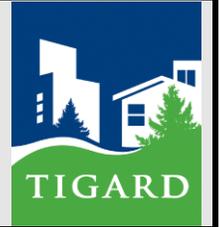


**STAFF REPORT TO THE
PLANNING COMMISSION
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

CASE NAME: INDUSTRIAL SERVICES IN THE I-P ZONING DISTRICT
CASE NO.: Development Code Amendment (DCA) DCA2012-00003

PROPOSAL: The applicant is requesting an amendment to alter Land Use Table 18.530.1 (Industrial Zones) to change Industrial Services from a prohibited land use to a restricted land use within the I-P: Industrial Park Zoning District.

APPLICANT: Masco Administrative Services
260 Jimmy Ann Drive
Daytona Beach, Florida 32114

COMP. PLAN DESIGNATION: Light Industrial. These areas are deemed appropriate for industrial activities which include manufacturing, processing, assembling, packaging, or treatment of products from previously prepared materials and which are devoid of nuisance factors that would adversely affect other properties. The designation includes the I-L and I-P Zones.

ZONES: I-P: Industrial Park District. The I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odor, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well integrated, attractively landscaped, and pedestrian-friendly. Among other uses, indoor entertainment is allowed.

LOCATION: City-wide on land zoned I-P.

APPLICABLE REVIEW CRITERIA: Statewide Planning Goals 1, 2, & 9; Metro Title 4; Comprehensive Plan Policies 2.1.3, 2.1.7, 9.1.2, 9.1.3, & 9.1.7; and Community Development Code Chapters 18.390, & 18.530.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission find in favor of the proposed text amendment, as amended by staff in Section V of the staff report, allowing industrial services as a restricted land use within the I-P Zoning District subject to certain limitations, and with any alterations as determined through the public hearing process, and make a final recommendation to the Tigard City Council.

SECTION III. PROPOSAL AND BACKGROUND INFORMATION

Background:

This is an application to amend the Tigard Development Code, Section 18.530, Table 18.530.1, to allow Industrial Services as a restricted use in the IP zone. The restrictions would limit these uses to "Contractors and others who provide services off-site", and would further require that all activities except for vehicle parking would be within a building. This amendment will apply to all property in the City of Tigard that is zoned I-P.

The application is presented to address a specific situation where a site that has been leased by the applicant for use by its subsidiary Builders Services Group, which is a contractor as well as wholesaler of construction supplies. The Code amendment is proposed to address this issue as well as several other similar situations within the city.

This proposal, with the included limitations, will allow contractors in the I-P zone that are compatible with the office character of such areas. Compatibility will be ensured through a prohibition on outside storage of materials and other activities which are more suited to other industrial areas. This approach will allow contractors as a business, which are similar to existing allowed businesses in the office and wholesale categories that are already allowed in the I-P zone.

Proposal:

The applicant requests amendment of Table 18.530.1 by revising the Industrial Services line to replace "N" with "R- 4,15". Note 4 currently is in place and states "Permitted if all activities, except employee and customer parking, are wholly contained with a building(s)." Note 15 is a new note to read "Limited to contractors and others that perform services off-site". Text changes to the code would appear as set forth below:

DCA2012-00003 INDUSTRIAL SERVICES IN THE I-P ZONING DISTRICT DEVELOPMENT CODE AMENDMENT

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ - Text to be deleted

[Bold, Underline and Italic] - Text to be added

**TABLE 18.530.1
USE TABLE: INDUSTRIAL ZONES**

| USE CATEGORY | I-P | I-L | I-H |
|------------------------------------|------------------------|-------------------|-------------------|
| RESIDENTIAL | | | |
| Household Living | R ¹ | R ¹ | R ¹ |
| Group Living | N | N | N |
| Transitional Housing | N | N | N |
| Home Occupation | N | N | N |
| CIVIC (INSTITUTIONAL) | | | |
| Basic Utilities | C ¹⁴ | C ¹⁴ | P |
| Colleges | N | N | N |
| Community Recreation | C ¹⁰ | C ¹⁰ | C ¹⁰ |
| Cultural Institutions | N | N | N |
| Day Care | R ^{3, 9} | R ^{3, 9} | R ^{3, 9} |
| Emergency Services | P | P | P |
| Medical Centers | N | N | N |
| Postal Service | P | P | P |
| Public Support Facilities | P | P | P |
| Religious Institutions | N | N | N |
| Schools | N | N | N |
| Social/Fraternal Clubs/Lodges | N | N | N |
| COMMERCIAL | | | |
| Commercial Lodging | P | N | N |
| Custom Arts and Crafts | N | N | N |
| Eating and Drinking Establishments | R ² | N | N |
| Major Event Entertainment | N | N | N |
| Outdoor Entertainment | P | N | N |
| Indoor Entertainment | P | N | N |
| Adult Entertainment | N | N | N |
| Sales-Oriented | R ² | N | N |
| Personal Services | R ² | N | N |
| Repair-Oriented | P | N | N |
| Bulk Sales | R ^{4, 11} | N | N |
| Outdoor Sales | N | P | P |
| Animal-Related | P | P | P |
| Motor Vehicle Sales/Rental | R ^{4, 12, 13} | P | P |
| Motor Vehicle Servicing/Repair | C | P | P |
| Vehicle Fuel Sales | P | P/C ⁷ | P |
| Office | P | N | N |
| Self-Service Storage | P | P | P |
| Non-Accessory Parking | P | P | P |

TABLE 18.530.1 (CON'T)

| USE CATEGORY | I-P | I-L | I-H |
|----------------------------|--------------------------------------|------------|------------|
| INDUSTRIAL | | | |
| Industrial Services | N R^{4,15} | P | P |
| Light Industrial | P | P | P |
| General Industrial | N | P | P |
| Heavy Industrial | N | N | P |
| Railroad Yards | N | N | P |
| Research and Development | P | P | P |
| Warehouse/Freight Movement | N | P | P |
| Waste-Related | N | N | P |
| Wholesale Sales | R ⁴ | P | P |

P=Permitted R=Restricted C=Conditional Use N=Not Permitted

- 1 A single-family detached dwelling or single-family mobile or manufactured home allowed for caretaker or kennel owner/operator when located on the same lot as the permitted use and is exclusively occupied by the caretaker or kennel owner/operator and family.
- 2 These limited uses, separately or in combination, may not exceed 20% of the entire square footage within a development complex. No retail uses shall exceed 60,000 square feet of gross leasable area per building or business.
- 3 In-home day care which meets all state requirements permitted by right.
- 4 Permitted if all activities, except employee and customer parking, are wholly contained within a building(s).
- 5 When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.
- 6 See Chapter 18.798, Wireless Communication Facilities, for definition of permitted and restricted facilities in the I-P zone.
- 7 Vehicle fuel sales permitted outright unless in combination with convenience sales, in which case it is permitted conditionally.
- 8 Explosive storage permitted outright subject to regulations of Uniform Fire Code.
- 9 Day care uses with over five children are permitted subject to an Environmental Impact Assessment in accordance with Section 18.530.050.C.1. The design of the day care must fully comply with State of Oregon requirements for outdoor open space setbacks.
- 10 Limited to outdoor recreation on (1) land classified as floodplain on City flood maps, when the recreational use does not otherwise preclude future cut and fill as needed in order to develop adjoining industrially zoned upland; and (2) land located outside the floodplain as shown on City flood maps, when the recreation use is temporary and does not otherwise preclude allowed uses or conditional uses other than recreation within the district.
- 11 These limited uses, shall only be allowed in IP zoned property east of SW 72nd Avenue. These uses, separately or in combination shall not exceed 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.
- 12 These limited uses, separately or in combination, may not exceed 10,000 square feet/lot.
- 13 This use limited to boat sales/rental only.
- 14 Except water and storm and sanitary sewers, which are allowed by right.
- 15 Limited to contractors and others who perform services off-site.**

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

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.

The proposed text amendment would apply to all I-P zoned lands within the City. 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.

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.

Findings and conclusions are provided below for the applicable listed factors on which the recommendation by the Commission and the decision by the Council shall be based.

1) The Statewide Planning Goals and Guidelines adopted under ORS Chapter 197

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.

This goal outlines general procedures for citizen involvement in the plan and ordinance adoption and amendment process. The Tigard Development Code includes provisions which have been acknowledged by the Land Conservation and Development Commission (LCDC) as being compliant with this goal, and their enforcement will ensure Goal compliance in the proceedings. Since this is a legislative process that affects all property zoned I-P, the City will publish notices in the newspaper and through normal agency and interested party notification methods, prior to each public hearing. The hearings will provide the opportunity for comments, and the participants will have the right to appeal the decision. These steps will result in compliance with Statewide Goal 1.

Statewide Planning Goal 2 – Land Use Planning:

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

As noted above, LCDC has acknowledged that the City of Tigard Comprehensive Plan and implementing ordinances comply with the Statewide Planning Goals. Since Goal 2 establishes the planning processes and policies, which are not affected by this code amendment, the proposal will not affect their continued compliance.

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.

This goal and its policies ensure that local regulations provide opportunities for economic activities and the health of the economy. This proposal explicitly implements the goal through allowing business in the I-P zone that is compatible with other provisions of the Comprehensive Plan and Development Code. Without this code amendment a significant opportunity for business location in Tigard would not be possible.

FINDING: The Land Conservation and Development Commission has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The proposed text amendment's consistency with the Comprehensive Plan's Citizen Involvement, Land Use Planning, and Economic Development goals and policies are discussed above. Based on the findings above, staff finds that the proposed code amendment is consistent with applicable Statewide Planning Goals. The remaining Statewide Planning goals do not apply to this

application since they relate to other specific areas to be considered in the comprehensive planning process rather than to the procedural and economic considerations which are the focus of this application.

2) Applicable Federal or State Statues

Federal statutes are generally broad and not directed to this type of local action, and it is clear that none apply to the case at hand. State statutes that may have applicability to this application are those within the jurisdiction of the Department of Land Conservation and Development. Of those, the Statewide Planning goals are most applicable and are addressed above. The other applicable rules are contained in OAR 660-012, relating to transportation. Within this regulation, only the provisions related to amendments to other plans and codes as provided by section 660-012-0060 apply to this proposal. This section provides that if an amendment to an existing land use regulation would significantly affect a transportation facility, the local jurisdiction must put in place certain measures. "Significantly" is defined as a change in the functional classification of an existing or planned facility, a change in implementing standards, or increase traffic to the extent of creating access or capacity conflicts. In the case of this proposed change, the addition of contractors' offices as a restricted use will not introduce uses which are not anticipated by the transportation system. The IP zone already allows contractors offices as an office use provided that equipment and materials storage does not constitute over 50% of floor area occupancy. A contractor office that would be allowed as a result of this proposal would have less than 50% of floor area in office use and therefore would have a lower traffic demand than those already allowed.

Staff recommends modification of the request to not include Note 15, which would limit the Industrial Service type uses to contractors and others who perform work on site. The effect would be to allow all types of uses that repair and service machinery, equipment, products or by-products in a centralized manner for separate retail outlets. A comparison of PM Peak trip generation rates suggests that allowing the full range of land uses classified as Industrial Services within the I-P zone will not result in increased trip generation. At present both Office and Research and Development are allowed land use classifications within the I-P zone, generating 1.49 and 1.07 trips per 1,000 square feet respectively (Trip Generation: An ITE Information Report, 8th Edition). These are rates equal to or greater than the most similar ITE trip generation Category to Industrial Services (Code 110: General Light Industrial) which averages 1.08 trips per 1,000 square feet during the pm peak hour (Trip Generation: An ITE Information Report, 8th Edition). As such, allowing the full range of Industrial Service land uses within the I-P zone would result in similar or lower levels of traffic to two existing land uses in the I-P Zoning District.

FINDING: As stated above, federal statutes do not apply and the proposed amendment is consistent with applicable state statutes.

3) Metro Urban Growth Management Functional Plan.

Metro's Urban Growth Management Functional Plan establishes the methods for local implementation of the Regional Urban Growth Goals and Objectives. The Functional Plan includes fourteen Titles which address various aspects of regional and local planning. Of these, only Title 4, relating to Industrial and Other Employment Areas applies to this application.

Title 4 establishes Regionally Significant Industrial Areas, Employment Areas and Industrial Areas. Within the City of Tigard none of the existing IP zoned area is within a Regionally Significant Industrial Area, but some IP zoned land is classified as Employment and Industrial. Sections 3.07.430 and 3.07.440 respectively address the protection of these areas for industrial uses. In each case the intent of the protection provisions are to avoid establishment of retail uses which would compromise the amount and/or quality of the industrial

opportunities. Since this application would allow only contractors offices in the IP zone, this change will not conflict with the Title 4 provisions and may actually better meet the intent of Title 4. Metro staff reviewed the application and confirmed that the proposed changes are in compliance with Metro Title IV requirements. This was confirmed in an email from Metro Staff member Gerry Uba to City of Tigard staff on February 21, 2013.

FINDING: As stated above, the proposed amendments are in compliance with the applicable portions of the Metro Urban Growth Management Functional Plan.

4) Applicable Comprehensive Plan Policies

Comprehensive Plan Goal 1: Citizen Involvement

Goal 1.1 Provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.

This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390, as documented in the project file. This includes mailing notice of the required public hearings to the interested parties list and affected agencies, and publication of the notice in the Tigard Times newspaper at least 10 days prior to the hearing. Two public hearings will be held (one before the Planning Commission and the second before the City Council) at which opportunity for public input is provided. This goal is met.

Comprehensive Plan Goal 2: Land Use Planning

Goal 2.1: Maintain an up-to-date Comprehensive Plan, implementing regulations and action plans as the legislative foundation of Tigard's land use planning program.

Policy 2: The City's land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

The first section of this chapter of the Comprehensive Plan addresses the establishment of the planning process and maintenance of the implementing documents, as required by Statewide Goal 2. The majority of the policies and action steps relate to City initiated procedures rather than to individual applications. Several policies do address the review of applications to amend the Comprehensive Plan Map and Zoning Map, but these are not applicable to the proposed Development Code amendment. Therefore, the provisions of this section of the Comprehensive Plan apply only in a very general sense, and implementation of the process provided by the Development Code will ensure compliance. This policy is met.

Comprehensive Plan Goal 9: Economic Development

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

Policy 2: The City shall actively encourage businesses that provide family-wage jobs to start up, expand, or locate in Tigard.

Policy 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 7: The City shall limit the development of retail and service land uses in Metro-designated industrial areas to preserve the potential of these lands for industrial jobs.

Goal 9.1; Policy 2 is a statement of intent to encourage family wage job creation and maintenance. The proposed IP zone amendment will implement this policy through providing additional opportunities for employment related to construction which otherwise would be restricted.

Goal 9.1; Policy 3 indicates an intent to maintain flexibility in regulations which promote economic development. Approval of this IP zone amendment would acknowledge and implement this policy by making a change which will increase employment opportunities.

Goal 9.1; Policy 7 states an intent to promote actions which result in better utilization of industrial areas. This policy is implemented by adding an additional restricted use in the IP zone, which clearly is needed and opportunistic in addressing currently available opportunities.

Modification of the proposal to remove Note 15, as discussed in Section V below, would strengthen compliance with Policies 2 and 3 above, by encouraging a greater range of businesses in the I-P zone and providing greater flexibility and adaptability in order to promote economic development opportunities within the I-P zone, and removing potential inefficiencies in the utilization of industrial lands within Tigard.

FINDING: As shown in the analysis above, staff finds that the proposed code amendment is consistent with the applicable goals and policies in Tigard's Comprehensive Plan.

5) Applicable Provisions of the City's Implementing Ordinances

Chapter 18.530 – Industrial Zoning Districts

18.130.070 Industrial Use Categories

C. Industrial Services.

- 1. Characteristics:** Industrial Services are uses that repair and service industrial, business, or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Includes contractors, building maintenance services and similar uses that perform services off-site. Few customers, especially the general public, come to the site.
- 2. Accessory Uses:** Accessory uses may include offices, parking, storage, loading docks, and railroad lead and spur lines to allow the loading and unloading of rail cars.
- 3. Examples:** Examples include welding shops; machine shops; repair shops for tools, scientific/professional instruments, and motors; sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire recapping and retreading; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; janitorial and building maintenance contractors; fuel oil distributions; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photo-finishing laboratories.
- 4. Exceptions:**
 - a. Contractors and others who perform services off-site are included in the Office category if equipment and materials storage does not constitute 50% or more of occupied space and fabrication or similar work is not carried out at the site.**

Subsection 18.130.070 (C) defines Industrial Services and indicates that contractors are included in this category. Subparagraph 4(a) indicates that contractors are classified as "office" if storage is less than 50% of the occupied floor area and there is not on-site fabrication. The proposed code amendment does not propose to change the definition of this Industrial Use Classification, just expand its use within the I-P zone by removing the limitation on equipment and materials storage.

18.530.010 Purpose

- A. Provide range of industrial services for City residents. One of the major purposes of the regulations governing development in industrial zoning districts is to ensure that a full range of job opportunities are available throughout the City so that residents can work close to home if they**

choose. The location of land within each industrial district must be carefully selected and design and development standards created to minimize the potential adverse impacts of industrial activity on established residential areas.

- B. Facilitate economic goals.** Another purpose of these regulations is to ensure that there is a full range of economic activities and job opportunities within the City limits, in compliance with the economic goals of the City of Tigard Comprehensive Plan.

Subsection A states that one purpose is to "Provide a range of industrial services for city residents". Allowing contractors offices and similar industrial services type land uses will achieve this purpose through increasing opportunities for employment in these areas. Subsection B indicates that an additional purpose of the industrial zones is to facilitate economic goals, which as described above is also achieved by this proposed revision.

18.530.020 List of Zoning Districts

- A. I-P: Industrial Park District.** The I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odor, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well-integrated, attractively landscaped, and pedestrian-friendly.

The proposed code amendment would allow industrial land uses, as defined in TDC 18.130.070.C and discussed above, subject to a restriction that all activities be contained entirely within the building save for customer and employee parking. This restriction will result in consistency with the purpose statement for the I-P zoning district in that it will maintain the campus-like setting and will prevent off-site impacts.

FINDING: As shown in the analysis above, staff finds that the proposed text amendment is consistent with the applicable provisions of the City's implementing ordinances.

SECTION V. STAFF CONCLUSION & RECOMMENDED MODIFICATIONS

As proposed, the application will narrowly expand the permitted uses in the IP zone in order to address a recurring issue in the ability for contractors offices to locate in such areas. The public facility impact of this change is insignificant because facilities in which office floor area is over 50% of the total occupied are already allowed. Similarly, the functional and aesthetic qualities of the IP zone are maintained since the use will be restricted to prevent outside storage of materials. By imposing restriction No. 4 which requires all activities, except employee and customer parking, to be wholly contained within a building(s), any potential for aesthetic or other off-site impacts will be prevented. The preceding narrative shows that all criteria for approval for this application have been met.

That said, staff recommends that the requested amendment be modified to eliminate the proposed Note 15 which limits Industrial Services to "contractors and others that perform services off-site." Staff finds this restriction unnecessary to ensure consistency with the intent of the I-P Zoning District, whose intent is to preserve a campus like feel and prevent off-site impacts. Moreover, as demonstrated in the findings above, Note 15 would prevent the efficient utilization of industrial lands.

SECTION VI. ADDITIONAL CITY STAFF & OUTSIDE AGENCY COMMENTS

Metro reviewed the application and in an email dated February 21, 2013, found it consistent with Title IV of the Metro Urban Growth Management Functional Plan.

DLCD, Tualatin Valley Fire & Rescue, Clean Water Services, City of Beaverton, City of Durham, City of King City, City of Lake Oswego, City of Portland, City of Tualatin, Metro, and ODOT were notified of the proposed code text amendment but provided no comment.

PREPARED BY: John Floyd
Associate Planner

March 11, 2013
DATE

APPROVED BY: Tom McGuire
Assistant Community Development Director

March 11, 2013
DATE