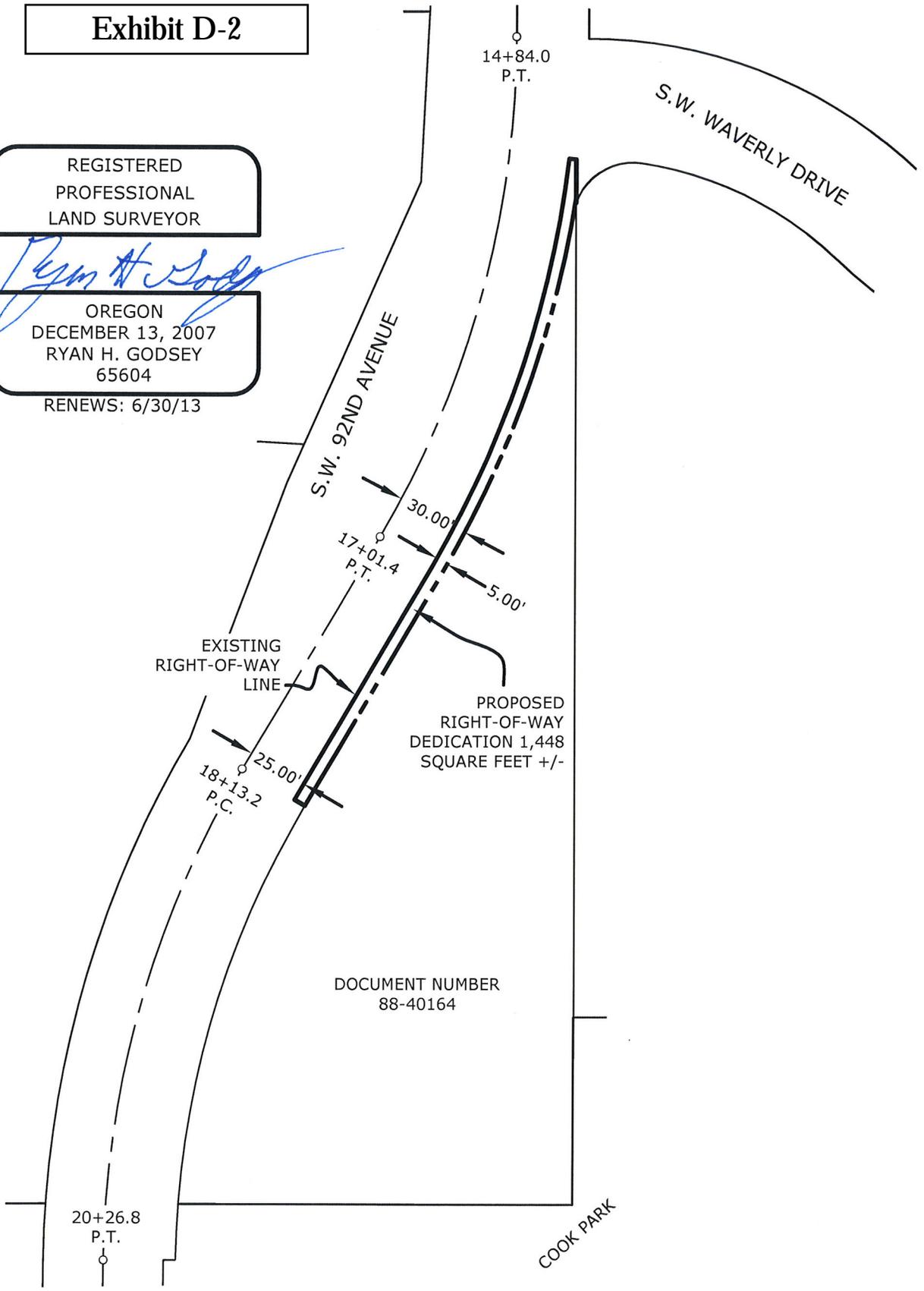


Exhibit D-2

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DECEMBER 13, 2007
RYAN H. GODSEY
65604

RENEWS: 6/30/13



DOCUMENT NUMBER
88-40164