



City of Tigard  
**Tigard Business Meeting – Agenda**

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**TIGARD CITY COUNCIL**

**MEETING DATE AND TIME:** September 9, 2014 - 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

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**VIEW LIVE VIDEO STREAMING ONLINE:**

<http://live.tigard-or.gov>

**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

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### TIGARD CITY COUNCIL

**MEETING DATE AND TIME:** September 9, 2014 - 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

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss real property negotiations under ORS 192.660(2) (e). 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

- 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:

Receive and File:

1. Council Calendar
2. Council Tentative Agenda for Future Meeting Topics

• 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.

4. PROCLAMATION: AMERICAN LEGION DAY
5. PROCLAMATION: CONSTITUTION WEEK
6. APPOINT MEMBERS TO THE TIGARD YOUTH ADVISORY COUNCIL
7. CONTINUATION OF COSTO APPEAL - FINALIZE DECISION
8. FIELDS/HUNZIKER INDUSTRIAL CORE PUBLIC INFRASTRUCTURE FINANCE PLAN UPDATE
9. DISCUSS WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY (WCCCA) INTERGOVERNMENTAL AGREEMENT AMENDMENT
10. CONSIDER A RESOLUTION OF NECESSITY TO ACQUIRE EASEMENTS FOR THE BONITA PUMP STATION PROJECT
11. DISCUSS POTENTIAL FOR ESTABLISHING TAX ON THE SALE OF MARIJUANA
12. COUNCIL LIAISON REPORTS
13. NON AGENDA ITEMS
14. 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.
15. ADJOURNMENT

**AIS-1913**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** Consent Item

**Agenda Title:** Receive and File: Council Calendar and Council Tentative Agenda

**Submitted By:** Carol Krager, City Management

**Item Type:** Receive and File

**Meeting Type:** Consent  
- Receive  
and File

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

Receive and file the Council Calendar and the Tentative Agenda for future Council meetings.

**STAFF RECOMMENDATION / ACTION REQUEST**

No action requested; this is a receive and file summary for information purposes.

**KEY FACTS AND INFORMATION SUMMARY**

Attached are the Council Calendar and the Tentative agenda for future Council meetings.

**OTHER ALTERNATIVES**

N/A

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A - Receive and File Items

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**Attachments**

3-Month Council Calendar

Tentative Agenda

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# MEMORANDUM

TO: Honorable Mayor & City Council/City Center Development Agency Board

FROM: Carol A. Krager, City Recorder

RE: Three-Month Council/CCDA Meeting Calendar

DATE: September 2, 2014

## September

2 Tuesday City Center Development Agency Meeting -- 6:30 p.m., Town Hall

9\* Tuesday Council Business Meeting -- 6:30 p.m., Town Hall

16\* Tuesday Council Workshop Meeting -- 6:30 p.m., Town Hall

23\* Tuesday Council Business Meeting -- 6:30 p.m., Town Hall

## October

7 Tuesday **City Center Development Agency Meeting Cancelled. Council individual meetings to be scheduled**

14\* Tuesday Council Business Meeting—6:30 p.m., Town Hall

21\* Tuesday Council Workshop Meeting -- 6:30 p.m., Town Hall

28\* Tuesday Council & CCDA Business Meeting -- 6:30 p.m., Town Hall

## November

4 Tuesday **City Center Development Agency Meeting Cancelled. Election Day**

11\* Tuesday **Council Business Meeting— Cancelled. Veterans Day**

18\* Tuesday Council Workshop Meeting -- 6:30 p.m., Town Hall

25\* Tuesday Council Business Meeting -- 6:30 p.m., Town Hall

Regularly scheduled Council meetings are marked with an asterisk (\*).

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
 9/2/2014 3:28 PM - Updated**

Form #	Meeting Date	Submitted By	Meeting Type	-----Title-----	Department	Inbox or Finalized
1625	09/09/2014	Cathy Wheatley	AAA	September 9, 2014 Business Meeting		
1862	09/09/2014	Judy Lawhead	ACCSTUDY	10 Minutes - Executive Session On Real Property Transactions	Public Works	08/06/2014
1865	09/09/2014	Steve Martin	ACCSTUDY	30 Minutes - Executive Session Real Property Negotiations	Public Works	08/04/2014
<b>Total Time: 40 of 45 Minutes Scheduled</b>						
1909	09/09/2014	Joanne Bengtson	CCBSNS	5 Minutes - Proclaim September 17-23 Constitution Week	City Management	09/02/2014
1910	09/09/2014	Joanne Bengtson	CCBSNS	5 Minutes - Proclaim September 16 American Legion Day	City Management	09/02/2014
1880	09/09/2014	Joanne Bengtson	CCBSNS	1 10 Minutes - Appoint Members to Tigard Youth Advisory Council	City Management	08/26/2014
1881	09/09/2014	Agnes Kowacz	CCBSNS	2 20 Minutes - Continuation of Costco Appeal- Finalize decision	Community Development	Kowacz A, Associate Planner
1851	09/09/2014	Lloyd Purdy	CCBSNS	3 25 Minutes - Fields/Hunziker Industrial Core Public Infrastructure Finance Plan Update	Community Development	09/02/2014
1854	09/09/2014	Julia Jewett	CCBSNS	4 15 Minutes - Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA) Amendment	Police	09/02/2014
1863	09/09/2014	Judy Lawhead	CCBSNS	5 15 Minutes - Consider a Resolution of Necessity to Acquire Easements for the Bonita Pump Station Project	Public Works	Rager B, Asst. PW Director
1883	09/09/2014	Toby LaFrance	CCBSNS	6 25 Minutes - Discuss Potential for Establishing Tax on the Sale of Marijuana	Financial and Information Services	09/02/2014
<b>Total Time: 120 of 100 Minutes Scheduled MEETING OVERSCHEDULED</b>						

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
 9/2/2014 3:28 PM - Updated**

1626	09/16/2014	Cathy Wheatley	AAA	September 16, 2014 Workshop Meeting		
<b>Total Time: 110 of 180 Minutes Scheduled</b>						
1816	09/16/2014	Judith Gray	CCWKSHOP	30 Minutes - Joint meeting with Transportation Advisory Committee	Community Development	Gray J, Sr Transportation Planner
1827	09/16/2014	Judith Gray	CCWKSHOP	30 Minutes - TriMet presentation: Draft Southwest Service Enhancement Plan	Community Development	Gray J, Sr Transportation Planner
1853	09/16/2014	Lloyd Purdy	CCWKSHOP	20 Minutes - Economic Development Update: Data	Community Development	09/02/2014
1653	09/16/2014	Greer Gaston	CCWKSHOP	15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	McMillan K, Engineering Manager
1868	09/16/2014	Judy Lawhead	CCWKSHOP	15 Minutes - Update on Progress to Develop an Agreement Regarding Water System Ownership and Water Service	Public Works	Rager B, Asst. PW Director
<b>Total Time: 110 of 180 Minutes Scheduled</b>						
1627	09/23/2014	Cathy Wheatley	AAA	September 23, 2014 Business Meeting		
1792	09/23/2014	Dana Bennett	ACCSTUDY	30 Minutes - Executive Session Labor Negotiations Update	City Management	05/29/2014
1857	09/23/2014	Greer Gaston	ACCSTUDY	10 Minutes - Briefing on an Amendment to an Agreement with ODOT and Washington County Regarding a Funding Transfer between Two Tigard Projects	Public Works	McMillan K, Engineering Manager
1901	09/23/2014	Judy Lawhead	ACCSTUDY	5 Minutes - Briefing On An Agreement With The County For A CDBG Sidewalk Project	Public Works	McCarthy M, St/Trans Sr Proj Eng
<b>Total Time: 45 of 45 Minutes Scheduled STUDY SESSION FULL</b>						

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
9/2/2014 3:28 PM - Updated**

1776	09/23/2014	Debbie Smith-Wagar	ACONSENT	Consent Item - Adopt Stormwater Project List for River Terrace	Financial and Information Services	Shanks S, Senior Planner
1877	09/23/2014	Judy Lawhead	ACONSENT	Consent Item - Adopt a Resolution Authorizing the City Manager to Execute an Agreement with PGE for a Back-up Power Source for a Water Partnership Facility	Public Works	Koellermeier D, Public Works Dir
1848	09/23/2014	Carol Krager	CCBSNS	1 10 Minutes - Heritage Tree Nomination	Community Development	Kowacz A, Associate Planner
1856	09/23/2014	Julia Jewett	CCBSNS	2 10 Minutes - Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA) Amendment	Police	Krager C, City Recorder
1885	09/23/2014	Toby LaFrance	CCBSNS	3 20 Minutes - Consider an Ordinance Taxing the Sale of Marijuana and Marijuana-Infused Items	Financial and Information Services	MartyW, City Manager
1674	09/23/2014	Debbie Smith-Wagar	CCBSNS	4 60 Minutes - River Terrace Financing Complete Package	Financial and Information Services	Smith-Wagar D, Asst Finance Director
<b>Total Time: 100 of 100 Minutes Scheduled MEETING FULL</b>						
1628	10/07/2014	Cathy Wheatley	AAA	October 7, 2014 – Council will hold individual meetings with citizens (CCDA Meeting Cancelled)		
1629	10/14/2014	Cathy Wheatley	AAA	October 14, 2014 Business Meeting		
1866	10/14/2014	John Goodrich	ACCSTUDY	15 Minutes - Participation in Water Treatment Plant Master Plan for Willamette River Supply Project	Public Works	Goodrich J, Utility Div Manager
1869	10/14/2014	John Goodrich	ACCSTUDY	10 Minutes - Willamette Water Supply Project - Pipeline Project by Other Agencies	Public Works	Goodrich J, Utility Div Manager

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
9/2/2014 3:28 PM - Updated**

1875	10/14/2014	Judy Lawhead	ACCSTUDY	15 Minutes - Executive Session On Real Property Transactions	Public Works	08/06/2014
<b>Total Time: 40 of 45 Minutes Scheduled</b>						
1858	10/14/2014	Greer Gaston	ACONSENT	Consent Item - Authorize the Mayor to Execute an Amendment to an Agreement with ODOT and Washington County Regarding a Funding Transfer between Two Tigard Projects	Public Works	Gaston G, Conf Executive Asst
1902	10/14/2014	Judy Lawhead	ACONSENT	Consent Item - Authorize the City Manager to Execute an Agreement with the County for a CDBG Sidewalk Project	Public Works	Lawhead, J, Sr. Admin Spec.
1812	10/14/2014	John Floyd	CCBSNS	20 Minutes - MEDICAL MARIJUANA UPDATE	Community Development	Floyd J, Associate Planner
1842	10/14/2014	Judy Lawhead	CCBSNS	15 Minutes - Consider an Agreement Regarding Cook Park Facility Use With Two Sports Leagues	Public Works	Martin S, Parks Manager
1861	10/14/2014	Doreen Laughlin	CCBSNS	15 Minutes - Update on Community Development Efficiencies Initiatives Project	Community Development	MartyW, City Manager
1911	10/14/2014	Carol Krager	CCBSNS	25 Minutes - LEGISLATIVE UPDATE	City Management	Newton L, Assistant City Manager
<b>Total Time: 75 of 100 Minutes Scheduled</b>						
1631	10/21/2014	Cathy Wheatley	AAA	October 21, 2014 Workshop Meeting		
1886	10/21/2014	Carissa Collins	CCWKSHOP	1 45 Minutes - First Quarter Budget Committee Meeting	Financial and Information Services	08/25/2014
1859	10/21/2014	Julia Jewett	CCWKSHOP	2 20 Minutes - Photo Radar	Police	Jewett J, Conf Exec Asst
1839	10/21/2014	Cheryl Caines	CCWKSHOP	3 45 Minutes - Tigard Triangle Strategic Plan Update	Community Development	Caines C, Assoc Planner

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
 9/2/2014 3:28 PM - Updated**

<b>Total Time: 110 of 180 Minutes Scheduled</b>						
1632	10/28/2014	Cathy Wheatley	AAA	October 28, 2014 Business & CCDA Meeting		
1867	10/28/2014	John Goodrich	CCBSNS	Consent Item - Authorization to Sign MOU for Joint Willamette River Water Treatment Plant Master Plan	Public Works	Goodrich J, Utility Div Manager
1864	10/28/2014	Carol Krager	CCBSNS	1 15 Minutes - Authorize the Mayor/City Manager to Execute an Intergovernmental Agreement with King City Regarding Water System Ownership and Water Service	City Management	Koellermeier D, Public Works Dir
1878	10/28/2014	Judy Lawhead	CCBSNS	2 15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	McMillan K, Engineering Manager
1801	10/28/2014	Carissa Collins	CCBSNS	3 20 Minutes - FY 2015 First Quarter Supplemental Budget Amendment	Financial and Information Services	Collins C, Sr Mgmt Analyst (Fin Adm)
1879	10/28/2014	Carissa Collins	CCBSNS	4 10 Minutes - FY 2015 First Quarter Supplemental Budget Hearing-City Center Development Agency	Financial and Information Services	Collins C, Sr Mgmt Analyst (Fin Adm)
1876	10/28/2014	Judy Lawhead	CCBSNS	5 15 Minutes - Consider Amendments to a Resolution of Necessity (Resolution No. 14-18) Adopted by Council on April 22, 2014.	Public Works	Rager B, Asst. PW Director
<b>Total Time: 75 of 100 Minutes Scheduled</b>						
1633	11/04/2014	Cathy Wheatley	AAA	November 4, 2014 CCDA Meeting - Cancelled. Election Day		
1630	11/18/2014	Cathy Wheatley	AAA	November 18, 2014 Workshop Meeting		

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
9/2/2014 3:28 PM - Updated**

1838	11/18/2014	Steve Martin	CCWKSHOP	1 35 Minutes - Joint Meeting With the Park and Recreation Advisory Board	Public Works	Martin S, Parks Manager
1836	11/18/2014	Steve Martin	CCWKSHOP	2 45 Minutes - Discussion of Recreation Programming in Tigard	Public Works	Martin S, Parks Manager
1787	11/18/2014	Liz Lutz	CCWKSHOP	3 40 Minutes - Review Results of Water Rate Survey	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
1912	11/18/2014	Carol Krager	CCWKSHOP	4 30 Minutes - UPDATE ON STRATEGIC PLAN COMMUNITY OUTREACH	City Management	Newton L, Assistant City Manager
				<b>Total Time: 150 of 180 Minutes Scheduled</b>		
1634	11/25/2014	Cathy Wheatley	AAA	November 25, 2014 Business Meeting		
1849	11/25/2014	Carol Krager	CCBSNS	Consent Item - Receive and File: Election Results, Council Calendar and Council Tentative Agenda	City Management	Krager C, City Recorder
1758	11/25/2014	Carol Krager	CCBSNS	15 Minutes - PLACEHOLDER - Google Franchise Agreement	City Management	Mills L, Asst to City Manager
1874	11/25/2014	Judy Lawhead	CCBSNS	15 Minutes - Informational Public Hearing to Consider a Resolution Establishing Walnut Street & 112th Avenue Sanitary Sewer Reimbursement	Public Works	Berry G, Project Engineer
				<b>Total Time: 30 of 100 Minutes Scheduled</b>		
1635	12/02/2014	Cathy Wheatley	AAA	December 2, 2014 CCDA Meeting		

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
 9/2/2014 3:28 PM - Updated**

1636	12/09/2014	Cathy Wheatley	AAA	December 9, 2014 Business Meeting		
1788	12/09/2014	Liz Lutz	CCBSNS	20 Minutes - Adopt the new Water Rate	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
1903	12/09/2014	Liz Lutz	CCBSNS	5 Minutes - Appoint Budget Committee Members	Financial and Information Services	Lutz L, Conf Exec Asst
1904	12/09/2014	Liz Lutz	CCBSNS	5 Minutes - Appoint Audit committee members	Financial and Information Services	Lutz L, Conf Exec Asst
				<b>Total Time: 30 of 100 Minutes Scheduled</b>		
1637	12/16/2014	Cathy Wheatley	AAA	December 16, 2014 Workshop/Business Meeting		
1654	12/16/2014	Greer Gaston	CCBSNS	15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	Gaston G, Conf Executive Asst
1850	12/16/2014	Debbie Smith-Wagar	CCBSNS	45 Minutes - Ordinances Adopting the River Terrace Community Plan, Code Amendments and Transportation System Plan	Community Development	
1891	12/16/2014	Doreen Laughlin	CCBSNS	5 Minutes - Planning Commission Appointments	Community Development	McGuire, T, Asst CD Director
1907	12/16/2014	Debbie Smith-Wagar	CCBSNS	20 Minutes - Resolution Adopting the Parks Master Plan Addenda for River Terrace	Community Development	
1908	12/16/2014	Debbie Smith-Wagar	CCBSNS	20 Minutes - Resolution Adopting the River Terrace Infrastructure Funding Strategy	Community Development	
				<b>Total Time: 105 of 180 Minutes Scheduled</b>		

Meeting Banner  Business Meeting   
 Study Session  Special Meeting   
 Consent Agenda  Meeting is Full   
 Workshop Meeting  CCDA Meeting

**City Council Tentative Agenda  
 9/2/2014 3:28 PM - Updated**

1638	12/23/2014	Cathy Wheatley	AAA	December 23, 2014 Business Meeting		
1892	01/06/2015	Carol Krager	AAA	January 6, 2015 Special Meeting		
1893	01/13/2015	Carol Krager	AAA	January 13, 2015 Business Meeting		
1894	01/20/2015	Carol Krager	AAA	January 20, 2015 Workshop Meeting		
1890	01/20/2015	Carissa Collins	CCWKSHOP	45 Minutes - Second Quarter Budget Committee Meeting	Financial and Information Services	08/24/2014
				<b>Total Time: 45 of 180 Minutes Scheduled</b>		
1895	01/27/2015	Carol Krager	AAA	January 27, 2015 Business Meeting		
1887	01/27/2015	Judy Lawhead	CCBSNS	15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	Lawhead, J, Sr. Admin Spec.
				<b>Total Time: 15 of 100 Minutes Scheduled</b>		

**AIS-1910**

**4.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 5 Minutes

**Agenda Title:** Proclaim September 16 American Legion Day

**Prepared For:** Joanne Bengtson, City Management

**Submitted By:** Joanne Bengtson, City Management

**Item Type:** Receive and File

**Meeting Type:** Proclamation

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

Should Mayor Cook issue a proclamation in honor of American Legion Day?

**STAFF RECOMMENDATION / ACTION REQUEST**

N/A

**KEY FACTS AND INFORMATION SUMMARY**

The American Legion was chartered and incorporated by Congress in 1919 as a patriotic veterans organization devoted to mutual helpfulness. It is the nation's largest wartime veteran's service organization, committed to mentoring youth and sponsorship of wholesome programs in the community, advocating patriotism and honor, promoting strong national security, and continued devotion to fellow service members and veterans.

Local American Legion programs and activities strengthen our community by connecting with recovering wounded warriors and fundraising in support of programs that serve veterans and their families.

The American Legion is a nonpartisan, not-for-profit organization strengthened by grass-roots involvement in the community in which it thrives.

**OTHER ALTERNATIVES**

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

This is the first time that Tigard has considered a request for proclaiming American Legion Day.

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**Attachments**

American Legion Day Proclamation

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# Proclamation

City of Tigard

## American Legion Day

**WHEREAS**, the American Legion was chartered by Congress in 1919 on September 16 as a wartime veterans organization based on the four pillars of Veterans Affairs & Rehabilitation, National Security, Americanism, and Children & Youth; and

**WHEREAS**, over the years, The American Legion has become a distinguished community-service organization which now numbers more than 2.5 million members -- men and women -- in more than 14,000 American Legion posts worldwide working a variety of programs that support the four pillars and benefit our nation's veterans, its service members, their families, the youth of America and its citizens; and

**WHEREAS**, the members of The American Legion are dedicated to upholding the ideals of freedom and democracy, while working to make a difference in the lives of fellow Americans; and

**WHEREAS**, observing American Legion Day provides an opportunity to recognize Legionnaires in Tigard for their many contributions to the local community.

**NOW THEREFORE BE IT RESOLVED THAT I**, John L. Cook, Mayor of the City of Tigard, Oregon, do hereby proclaim September 16, 2014 as

### AMERICAN LEGION DAY

in Tigard, Oregon and encourage all citizens to recognize and support the service of our local American Legion Post 158.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

\_\_\_\_\_  
John L. Cook, Mayor  
City of Tigard

**Attest:**

\_\_\_\_\_  
City Recorder

**AIS-1909**

**5.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 5 Minutes

**Agenda Title:** Proclaim September 17-23 Constitution Week

**Prepared For:** Joanne Bengtson, City Management

**Submitted By:** Joanne Bengtson, City Management

**Item Type:** Receive and File

**Meeting Type:** Proclamation

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

Should Mayor Cook proclaim Sept. 17-24, 2014 as Constitution Week in Tigard?

**STAFF RECOMMENDATION / ACTION REQUEST**

N/A

**KEY FACTS AND INFORMATION SUMMARY**

Constitution Week commemorates the signing of United States Constitution, a testament to the tenacity of Americans throughout history to maintain their liberties, freedoms and inalienable rights.

This celebration of the Constitution was started by the Daughters of the American Revolution (DAR). In 1955, DAR petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week. The resolution was later adopted by the U.S. Congress and signed into public law on August 2, 1956, by President Dwight D. Eisenhower.

**The aims of the Constitution Week celebration are to:**

- Emphasize citizens' responsibilities for protecting and defending the Constitution.
- Inform people that the Constitution is the basis for America's heritage and way of life.
- Encourage the study of the historical events which led to the framing of the Constitution in September 1787.

Constitution Week is a great time to learn more about this important document and celebrate the freedoms it gave us.

**OTHER ALTERNATIVES**

Not issue the proclamation.

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

Tigard has issued this proclamation every year since 2000.

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**Attachments**

Constitution Week Proclamation

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# Proclamation

City of Tigard

## Constitution Week

**WHEREAS**, on September 17, 1787, the Constitution of the United States of America was signed by 55 delegates to the Constitutional Convention in Philadelphia's Independence Hall; and

**WHEREAS**, September 17, 2014, marks the 227<sup>th</sup> anniversary of the drafting of the Constitution; and

**WHEREAS**, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebration which will commemorate the occasion; and

**WHEREAS**, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United State of America designating September 17 through 23 as Constitution Week.

**NOW THEREFORE BE IT RESOLVED THAT I**, John L. Cook, Mayor of the City of Tigard, Oregon, do hereby proclaim the week of September 17-23, 2014 as

### CONSTITUTION WEEK

in Tigard, Oregon and encourage all citizens to reaffirm the ideals of the Constitution by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

\_\_\_\_\_  
John L. Cook, Mayor  
City of Tigard

**Attest:**

\_\_\_\_\_  
City Recorder

**AIS-1880**

**6.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 10 Minutes

**Agenda Title:** Appoint Members to Tigard Youth Advisory Council

**Prepared For:** Joanne Bengtson, City Management

**Submitted By:** Joanne Bengtson, City Management

**Item Type:** Resolution

**Meeting Type:** Council  
Business  
Meeting -  
Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

Should City Council appoint new members to the Tigard Youth Advisory Council in order to re-form this dormant advisory board?

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommend making the appointments for

1. Zachery Dean
2. Rayman Kirby
3. Carter Kruse
4. Shaun Rasmusen
5. Jordan Stephens
6. Caleb Torgerson
7. Jezeth Zaragoza

**KEY FACTS AND INFORMATION SUMMARY**

Tigard High School (THS) Senior Carter Kruse and other THS youth contacted City Manager Marty Wine to express interest in starting up a new Tigard Youth Advisory Council (TYAC). After several meetings with Marty Wine and Tigard Police Youth Services staff member Lauren Gysel to discuss goals and the process for reviving this board, the youth agreed to use the summer to work on recruiting other members to be on TYAC and organize themselves to determine what they would propose as the work of the youth council.

Mayor Cook met individually with Mr. Kruse on July 30, 2014 to discuss what the potential members want to do once the Advisory Council is formed. City Councilors Jason Snider (TYAC Council liaison) and Marc Woodard held interviews on August 18 and August 20 with

youth that had submitted applications to become members of the re-formed Youth Advisory Council. A solicitation for applications for membership was placed in the September Cityscape newsletter. The recommendations of the interview panel are to provisionally appoint members, with the potential for amending the advisory committee's by-laws, officers and work scope once the Council is formed.

TYAC city staff liaisons are Marty Wine and Lauren Gysel of the Police Department/Peer Court. They will provide meeting support and help the new Council get organized and offer suggestions for recruiting new members from grades 6 through 12 in the Tigard area.

The first informal meeting of these youth was held on August 26 at 4:30 p.m. in Red Rock Creek at City Hall. Once membership expands, the Council will hold elections for officers in the fall to determine Council leadership.

### **OTHER ALTERNATIVES**

Do not make the appointments.

### **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

### **DATES OF PREVIOUS COUNCIL CONSIDERATION**

This advisory board to the City Council has been dormant since budget reductions eliminated staff support and funding in 2011.

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### **Attachments**

Resolution for Appointments to TYAC

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CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 14-

A RESOLUTION TO MAKE THE FOLLOWING APPOINTMENTS TO THE RENEWED TIGARD YOUTH ADVISORY COUNCIL: ZACHERY DEAN, RAYMAN KIRBY, CARTER KRUSE, SHAUN RASMUSEN, JORDAN STEPHENS, CALEB TORGERSON AND JEZETH ZARAGOZA.

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WHEREAS, the Tigard Youth Advisory Council (TYAC) has been inactive since the Tigard Police Youth Services programming was eliminated; and

WHEREAS, the city was contacted by Tigard High School youth interested in reconstituting this important addition to the city's youth services programing; and

WHEREAS, the city met with interested youth to discuss building new membership and providing support that would help them create a sustaining organization that will live beyond one issue or one year; and

WHEREAS, City Councilor Jason Snider (Council liaison to the TYAC) and City Councilor Marc Woodard conducted interviews as the Mayor's Appointment Committee on August 18 and August 20 to make the following recommendations for appointment to the Tigard Youth Advisory Council.

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

SECTION 1: Zachery Dean, Rayman Kirby, Carter Kruse, Shaun Rasmusen, Jordan Stephens, Caleb Torgerson and Jezeth Zaragoza are appointed to the Tigard Youth Advisory Council for a term that expires on June 30, 2015.

SECTION : This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2014.

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Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

**AIS-1881**

**7.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 20 Minutes

**Agenda Title:** Continuation of Costco Appeal- Finalize decision

**Prepared For:** Agnes Kowacz, Community Development

**Submitted By:** Agnes Kowacz, Community Development

**Item Type:** Motion Requested

**Meeting Type:** Council  
Business  
Meeting -  
Main

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

City Council will finalize the tentative decision to deny the appeal of the Planning Commission Final Order No. 2014-03 PC for a Conditional Use Permit for the Costco Fuel Station.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff requests that City Council make a final decision to deny the appeal of the Planning Commission Final Order No. 2014-03 PC and uphold the Planning Commission's approval, subject to certain conditions, of a Conditional Use Permit (CUP2013-00002) for the Costco Fuel Station.

**KEY FACTS AND INFORMATION SUMMARY**

On August 12, 2013, the city received a Conditional Use Permit application and a Design Evaluation Team request for a fueling station for Costco located at 7850 SW Dartmouth Street. The Design Evaluation Team review took place first and was resolved by November of 2013. Review of the Conditional Use application followed, and the first public hearing on the request was held on February 10, 2014. The hearing was continued to March 17, 2014 in order to work through the conditions relating to the intersection improvements at Highway 99W and SW Dartmouth Street. At the March 17, 2014 public hearing, the applicant requested another continuance to April 7, 2014. On April 7, 2014, the Planning Commission received testimony and written materials from Mr. Michael Connors, representing Cain Petroleum, who is in opposition of the project. The Planning Commission approved the Design Evaluation Team recommendations and continued the hearing for the decision on the Conditional Use Permit to May 5, 2014 in order to allow time to review the materials submitted by Mr. Connors. On May 5, 2014, the Planning Commission approved the

Conditional Use Permit with the proposed changes from the April 7, 2014 hearing.

On June 5, 2014, the city received an appeal of the Planning Commission final order from Mr. Michael Connors. The City Council held the appeal hearing on August 12, 2014 and made a tentative decision to deny the appeal subject to the edits presented in staff memorandum dated August 18, 2014, an addition to condition #11, and the addition of the following condition:

1. Prior to building permit issuance, the applicant shall show evidence that the necessary right-of-way for the construction of the right turn lanes at Highway 99W /Dartmouth/ 78th Ave has been acquired.

Addition to condition #11 (previously condition #10)

“This includes the shared bike lane markings denoting the potential presence of cyclists.”

The City Council continued the hearing to September 9, 2014 to finalize the decision.

### **OTHER ALTERNATIVES**

City Council has the following alternatives:

1. Dismiss the tentative decision and approve the appeal.
2. Make a final decision to deny the appeal with modifications to the City Council Final Order.

### **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

### **DATES OF PREVIOUS COUNCIL CONSIDERATION**

On 8/12/2014, City Council heard the appeal of the Planning Commission Final Order No. 2014-03 PC for a Conditional Use Permit (CUP2013-00002) for the Costco Fuel Station.

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### **Attachments**

City Council Final Order

Exhibit A: Vicinity Map

Exhibit B: Site Plan

Exhibit C: DET Report

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**NOTICE OF FINAL ORDER  
CITY COUNCIL  
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = 4/16/2014

**A final order denying the appeal of Planning Commission Final Order No. 2014-03 PC for a Conditional Use Permit, for the Costco Fuel Station. The Planning Commission approved the Conditional Use Permit on May 5, 2014, as well as, a Design Evaluation Team recommendation on April 7, 2014. The Planning Commission Decision was appealed to City Council on June 5, 2014. The City Council based its decision on the entire Planning Commission record including the Staff Report to City Council, August 12, 2014 and the oral and written testimony presented at the City Council hearing on August 12, 2014.**

This is an appeal of a Type III decision by the Planning Commission. Pursuant to CDC Section 18.390.050.G.1, the decision of the Planning Commission is final except as to issues appealed within 10 business days after notice of the Planning Commission's decision was mailed. The Planning Commission's final order is dated May 22, 2014. This appeal was filed June 5, 2014, which was within ten business days of the date of the order. The appeal is timely.

The City Council finds that the appellant has stated six separate grounds for appeal. Except as to the issues raised in those grounds for appeal, the findings and order of the Planning Commission were not appealed and therefore became final upon expiration of the ten business day appeal period on or about June 6, 2014. The City Council does not have jurisdiction to consider issues not raised in the notice of appeal, and this order does not revisit or reexamine the decision of the Planning Commission as to issues not raised by appellant. For administrative efficiency the full order approving the application is set forth in Parts I through X of this order below; however, this order restates the Planning Commission's decision as to issues not appealed without change except as specifically requested by staff to correct certain clerical errors.

The only issues properly appealed to the City Council are the six grounds for appeal stated in appellant's June 5, 2014 notice of appeal, and those are the only issues considered by the Council. The Council denies all six grounds for appeal, as follows. To the extent that the City Council's decision on appeal required changes to the approval, those changes are reflected in the body of the decision set forth in Parts I through X below.

Issue 1 – The planning commission erred in concluding that the proposal is in compliance with CDC Sections 18.330.030.A.3 and 18.810.020.A. The City Council rejects this ground for appeal, for the reasons set forth below in Section VI in response to these two Sections. Section 18.810.020.A does not establish an independent approval criterion, and as to Section 18.330.030.A.3, the record contains substantial evidence that, with the imposition of conditions of approval adopted by the planning commission and modified by this order, the criterion can and will be met.

Issue 2 – The planning commission erred in concluding that the proposal is in compliance with CDC Section 18.620.010.B.3. The City Council rejects this ground for appeal, for the reasons set forth below in Section VI in response to this Section. The record contains substantial evidence that, with payment of the

Washington County TDT in the form of a credit for improvements to be built by the applicant at the Highway 99W/SW Dartmouth intersection, this approval criterion is met.

Issue 3 – The planning commission erred by failing to adequately address the need for off-site shared parking agreements with neighboring properties. The City Council rejects this ground for appeal, for the reasons set forth below in Section VI in response to CDC Section 18.705.030.H. The Council agrees with the Planning Commission that there is not substantial evidence in the record of an impact from the proposal that would justify or authorize imposition of a condition of approval requiring off-site parking agreements with neighboring property owners.

Issue 4 – The planning commission erred by failing to address transportation issues and deficiencies identified by Greenlight Engineering. The City Council rejects this ground for appeal. The Council has reviewed the issues raised by Greenlight Engineering and staff's response, and agrees with the Planning Commission that, in light of the evidence in the record, the issues raised did not have sufficient merit to require specific responses or any changes to the approval.

Issue 5 – The planning commission erred in concluding that CDC Section 18.620.040.A.1 does not apply. The City Council rejects this ground for appeal, for the reasons set forth below in Section VI in response to this Section. The City Council agrees that this Section does not apply to this proposal.

Issue 6 – The planning commission erred in concluding that the proposal complies with CDC Section 18.620.090.C.4. The City Council rejects this ground for appeal, for the reasons set forth below in Section VI in response to this Section. The City Council agrees with the recommendation of the DET and the decision of the Planning Commission that these standards are met, as set forth in the DET's report attached as Exhibit "C" and the applicant's final site plan.

## **SECTION I. APPLICATION SUMMARY**

**FILE NAME:** COSTCO FUEL STATION  
**CASE NOS:** Conditional Use Permit (CUP) CUP2013-00002

**PROPOSAL:** The applicant is requesting a conditional use permit and Tigard Triangle Design Evaluation Team approval for the construction of a members-only retail fuel station located at the existing Costco site. The station is proposed at the northeast corner of the site currently used for parking. The facility consists of a 73 foot by 102 foot canopy with three fueling islands, nine fuel dispensers and five underground storage tanks. The proposal also includes reconfiguration of the parking area surrounding the proposed fuel station and landscaping.

**APPLICANT/ OWNER:** Costco Wholesale  
David Rogers  
999 Lake Drive  
Issaquah, WA 98027

**APPLICANT'S REP:** Barghausen Consulting Engineers, Inc.  
Angelo Bologna  
18215 72<sup>nd</sup> Avenue South  
Kent, WA 98032

**LOCATION:** 7850 SW Dartmouth Street; WCTM 1S136CD, Tax Lot 02200.

**ZONE:** C-G: General Commercial District. The C-G zoning district is designed to accommodate a full range of retail, office and civic uses with a city-wide and even regional trade area. Except where non-conforming, residential uses are limited to single-family residences which are located on the same site as a permitted use. A

wide range of uses, including but not limited to adult entertainment, automotive equipment repair and storage, mini-warehouses, utilities, heliports, medical centers, major event entertainment, and gasoline stations, are permitted conditionally.

**APPLICABLE  
REVIEW**

**CRITERIA:** Community Development Code Chapters 18.330, 18.360, 18.390, 18.520, 18.620, 18.705, 18.725, 18.745, 18.765, 18.780, 18.790, 18.795 and 18.810.

**SECTION II. CITY COUNCIL DECISION**

The City Council finds that the proposal meets the applicable approval criteria of the Tigard Community Development Code and, to ensure compliance imposed, certain conditions of approval so that the proposal will not adversely affect the health, safety and welfare of the City. Therefore, the City Council **DENIES** the appeal of the Planning Commission Final Order No. 2014-03 PC and upholds the Planning Commission's approval of the Conditional Use Permit, **subject to the following conditions of approval:**

**CONDITIONS OF APPROVAL**

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO COMMENCING ANY SITE WORK:**

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the COMMUNITY DEVELOPMENT DEPARTMENT ATTN: Agnes Kowacz, 503-718-2427. The cover letter shall clearly identify where in the submittal the required information is found:**

1. Prior to any ground disturbance work, the project arborist shall perform a site inspection for tree protection measures, document compliance/non-compliance with the urban forestry plan and send written verification with a signature of approval directly to the city manager or designee within one week of the site inspection.
2. Prior to any ground disturbance work, the applicant shall submit to the city the current Inventory Data Collection fee for urban forestry plan implementation.
3. The project arborist shall perform semimonthly (twice monthly) site inspections for tree protection measures during periods of active site development and construction, document compliance/non-compliance with the urban forestry plan and send written verification with a signature of approval directly to the project planner within one week of the site inspection.
4. Prior to building permit issuance, the applicant shall show evidence that the necessary right of way for the construction of the right turn lanes at Highway 99W /Dartmouth/ 78<sup>th</sup> Ave, has been acquired.

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: MIKE MCCARTHY 503-718-2462. The cover letter shall clearly identify where in the submittal the required information is found:**

5. Prior to issuance of a site permit, a Public Facility Improvement (PFI) permit is required for this project to cover street improvements, public utility issues, and any other work in the public right-of-way. Five (5) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the

“Permittee”, and who will provide the financial assurance for the public improvements. Failure to provide accurate information to the Engineering Department will delay processing of project documents.

- a. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition (and any subsequent versions or updates).”
6. Prior to issuance of a site permit, the applicant shall obtain approval from the city engineer and other appropriate agencies confirming that pollution controls and protection measures will be in place and functioning properly before allowing the under canopy drainage to flow into the sanitary sewer.
7. Prior to issuance of a site permit, the applicant shall obtain city approval of plans to retrofit the northern driveway so that all trucks to Costco can stay within the curb lines of the driveway as they enter the site.
8. Prior to issuance of a site permit, the applicant shall obtain approval from TVF&R for access and hydrant location.
9. Prior to issuance of a site permit, the applicant shall obtain a 1200-C-N General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO A FINAL BUILDING INSPECTION:**

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the COMMUNITY DEVELOPMENT DEPARTMENT ATTN: Agnes Kowacz 503-718-2427. The cover letter shall clearly identify where in the submittal the required information is found:**

10. Prior to final building inspection, the applicant shall contact the **Staff Planner, Agnes Kowacz**, 503-718-2427 for final walk-through. All site improvements must be completed per approved plans.

**The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: MIKE MCCARTHY 503-718-2462. The cover letter shall clearly identify where in the submittal the required information is found:**

11. Prior to final building inspection, the intersection improvements proposed by the applicant to the northbound and southbound right turn lanes at the SW Dartmouth/99W intersection shall be constructed. This includes the shared bike lane markings denoting the potential presence of cyclists.
12. Prior to final building inspection, all elements of the proposed infrastructure (such as transportation, sanitary sewer, storm drainage, water, etc.) systems shall be in place and operational with accepted maintenance plans.
13. Prior to final building inspection, the applicant shall have completed the retrofit of the northern driveway so that all trucks to Costco can stay within the curb lines of the driveway as they enter the site.

14. Prior to final building inspection, the applicant's engineer shall submit a final access report to city engineering staff which verifies design of driveways and street connections to be used by site traffic are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by the City and AASHTO.

**THIS APPROVAL MUST BE IMPLEMENTED WITHIN  
18 MONTHS FROM THE EFFECTIVE DATE OF THE DECISION.**

### **SECTION III. BACKGROUND INFORMATION**

#### Proposal:

The applicant is requesting a conditional use permit and Tigard Triangle Design Evaluation Team approval for the construction of a members-only retail fuel station located at the existing Costco site. The station is proposed at the northeast corner of the site, which is currently used for parking. The facility consists of a 73 foot by 102 foot canopy with three fueling islands, nine fuel dispensers, and five underground storage tanks. The proposal also includes reconfiguration of the parking area surrounding the proposed fuel station and landscaping.

#### Site History:

Staff conducted a search of City records for the subject property and found that a Site Development Review and a Planned Development Review (SDR93-00018 & PDR93-00010) were approved to construct the original building for the Costco warehouse and associated site improvements. In 1999, a minor modification (MMD1999-00002) was approved for a 10,000 square foot addition and restriping of the existing parking lot. Lastly, in 2007 a minor modification (MMD2007-00011) was approved to allow the planting of an additional 52 parking lot trees to satisfy the original 1993 permit conditions of approval.

#### Vicinity Information:

The subject site is located at 7850 SW Dartmouth Street; west of SW Dartmouth Street and bound to the north and west by SW Pacific Hwy and Hwy 217. The property, located within the Tigard Triangle Plan District, is zoned General Commercial (C-G) with a Planned Development (PD) overlay. All surrounding properties are also zoned C-G. Commercial development is located to the east and proposed for the property to the south (Walmart).

#### Neighbor Comments:

The applicant held a formal neighborhood meeting on April 11, 2013 with one neighbor in attendance. Neighbor concern focused on conflicts between fuel truck access and other vehicular traffic using the driveway. The city has not received any written comments from neighborhood residents.

### **SECTION IV. REPORT MAKING PROCEDURES, PERMITS AND USE**

#### Use Classification

Chapter 18.130 defines the Use Categories used in the Development Code. The proposed Costco Fuel Station is defined as a vehicle fuel sales use (18.130.060.S) and is permitted as a conditional use in the C-G zone. The existing Costco sales-oriented retail use is a permitted use in the C-G zone and is proposed to continue.

#### Summary of Land Use Permits and Decision-making Procedures

Section 18.330.020.A states that a request for approval for a new conditional use shall be processed as a Type III-HO procedure, as regulated by Chapter 18.390.050, using approval criteria contained in Section 18.330.030A and subject to other requirements in this chapter. The Type III-HO procedure is a quasi-judicial procedure that applies discretionary approval criteria. Type III-HO actions are decided by the Hearings Officer with appeals being heard by the City Council.

The applicant has also requested a Tigard Triangle Design Evaluation Team (DET) approval, which is

processed as a Type III-PC procedure and reviewed by the Planning Commission. The Planning Commission may approve an alternative design to the Tigard Triangle standards by granting an adjustment meeting the criteria of 18.620.090.C. In cases such as this one where more than one land use review is requested, they may be reviewed concurrently using the procedure providing the greatest level of notice and review, in this case, the Type III-PC procedure.

## **SECTION V. SUMMARY OF APPLICABLE CRITERIA**

Staff has reviewed the proposal for consistency with the following code sections. Findings for these code sections are in Section VI of this report.

### **Applicable Development Code Standards**

- 18.330 - Conditional Use
- 18.360 - Site Development Review
- 18.620 - Tigard Triangle Plan District
- 18.705 - Access Egress and Circulation
- 18.725 - Environmental Performance Standards
- 18.745 - Landscaping and Screening
- 18.765 - Off-Street Parking and Loading
- 18.790 - Urban Forestry Plan
- 18.810 - Street and Utility Improvement Standards

## **SECTION VI. APPLICABLE REVIEW CRITERIA AND FINDINGS**

### **A. APPLICABLE DEVELOPMENT CODE STANDARDS AND APPROVAL CRITERIA**

#### **Conditional Use (Chapter 18.330)**

##### **18.330.010 Purpose**

- A. Purpose.** The purpose of this chapter is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met. There are certain uses which due to the nature of the impacts on surrounding land uses and public facilities require a case-by-case review and analysis.

The applicant requests approval of a vehicle fuel sales use on the subject site. The following standards in this chapter ensure the proposed development will not adversely impact surrounding uses and public facilities.

##### **18.330.030 Approval Standards and Conditions of Approval**

- A. The Hearings Officer shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:**

- 1. The site size and dimensions provide adequate area for the needs of the proposed use;**

As described in the applicant's narrative, the 14.86 acres site is adequately sized to accommodate the needs of the proposed vehicle fuel station. This standard is met.

- 2. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features;**

The site is approximately 14.86 acres in size and new fuel station canopy will occupy one percent of the total site area. The site's size and shape can accommodate adequate parking, landscaping and circulation. The site is relatively flat with grades of approximately 3.5 percent. There are no natural features within the location of the proposed fuel station; the station will be located within an existing parking lot. This standard is met.

- 3. All required public facilities have adequate capacity to serve the proposal; and**

As described in the applicant’s impact study in Section 2.0 of their submittal, there is adequate capacity in the public facilities that serve the site. The frontage improvements along SW Dartmouth Street, including bicycle facilities (on the east side only), have already been constructed. The proposal does not require any additional water connections. A limited amount of runoff is anticipated from the canopy area; this area will be hydraulically separated from the rest of the site and routed through an oil/water separator prior to discharging to the sanitary sewer system. The proposed project will not increase stormwater runoff; however, the project will improve fifty percent of the overall site to comply with current water quality standards. With the proposed mitigation measures and conditions, adequate streets and utilities capacity exists as analyzed in response to TDC18.810. This standard is met.

**4. The applicable requirements of the zoning district are met except as modified by this chapter.**

The proposed site is zoned C-G (PD). Table 18.520.2 includes development standards in commercial zones related to lot size, width, coverage, and building setbacks, height, and landscape requirements. The table below compares the applicable standards of the base zone, the additional standards required for a vehicle fuel sales use (see 18.330.050.B.7), with the proposed development.

**TABLE 18.520.2  
DEVELOPMENT STANDARDS IN COMMERCIAL ZONES**

STANDARD	C-G	CU Vehicle Fuel Sales	Proposed
Minimum Lot Size	None	10,000	N/A
- Detached unit	-		-
- Boarding, lodging, rooming house	-		-
Minimum Lot Width	50 ft.	None	N/A
Minimum Setbacks			
- Front yard	0 ft. <sup>[11]</sup>	10 min/40 max ft.	58’ 8”
- Side facing street on corner & through lots <sup>[1]</sup>	-	40 ft.	N/A.
- Side yard	0/20 ft. <sup>[8]</sup>	0 ft.	89’ 7”/1,736’
- Side or rear yard abutting more restrictive zoning district	-	20 ft.	N/A
- Rear yard	0/20 ft. <sup>[8]</sup>	0 ft.	343’ 7”
- Distance between front of garage & property line abutting a public or private street.	-		
Minimum Building Height	N/A		N/A
Maximum Building Height	45 ft	45 ft	17.5 ft
Maximum Site Coverage <sup>[2]</sup>	85 %		27%
Minimum Landscape Requirement	15 %		56.4%
Minimum FAR <sup>[3]</sup>	N/A		N/A
Minimum Residential Density <sup>[4][5][6]</sup>	N/A		N/A
Maximum Residential Density <sup>[4][5][6][7]</sup>	N/A		N/A

- [1] The provisions of Chapter 18.795 (Vision Clearance) must be satisfied.
- [2] Includes all buildings and impervious surfaces.
- [3] Applies to all nonresidential building development and mixed use development which includes a residential component.
- [8] No setback shall be required except 20 feet shall be required where the zone abuts a residential zoning district.
- [11] There shall be no minimum front yard setback requirement; however, conditions in Chapters 18.745 and 18.795 must be met.

FINDING: As shown in the comparative table above, the proposed development meets all of the applicable development standards of the underlying zoning district and the additional standards required for a vehicle fuel sales use, with the exception of the front yard setback. The applicant is applying for an adjustment to the front yard setback requirement as part of this application, which is addressed in detail below.

**5. The applicable requirements of 18.330.050 are met; and**

Section 18.330.050.B.7 contains the following standards for Vehicle Fuel Sales:

**a. Minimum lot size shall be 10,000 square feet;**

**b. Setbacks:**

- i. The front yard setback shall be 40 feet;**
- ii. On corner and through lots, the setback shall be 40 feet on any side facing street; and**
- iii. No side or rear yard setback shall be required, except 20 feet where abutting a residential zoning district;**

**c. Fuel tank installation shall be in accordance with the Uniform Fire Code; and**

**d. Building height shall be the same as applicable zoning**

As discussed above, the comparative table shows that the proposed development meets all of the applicable development standards of the underlying zoning district and the additional conditional use standards for vehicle fuel sales, with the exception of the front yard setback. The applicant is applying for an adjustment to the front yard setback requirement as part of this application, which is addressed in detail below. A building permit is required for the installation of the fuel tank and shall ensure that the tank meets all applicable building and fire codes.

**6. The supplementary requirements set forth in other chapters of this Code including but not limited to Chapter 18.780, Signs, and Chapter 18.745, Landscaping and Screening; Chapter 18.790, Urban Forestry Plan; and Chapter 18.360, Site Development Review, if applicable, are met.**

FINDING: The supplementary requirements that are applicable in this case include the following chapters of the Community Development Code: 18.360, Site Development Review; 18.620, Tigard Triangle Plan District; 18.705, Access, Egress and Circulation; 18.725, Environmental Performance Standards; 18.745, Landscaping and Screening; 18.765, Off-Site Parking and Loading; 18.790, Urban Forestry Plan; and 18.810 Street and Utility Improvements Standards. As reviewed below in this report, all supplementary requirements set forth in other chapters of the code are either met or conditioned to be met.

**Site Development Review (Chapter 18.360)**

**18.360.020 Applicability of Provisions**

**Site development review shall be applicable to all new developments and major modification of existing developments.**

The proposed vehicle fuel station is a new development. Therefore, the applicable site development review criteria apply.

### **18.360.090 Approval Criteria**

**The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:**

The following approval criteria are not applicable to the proposed vehicle fuel sales use: 18.360.090.C (Exterior Elevations of residential buildings); 18.360.090.E (Privacy and Noise); 18.360.090.F (Shared outdoor area-Multifamily use); and 18.360.090.G (Landfills adjacent to 100-year Floodplain).

Approval criteria 18.360.090.A. (Street and Utility Standards); 18.360.090.D (Buffering, Screening and Compatibility Between Adjoining Uses); 18.360.090.K (Landscaping); and 18.360.090.L (Drainage); are discussed elsewhere in this decision.

The following are the applicable approval criteria of this section that are relevant to the proposed project:

#### **A. Compliance with all of the applicable requirements of this title including Chapter 18.810, Street and Utility Standards;**

The proposed project will be in compliance or conditioned to comply, with all of the applicable requirements of Title 18 as reviewed in this report.

#### **B. Relationship to the Natural and Physical Environment:**

##### **1. Buildings shall be:**

- a. Located to preserve existing trees, topography and natural drainage where possible based upon existing site conditions;
- b. Located in areas not subject to ground slumping or sliding;
- c. Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and
- d. Oriented with consideration for sun and wind.

The proposed fuel station will be located within an existing parking lot and not within any natural drainage areas. The existing trees within the parking lot will be replaced with new trees. The site for the new fuel station is not subject to ground slumping or sliding. The proposed fuel station will be located approximately 367 feet from the existing warehouse which allows for light, air circulation and fire-fighting. The canopy, which provides weather protection, is open on all four sides; therefore. sun/wind orientation does not apply. This standard is met.

##### **2. Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered based on surface water drainage patterns, identified per Section 18.810.100.A.3. and the City of Tigard “Significant Habitat Areas Map.” Methods and techniques for consideration may include, but are not limited to the following:**

- a. Water quality facilities (for infiltration, retention, detention and/or treatment);
- b. Pervious pavement;
- c. Soil amendment;
- d. Roof runoff controls;
- e. Fencing to guide animals toward safe passageways;
- f. Re-directed outdoor lighting to reduce spill-off into habitat areas;
- g. Preservation of existing vegetative and canopy cover.

According to the City of Tigard “Significant Habitat Areas Map,” the subject site does not include any habitat areas. The narrative states that the under-canopy area will be hydraulically isolated from the rest of the site and routed through and oil/water separator prior to discharge to the sanitary sewer system. The proposal will not increase stormwater runoff, therefore; there will be no impact to the capacity of the downstream system. The new fuel station is proposed to preserve existing vegetation and trees to the extent possible. This standard is met.

#### **H. Demarcation of public, semi-public and private spaces for crime prevention—Nonresidential development.**

1. The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly

defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and

2. These areas may be defined by, but not limited to:
  - a. A deck, patio, low wall, hedge, or draping vine,
  - b. A trellis or arbor,
  - c. A change in elevation or grade,
  - d. A change in the texture of the path material,
  - e. Sign, or
  - f. Landscaping.

The site is clearly defined along SW Dartmouth Street by a landscaping buffer and elevation change between the sidewalk and the existing Costco parking lot. There is a sidewalk and pedestrian walkways that lead from the front of the building into the associated parking lot and to SW Dartmouth Street. The parking lot and walkways are lighted for safety. The proposal includes enhancements to the site landscaping along SW Dartmouth Street which will better define public and private areas. This standard is met.

#### **I. Crime prevention and safety:**

1. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;
2. Interior laundry and service areas shall be located in a way that they can be observed by others;
3. Mailboxes shall be located in lighted areas having vehicular or pedestrian traffic;
4. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and
5. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.

The proposed development plans were submitted to the Tigard Police Department for review. The Department commented on the proposal and had no objections. Most of the crime and safety standards relate to residential uses and areas having heavy pedestrian and vehicular traffic. The proposed vehicle fuel station is restricted to daytime activity and will have fueling facility attendants to monitor the area during business hours. In addition, close circuit cameras are proposed to be installed as well. This standard is met.

#### **J. Public transit.**

1. Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to or within 500 feet of existing or proposed transit route;
2. The requirements for transit facilities shall be based on:
  - a. The location of other transit facilities in the area, and
  - b. The size and type of the proposal;
3. The following facilities may be required after city and Tri-Met review:
  - a. Bus stop shelters,
  - b. Turnouts for buses, and
  - c. Connecting paths to the shelters.

The nearest transit facilities are bus line #12, #64 and #94, which run on Pacific Highway, approximately 175 feet from the site. The nearest bus stop is located on Pacific Highway, north of SW Dartmouth Street, approximately 525 feet away from the site. The proposal was referred to TriMet for review and comment; however, no response was received. This standard is met.

**M. Provision for the disabled. All facilities for the disabled shall be designed in accordance with the requirements set forth in ORS Chapter 447.**

The proposal has been designed in accordance to the requirements set forth in ORS Chapter 447- Plumbing, Architectural Barriers.

FINDING: Based on the analysis above, all of the applicable site development review standards have been fully met.

**Tigard Triangle Design Standards (18.620):**

**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 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.**

In 1993, the applicant obtained Site Development Review and Planned Development Review approval (SDR1993-00018/PDR1993-00010) on the subject property for the construction of the Costco warehouse building and associated parking lot which included street and frontage improvements, landscaping, and a water quality facility. The applicant has met a number of conditions of approval associated with the previous approval including dedication of right of way along the SW Dartmouth frontage. Public facilities improvements not completed with the previous approvals will be conditions of the current proposal. This standard is met.

According to the applicant's narrative, the proposed development is already connected to sanitary sewer, and storm drainage systems. Water is provided by Tualatin Valley Water District; however, no new water connection is proposed. This standard is met.

The applicant's narrative states that the applicant will contribute a proportionate share to future transportation funding. Payment of the Transportation Development Tax at the time of building permit issuance will satisfy this standard. This standard is met.

- 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.**

#### 18.620.020 Street Connectivity

- A. **Demonstration of standards.** All development must demonstrate how one of the following standard options will be met. Variance of these standards may be approved per the requirements of Section 18.370.010 where topography, barriers such as railroads or freeways, or environmental constraints such as major streams and rivers prevent street extensions and connections.
1. **Design option.**
    - a. Local street spacing shall provide public street connections at intervals of no more than 660 feet.
    - b. Bike and pedestrian connections on public easements or right-of-way shall be provided at intervals of no more than 330 feet.
  2. **Performance option.**
    - a. Local street spacing shall occur at intervals of no less than eight street intersections per mile.
    - b. The shortest vehicle trip over public streets from a local origin to a collector or greater facility is no more than twice the straight-line distance.
    - c. The shortest pedestrian trip on public right-of-way from a local origin to a collector or greater facility is no more than 1-1/2 the straight-line distance.

The proposed development is adjacent to SW Dartmouth Street, just south of the intersection with SW Pacific Highway. SW Dartmouth is identified as a major arterial in the Tigard Triangle District Plan Street and Accessway Standards, which connects to SW Pacific Highway, a principal arterial (Tigard TSP). The subject property and adjacent properties have a direct connection to adjacent properties as well as direct access to SW Dartmouth Street. SW Dartmouth Street provides pedestrian facilities along the frontage of the property and to the north to SW Pacific Highway. Bicycle facilities are only provided along the east frontage of SW Dartmouth Street. This standard is met.

#### 18.620.30 Site Design Standards

- B. **Compliance.** All development must meet the following site design standards. If a parcel is one acre or larger a phased development plan must be approved demonstrating how these standards for the overall parcel can be met. Variance to these standards may be granted if the criteria found in Section 18.370.010.C.2, governing criteria for granting a variance, is satisfied.
1. **Building placement on major and minor arterials.** Buildings shall occupy a minimum of 50% of all street frontages along major and minor arterial streets. Buildings shall be located at public street intersections on major and minor arterial streets. See Diagram 1 for some examples of how this standard may be met.

The SW Dartmouth Street frontage is 762 feet; the canopy is 102 feet wide, which occupies 13% of the frontage. The applicant is asking for an adjustment from this standard through the Design Evaluation Team (DET) process. The DET met on October 21, 2013 to discuss the request and recommends approval of the adjustment with conditions. Therefore, if the adjustment is granted, this standard is met.

2. **Building Setback.** The minimum building setback from public street rights-of-way or dedicated wetlands/buffers and other environmental features shall be 0 feet; the maximum building setback shall be 10 feet.

According to the applicant's site plan (Sheet DD11-15) and narrative, the building setback along the SW Dartmouth Street frontage ranges from 58 feet to 73 feet, as the lot curves. The applicant is asking for an adjustment from this standard through the Design Evaluation Team (DET) process. The DET met on October 21, 2013 to discuss the request and recommends approval of the adjustment with conditions. Therefore, if the adjustment is granted, this standard is met.

3. **Front yard setback design.** Landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and a public street or accessway. If a building abuts more than one street, the required improvements shall be provided on all streets. Landscaping shall be developed to the applicable standard in paragraph 5 of this subsection A. Hard-surfaced areas shall be constructed with

**scored concrete or modular paving materials. Benches and other street furnishings are encouraged. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040B and Table 18.520.2.**

The applicant's narrative and site plan (Sheet DD11-15) shows the proposed canopy will be set back fifty-eight (58) feet from the front property line at the closes point. The setback area is covered with a landscaping buffer and hard-surfaced access. There are also pedestrian connections from the street to the main entrance of the warehouse building. This standard is met.

- 4. Walkway Connection to Building Entrances - A walkway connection is required between a building's entrance and a public street or accessway. This walkway must be at least six feet wide and be paved with scored concrete or modular paving materials. Building entrances at a corner near a public street intersection are encouraged. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040B and Table 18.520.2.**

There is an existing 8-foot-wide concrete sidewalk along SW Dartmouth Street and internal, raised pedestrian walkways from the sidewalk to the building entrances as shown on the site plan (Sheet DD11-15). This standard is met.

- 5. Parking location and landscape design. Parking for buildings or phases adjacent to public street rights-of-way must be located to the side or rear of newly constructed buildings. If located on the side, parking is limited to 50% of the street frontage and must be behind a landscaped area constructed to an L-1 landscape standard. The minimum depth of the L-1 landscaped area is eight feet or is equal to the building setback, whichever is greater. Interior side and rear yards shall be landscaped to an L-2 landscape standard, except where a side yard abuts a public street where it shall be landscaped to an L-1 landscape standard. See Diagram 2 below.**

The site has an existing parking lot that is located along the entire frontage of SW Dartmouth Street, which will not change. The proposed fuel station will be located in the northeast corner of the existing parking lot. Parking is located behind an existing landscaped area of which a majority it eight (8) feet in width, a small portion towards the north accessway is 6.5 feet. The landscaped area appears to meet the L-1 landscaping requirements as shown on the applicant's existing tree plan (Sheet L-1 and L-2). This standard is met.

#### **18.620.40 Building Design Standards**

- A. Non-residential buildings. All non-residential buildings shall comply with the following design standards. Variance to these standards may be granted if the criteria found in Section 18.370.010 .C.2, criteria for granting a variance, are satisfied.**

- 1. Ground Floor Windows - All street-facing elevations within the Building Setback (0 to 10 feet) along public streets shall include a minimum of 50% of the ground floor wall area with windows, display areas or 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. The ground floor window requirement shall be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50% of the ground floor window requirement may be met on an adjoining elevation as long as all of the requirement is located at a building corner.**

This criterion applies to all street facing elevations within 10 feet of a public street. The fuel station canopy will be set back from SW Dartmouth by 58 feet 8 inches. Therefore, this criterion does not apply.

Further, the City Council finds that there are good reasons not to apply the street-facing elevation standard to the fuel station canopy. First, the canopy must necessarily admit vehicles to the gas pumps underneath, which cannot occur through doors and windows. Second, the purpose of the standard is to create visual interest with windows, displays and openings, thereby avoiding featureless walls along pedestrian walkways. But with the greater setback here, the risk of a featureless visual canyon is eliminated. Visual interest for pedestrians will still exist with views of adjacent landscaping and the fuel station beyond. Third, the open sides of the canopy are the functional equivalent of windows,

providing visual access to activity under the canopy.

2. **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) 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. No building facade shall extend for more than 300 feet without a pedestrian connection between or through the building.

As shown in the elevation drawings, the proposed canopy on the east elevation adjacent to SW Dartmouth Street is 102 feet in length. The canopy is supported by a vertical structural column which provides articulation and variation. This standard is met.

3. **Weather Protection.** Weather protection for pedestrians, such as awnings, canopies, and arcades, shall be provided at building entrances. Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway. Awnings and canopies shall not be back lit.

As shown in the elevation drawings, the entire canopy will serve as weather protection for fueling customers. This standard is met.

4. **Building Materials.** Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board or vinyl siding may not be used as exterior finish materials. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than two feet.

Building materials for the proposed fuel canopy are described on the elevation drawings and include prefinished metal fascia panels and prefinished metal columns. The proposal does not include any prohibited materials. This standard is met.

5. **Roofs and Roof Lines.** Except in the case of a building entrance feature, roofs 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. False fronts and false roofs are not permitted.

The roof of the proposed canopy is flat and designed as an extension of the primary materials used for the existing Costco warehouse. No false fronts or false roofs are proposed. This standard is met.

6. **Roof-Mounted Equipment.** All roof-mounted equipment must be screened from view from adjacent public streets. Satellite dishes and other communication equipment must be set back or positioned on a roof so that exposure from adjacent public streets is minimized. Solar heating panels are exempt from this standard.

The applicant's narrative states that "no roof-mounted equipment will be installed". This standard does not apply.

#### 18.620.50 Signs

- A. **Sign standards.** In addition to the requirements of Chapter 18.780 of the development code the following standards shall be met:
  1. **Zoning district regulations.** Residential only developments within the C-G and MUE zones shall meet the sign requirements for the R-25 zone in Section 18.780.130.B; nonresidential developments within the C-G zone shall meet the sign requirements for the commercial zones in Section 18.780.130.C; and nonresidential development within the MUE zone shall meet the sign requirements of the C-P zone in Section 18.780.130.D.
  2. **Sign area limits.** The maximum sign area limits found in Section 18.780.130 shall not be exceeded. No area limit increases will be permitted within the Tigard Triangle Plan District.

3. **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 sign is located. No height increases will be permitted within the Tigard Triangle Plan District.
4. **Sign location.** Freestanding signs within the Tigard Triangle Plan District shall not be permitted within required L-1 landscape areas.

The applicant's narrative states that new signage will comply with the sign regulations for the C-G zone and Tigard Triangle Plan District. This standard is met.

#### **18.620.060 Entry Portals**

**Required locations.** Entry portals shall be required at the primary access points into the Tigard Triangle Plan District.

- A. **Location.** Entry portals shall be located at the intersections of 99W and Dartmouth; 99W and 72nd; I-5 and Dartmouth; Hwy. 217 and 72nd; and at the Hwy. 217 overcrossing and Dartmouth.
- B. **Design.** The overall design of entry portals shall relate in scale and detail to both the automobile and the pedestrian. A triangle motif and at least two trees according to the L-2 standard shall be incorporated into the design of entry portals.

The subject property is not located adjacent to a primary entrance point into the Tigard Triangle. This standard does not apply.

#### **18.620.070 Landscaping and Screening**

**Applicable levels.** Two levels of landscaping and screening standards are applicable to the Tigard Triangle Plan District. The locations where the landscaping or screening is required and the depth of the landscaping or screening are defined in other subsections of this section. These standards are minimum requirements. Higher standards may be substituted as long as all height limitations are met.

- A. **L-1 parking lot screen.** The L-1 standard applies to setbacks on public streets. The L-1 standard is in addition to other standards in other chapters of this title. The setback shall be a minimum of eight feet between the parking lot and public street. L-1 trees shall be considered parking lot trees and spaced between 30 and 40 feet on center within the setback. All L-1 trees shall be a minimum of 3½ inch caliper at the time of planting. Shrubs shall be of a variety that will provide a three-foot high screen and a 90% opacity within one year. Groundcover plants must fully cover the remainder of landscape area within two years.
- B. **L-2 general landscaping.** The L-2 standard applies to all other trees and shrubs required by this chapter and Chapter 18.745 (except those required for L-1 parking lot screen). For trees and shrubs required by Chapter 18.745, the L-2 standard is an additional standard. L-2 trees that are also street trees, median trees, and trees required to frame entry portals shall be selected in conformance with Table 18.620.1 of this section. If conformance with Table 18.620.1 is precluded by physical constraints caused by public utilities or required public improvements, the director may approve alternative selections. All L-2 trees shall be a minimum of 2½-inch caliper at the time of planting. Shrubs shall be of a size and quality to achieve the required landscaping or screening effect within two years.

The site is directly served by SW Dartmouth Street and the L-1 landscape and screening standard applies. As shown on the existing tree plan (Sheet L-1 and L-2) a majority of the street frontage along SW Dartmouth Street is buffered with an existing 8-foot landscape setback; however, there is a small portion towards the north accessway that is 6.5 feet. The existing buffer contains screening that meets the intent of the L-1 standard. This area is planted with Honeylocust, Purple Leaf Flowering Plum, Scarlett Oak and Vine Maples. A portion of the landscape area is within the visual clearance triangle of the north entrance,

but those plantings will be maintained to stay below the 3-foot visual clearance area.

In response to the DET recommendation, the applicant was conditioned to provide a denser buffer directly in front of the area where the fuel station is proposed to mitigate certain impacts. The applicant has done so as shown on the landscape concept plan (Sheet L-9). This standard is met.

**FINDING:** As shown in the analysis above, the Tigard Triangle Plan District design standards have been fully met.

#### **18.620.090 Design Evaluation**

- A. Purpose.** It is recognized that the above design standards are to assist in upgrading and providing consistency to development within the Tigard Triangle Plan District. It is recognized that different designs may be used to meet the intent of the standards and purpose statement of the Tigard Triangle Plan District standards. With this in mind, applicants for development in the Tigard Triangle Plan District may choose to submit proposed projects which demonstrate compliance with the design standards or request adjustments from the plan district design standards and submit design plans for review and recommendation by a city design evaluation team. This option allows applicants to propose alternative designs to the plan district design standards that are consistent with the purpose of the standards. When a structure which has nonconforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the structure may be rebuilt using the same structure footprint without receiving an adjustment from design standards.
- B. Design evaluation team (DET).** Evaluation of the adjustment to allow an alternative design is made by a three-person professional design team contracted by the city for professional design review. The DET shall consist of design professionals with experience in architecture, landscape architecture and civil engineering. This team is charged with balancing the purpose statements, goals and standards of the Tigard Triangle Plan District design process with the alternative proposal submitted by the applicants. The DET shall accept design proposals that vary from any of the plan district design standards. This process is to be applied only to the Tigard Triangle Plan District design standards. Applicants must comply with all other development code standards according to the regular development review requirements of Title 18 of this code. The DET will prepare a report outlining conditions and recommendations in response to the applicant's proposal(s) for submission to the Planning Commission within 30 days of meeting on the proposal.
- C. Approval criteria.** For guidance in evaluating the purpose of the design standards, the DET shall refer to the planning director's interpretation that provides purpose statements for the Tigard Triangle Plan District design standards. All adjustments to allow an alternative design are subject to the following criteria:
  1. Granting the adjustment will continue to meet the purpose of the standard(s) to be modified in an acceptable alternative manner; and
  2. The proposal will not significantly detract from the livability or appearance of an area and the proposal will be consistent with the desired character of the area; and
  3. If more than one adjustment is being requested, the cumulative effect of the adjustments as well as each individual adjustment results in a project which is still consistent with the overall purpose, goals and standards of the zone; and
  4. Granting the adjustment is the minimum necessary to allow the proposed use of the site, and any impacts resulting from the adjustment are mitigated to the extent practical.

The DET met on October 21, 2013 and reviewed the following adjustments requested in this application:

1. Adjustment from the minimum 50% building placement standards along SW Dartmouth Street.
2. Adjustment to the maximum 10 foot setback from SW Dartmouth Street, approximately 73 feet.

The DET discussed the proposed adjustments and whether the request meets the intent of the Tigard Triangle design standards. The intent is to create a high quality development with a streetscape that contributes to the image of the area and provides convenient and pedestrian friendly connections. The discussion included concerns about the large setback from Dartmouth Street, the queuing of vehicles to use the fueling station, building/canopy articulation, amount and size of signage, creating and maintaining a pedestrian environment (particularly activating the northeast corner near the entrance), and screening the parking along Dartmouth Street. With these concerns in mind, the DET felt that the intent of the Tigard Triangle design standards could still be met as long as they were mitigated through certain conditions.

The DET has recommended approval of the applicant's adjustment requests with the following conditions:

1. Minimize the proposed setback by moving the entire structure toward SW Dartmouth Street a minimum of 6 to 8 feet or more if possible.
2. The landscaping and screening along SW Dartmouth Street where the gas station will be located shall be increased to mitigate glare resulting from vehicle headlights, screen the parking spaces along the frontage and provide a more inviting pedestrian environment.

**FINDING:** The City Council agrees with the recommendations of the DET and the Planning Commission. Substantial evidence supports those recommendations as set forth in the DET report attached to this Order as Exhibit "C." The City Council further finds that this standard is met because the applicant has submitted a site plan that meets the DET's recommended conditions.

### **Access, Egress and Circulation (Chapter 18.705)**

#### **18.705.020 Applicability of Provisions**

- A. When provisions apply.** The provisions of this chapter shall apply to all development including the construction of new structures, the remodeling of existing structures (see Section 18.360.050), and to a change of use which increases the on-site parking or loading requirements or which changes the access requirements.
- B. Change or enlargement of use.** Should the owner or occupant of a lot or building change or enlarge the use to which the lot or building is put, thereby increasing access and egress requirements, it is unlawful and is a violation of this title to begin or maintain such altered use until the provisions of this chapter have been met if required or until the appropriate approval authority has approved the change.

The applicant submitted a site plan (Sheet DD11-15), which shows the existing pedestrian circulation. No streets, off-street parking or auto accessways are proposed. This standard is met.

#### **17.705.030 General Provisions**

- D. Public Street Access:** All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.

The site has two existing accesses onto SW Dartmouth Street. No other access is proposed. This standard is met.

- F. Required walkway location.** On-site pedestrian walkways shall comply with the following standards:

1. Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

The applicant's site plan shows existing five foot walkway connections between SW Dartmouth Street to the existing Costco warehouse as well as circulation around the proposed fuel station. This standard is met.

- 2. Within all attached housing (except two-family dwellings) and multi-family developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities;**

This standard does not apply to the proposed vehicle fuel sales use.

- 3. Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum six-inch vertical separation (curbed) or a minimum three-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;**

As stated in the applicant's narrative and shown in the applicant's site plan (Sheet DD11-15), the existing walkways are 5 feet wide and separated from the vehicle access driveways by curbs. Pavement markings are used when crossing drive aisles. The existing walkways comply with ADA standards. This standard is met.

- 4. Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, other pervious paving surfaces, etc. Any pervious paving surface must be designed and maintained to remain well-drained. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.**

As described in the applicant's narrative, the existing walkways are constructed of concrete and lighted with overhead lighting for safety purposes. This standard is met.

#### **030.H. Access Management**

- 1. An access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO (depending on jurisdiction of facility.)**
- 2. Driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from city engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.**
- 3. The minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet.**
- 4. The minimum spacing of local streets along a local street shall be 125 feet.**

Access to the site is from SW Dartmouth Street. The two existing driveways to the site are approximately 617 feet apart. No new access is proposed. The existing driveway locations are well over 300 feet from the

existing driveways to the south of the site. There is an existing driveway, approximately 50 feet, to the north of the site. Because no new driveways or other access points are proposed, this standard is met.

The staff report dated April 7, 2014 identified possible concerns about sufficient turning radius at the north entrance for fuel delivery trucks. As recommended by City staff, the City Council finds that the applicant's redesign of the north entrance as part of this project that will address this concern.

The applicant introduced traffic counts and video documentation of traffic operations at the south entrance on a busy weekend peak period that revealed no queuing spillback from the south entrance driveway onto SW Dartmouth Street. In fact, the video showed very limited queuing at all during the peak period. As the applicant explained, the south driveway is long enough to accommodate many cars, and the primary movement at the inbound end of the driveway is a right turn that rarely causes significant delay. The applicant also submitted testimony from its warehouse manager that he had not seen inbound queuing at the south entrance back up onto SW Dartmouth at any time in the six years he has worked there, except possibly if construction or an accident blocked another entrance.

The City Council agrees with and adopts the Planning Commission's approval of the project without condition #6 as proposed in the April 7, 2014 staff report.

#### **J. Minimum access requirements for commercial and industrial use.**

- 1. Vehicle access, egress and circulation for commercial and industrial use shall not be less than as provided in Table 18.705.3 (for greater than 100 required parking spaces, one 50-foot access width with 40-foot minimum pavement width).**

Per Table 18.765.2, a minimum of 441 and a maximum of 905 parking spaces are required for the proposed and existing use. The applicant's site plan (Sheet DD11-15) shows the two existing accessways, the north at 30 feet and the south at 40 feet. This standard is met.

**FINDING:** Based on the analysis above, all of the applicable access, egress and circulation standards have not been fully met but can be met with the stated conditions of approval.

#### **Environmental Performance Standards (18.725)**

**These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 (Performance Standards) regulates: Noise, visible emissions, vibration and odors.**

**Noise.** For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

**Visible Emissions.** Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point- source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.

**Vibration.** No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

**Odors.** The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

**Glare and heat.** No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this

title.

**Insects and rodents.** All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

**FINDING:** The proposed vehicle fuel sales use would not typically generate unacceptable levels of noise, visible emissions, vibrations, odors, glare, heat, or attract insects and rodents. To ensure compliance, any activities that would generate unacceptable adverse effects would be subject to the enforcement provisions of the Tigard Municipal Code.

### **Landscaping and Screening (18.745)**

#### **18.745.030 General Provisions**

- A. Maintenance responsibility.** Unless otherwise provided by the lease agreement, the owner, tenant and his or her agent, if any, shall be jointly and severally responsible for the ongoing maintenance of all landscaping and screening used to meet the requirements of this chapter according to applicable industry standards.
- B. Installation requirements.** The installation of all landscaping and screening required by this chapter shall be as follows:
  1. All landscaping and screening shall be installed according to applicable industry standards;
  2. All plants shall be of high grade, and shall meet the size and grading standards of the American Standards for Nursery Stock (ANSI Z60, 1-2004, and any future revisions); and
  3. All landscaping and screening shall be installed in accordance with the provisions of this title.
- C. Certificate of occupancy.** Certificates of occupancy shall not be issued unless the requirements of this chapter have been met or other arrangements have been made and approved by the city such as the posting of a bond.

The accepted planting procedures are the guidelines described in the Tigard Urban Forestry Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the most recent edition of the American Institute of Architects' Architectural Graphic Standards. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.

#### **18.745.040 Street Trees**

- A.** Street trees shall be required as part of the approval process for Conditional Use (Type III), Downtown Design Review (Type II and III), Minor Land Partition (Type II), Planned Development (Type III), Site Development Review (Type II) and Subdivision (Type II and III) permits.
- B.** The minimum number of required street trees shall be determined by dividing the linear amount of street frontage within or adjacent to the site (in feet) by 40 feet. When the result is a fraction, the minimum number of required street trees shall be determined by rounding to the nearest whole number.
- C.** Street trees required by this section shall be planted according to the Street Tree Planting Standards in the Urban Forestry Manual.
- D.** Street trees required by this section shall be provided adequate soil volumes according to the Street Tree Soil Volume Standards in the Urban Forestry Manual.

- E. Street trees required by this section shall be planted within the right of way whenever practicable according to the Street Tree Planting Standards in the Urban Forestry Manual. Street trees may be planted no more than 6 feet from the right of way according to the Street Tree Planting Standards in the Urban Forestry Manual when planting within the right of way is not practicable.
- F. An existing tree may be used to meet the street tree standards provided that:
  - 1. The largest percentage of the tree trunk immediately above the trunk flare or root buttresses is either within the subject site or within the right of way immediately adjacent to the subject site;
  - 2. The tree would be permitted as a street tree according to the Street Tree Planting and Soil Volume Standards in the Urban Forestry Manual if it were newly planted; and
  - 3. The tree is shown as preserved in the Tree Preservation and Removal site plan (per 18.790.030.A.2), Tree Canopy Cover site plan (per 18.790.030.A.3) and Supplemental Report (per 18.790.030.A.4) of a concurrent urban forestry plan and is eligible for credit towards the effective tree canopy cover of the site.
- G. In cases where it is not practicable to provide the minimum number of required street trees, the Director may allow the applicant to remit payment into the Urban Forestry Fund for tree planting and early establishment in an amount equivalent to the City's cost to plant and maintain a street tree for three (3) years (per the Street Tree Planting Standards in the Urban Forestry Manual) for each tree below the minimum required.

The site already has street trees planted along SW Dartmouth Street, which were required as part of the previous Site Development Review and Planned Development Review (SDR93-00018 & PDR93-00010) approval. The site plan shows fifteen existing Littleleaf Linden street trees planted approximately 40 feet apart. This standard is met.

**18.745.50 Buffering and Screening**

**A. General provisions.**

- 1. It is the intent that these requirements shall provide for privacy and protection and reduce or eliminate the adverse impacts of visual or noise pollution at a development site, without unduly interfering with the view from neighboring properties or jeopardizing the safety of pedestrians and vehicles.
- 2. Buffering and screening is required to reduce the impacts on adjacent uses which are of a different type in accordance with the matrices in this chapter (Tables 18.745.1 and 18.745.2). The owner of each proposed development is responsible for the installation and effective maintenance of buffering and screening. When different uses would be abutting one another except for separation by a right-of-way, buffering, but not screening, shall be required as specified in the matrix.

The site is surrounded by similar commercial uses to the south and east. An L-1 parking lot screen is required along the eastern perimeter of the property. The existing tree plan (Sheet L-1 and L-2) shows that the existing trees and landscaping meet the L-1 screen standards. No other buffering or screening is required. This standard is met.

**E. Screening: special provisions.**

- 1. Screening and landscaping of parking and loading areas:
  - a. Screening of parking and loading areas is required. In no cases shall nonconforming screening of parking and loading areas (i.e., nonconforming

situation) be permitted to become any less conforming. Nonconforming screening of parking and loading areas shall be brought into conformance with the provisions of this chapter as part of the approval process for conditional use (Type III), downtown design review (Type II and III), planned development (Type III), and site development review (Type II) permits only. The specifications for this screening are as follows:

- i. Landscaped parking areas shall include special design features which effectively screen the parking lot areas from view. These design features may include the use of landscaped berms, decorative walls and raised planters;
- ii. Landscape planters may be used to define or screen the appearance of off-street parking areas from the public right-of-way;
- iii. Materials to be installed should achieve a balance between low lying and vertical shrubbery and trees;
- iv. All parking areas, including parking spaces and aisles, shall be required to achieve at least 30% tree canopy cover at maturity directly above the parking area in accordance with the parking lot tree canopy standards in the Urban Forestry Manual.

The existing parking lot tree plan (L-3 and L-4) shows parking lot trees distributed throughout the parking lot that provide 160, 315 square feet of canopy coverage. The parking lot and loading area is approximately 377, 873 square feet and the trees provide approximately 42 % canopy. This standard is met.

2. **Screening Of Service Facilities.** Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height. All refuse materials shall be contained within the screened area;

The narrative states that the proposal does include installation of clean air separator and electrical transfer box will be located within the landscape area just south of the proposed fuel station. The facilities will be screened with shrubs. All existing facilities are also screened by landscaping. This standard is met.

3. **Screening Of Refuse Containers.** Except for one- and two-family dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge. All refuse shall be contained within the screened area.

The narrative states that no new refuse containers for the fuel station are proposed and the existing containers for the warehouse will be utilized. The existing containers are located just south of the existing warehouse and screened with a masonry wall. This standard does not apply.

FINDING: Based on the analysis above, the landscaping and screening standards have been fully met.

**Off-Street Parking and Loading (18.765)**  
**18.765.030 General Provisions**

**B. Location of vehicle parking.** The location of off-street parking will be as follows:

1. **Off-street parking spaces for single-family and duplex dwellings and single-family**

- attached dwellings shall be located on the same lot with the dwellings.
2. **Off-street parking lots for uses not listed above shall be located not further than 200 feet from the building or use that they are required to serve, measured in a straight line from the building with the following exceptions:** a) commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 300 feet from the primary site; The 40 parking spaces which remain on the primary site must be available for users in the following order of priority: 1) Disabled-accessible spaces; 2) Short-term spaces; 3) Long-term preferential carpool and vanpool spaces; 4) Long-term spaces.

As shown on the applicant's site plan (Sheet DD11-15), the parking lot on the site is located adjacent to the existing Costco warehouse and the proposed fuel station. This standard is met.

**F. Preferential Long-Term Carpool/Vanpool Parking.** Parking lots providing in excess of 20 long-term parking spaces shall provide preferential long-term carpool and vanpool parking for employees, students and other regular visitors to the site. At least 5% of total long-term parking spaces shall be reserved for carpool/vanpool use. Preferential parking for carpools/vanpools shall be closer to the main entrances of the building than any other employee or student parking except parking spaces designated for use by the disabled. Preferential carpool/vanpool spaces shall be full-sized per requirements in Section 18.765.040N and shall be clearly designated for use only by carpools and vanpools between 7:00 AM and 5:30 PM Monday through Friday.

The proposed fuel station and existing warehouse does not have any long term parking spaces; therefore, this standard does not apply.

**G. Disabled-Accessible Parking.** All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.

The site plan (Sheet DD11-15) shows twenty-one existing ADA handicap spaces located at the main entry to the building. This standard is met.

#### **18.765.040 General Design Standards**

**B. Access drives.** With regard to access to public streets from off-street parking:

1. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site;
2. The number and size of access drives shall be in accordance with the requirements of Chapter 18.705, Access, Egress and Circulation;
3. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives;
4. Access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance;
5. Access drives shall be improved with an asphalt, concrete, or pervious paving surface. Any pervious paving surface must be designed and maintained to remain well-drained; and
6. Excluding single-family and duplex residences, except as provided by Section 18.810.030.P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.

The proposed access drive meets the requirements of Chapter 18.705, is clearly marked, and is designed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. Accessways will be maintained to provide clear visual clearance areas. This standard is met.

**D. On-site vehicle stacking for drive-in use.**

1. All uses providing drive-in services as defined by this title shall provide on the same site a stacking lane for inbound vehicles as noted in Table 18.765.1.

The applicant's site plan (Sheet DD11-15) shows 118 feet from the curb to the nearest fuel pump. This meets the required 75 feet. This standard is met.

**F. Pedestrian Access. Pedestrian access through parking lots shall be provided in accordance with Section 18.705.030.F. Where a parking area or other vehicle area has a drop-off grade separation, the property owner shall install a wall, railing, or other barrier which will prevent a slow-moving vehicle or driverless vehicle from escaping such area and which will prevent pedestrians from walking over drop-off edges.**

The applicant's site plan (Sheet DD11-15) shows that the proposed pedestrian access is provided in accordance with Section 18.705.030.F. There are no drop-off grade separated areas within the parking area. Therefore, this standard is met.

**I. Parking lot striping.**

1. Except for single-family and duplex residences, any area intended to be used to meet the off street parking requirements as contained in this chapter shall have all parking spaces clearly marked; and
2. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

The applicant's site plan (Sheet DD11-15) shows that parking spaces will be clearly marked with striping. This standard is met.

**J. Wheel Stops. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.**

The applicant's site plan (Sheet DD11-15) shows a wheel stop next to the parking island close to SW Dartmouth Street and just south of the fuel station next to the pedestrian walkway. The remaining parking spaces are either interior or rely on low lying landscape material on the boundary. This standard is met.

**N. Space and Aisle Dimensions. No more than 50% of the required spaces may be compact spaces.**

1. Except as modified for angled parking in Figures 18.765.1 and 18.765.2, the minimum dimensions for parking spaces are:
  - a. 8.5' x 18.5' for a standard space;
  - b. 7.5' x 16.5' for a compact space; and
  - c. As required by applicable State of Oregon and federal standards for designated disabled person parking spaces;
  - d. The width of each parking space includes a stripe which separates each space.
2. Aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width;
3. Minimum standards for a standard parking stall's length and width, aisle width, and maneuvering space shall be determined as noted in Figure 18.765.2.

According to the applicant's site plan (Sheet DD11-15), the parking lot space and isle dimensions meet the applicable design standards. This standard is met.

**18.765.050 Bicycle Parking Location and Access.**

- A. Location and access. With regard to the location and access to bicycle parking:**
- 1. Bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures;**
  - 2. Bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways;**
  - 3. Outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to located the parking area;**
  - 4. Bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.**
- B. Covered parking spaces.**
- 1. When possible, bicycle parking facilities should be provided under cover.**
  - 2. Required bicycle parking for uses served by a parking structure must provide for covered bicycle parking unless the structure will be more than 100 feet from the primary entrance to the building, in which case, the uncovered bicycle parking may be provided closer to the building entrance.**

As shown in the site plan (D11-13) the applicant has proposed bicycle parking adjacent to the main entrance to the warehouse. The parking will be covered by the warehouse canopy and visible from the parking area. This standard is met.

- C. Design requirements. The following design requirements apply to the installation of bicycle racks:**
- 1. The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long term (employee) parking is encouraged but not required;**
  - 2. Bicycle racks must be securely anchored to the ground, wall or other structure;**
  - 3. Bicycle parking spaces shall be at least two and one-half feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle at least five feet wide shall be provided and maintained beside or between each row of bicycle parking;**
  - 4. Each required bicycle parking space must be accessible without moving another bicycle;**
  - 5. Required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement;**
  - 6. Areas set aside for required bicycle parking must be clearly reserved for bicycle parking only.**
- D. Paving. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete, other pervious paving surfaces, or similar material. This surface must be designed and maintained to remain well-drained.**

The applicant's narrative states that a "loop wave" style bike rack will be used similar to the ones already installed at the site. The racks will be securely anchored to the concrete ground with bolts. Each space will provide the required space of 2.5 feet by 6 feet and will be reserved for bicycle parking only. This standard is met.

**E. Minimum bicycle parking requirements.** The total number of required bicycle parking spaces for each use is specified in Table 18.768.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces. Single-family residences and duplexes are excluded from the bicycle parking requirements. The director may reduce the number of required bicycle parking spaces by means of an adjustment to be reviewed through a Type II procedure, as governed by Section 18.390.040, using approval criteria contained in Section 18.370.020.C.5.e.

Pursuant to Table 18.765.2, bicycle parking for a vehicle fuel sales use is required at 0.2 spaces/1,000 square feet. Two spaces are required (7,344 square feet of canopy/1,000= 7.344 x 0.2= 1.5) and the applicant has proposed 2 spaces. This standard is met.

**18.765.070 Minimum and Maximum Off-Street Parking Requirements**  
**H. Specific requirements. See Table 18.765.2.**

Table 18.765.2 states that the minimum parking requirement for a vehicle fuel sales use is three (3) spaces and an additional two (2) spaces for each service bay. The existing warehouse is considered a sales-oriented retail use and the requirement is three (3) spaces per 1,000 of floor area. Therefore, a minimum of 441 spaces are required (438 spaces for the warehouse and 3 for the fuel station). The site will have 730 spaces after the addition of the fueling station. This standard is met.

**Exceptions to maximum parking standards.** When calculating the maximum vehicle parking allowed as regulated by Section 18.765.080.H, the following exception shall apply:

**1. The following types of parking shall not be included: a) Parking contained in a parking structure either incorporated into a building or freestanding; b) Market-rate paid parking; c) Designated carpool and/or vanpool spaces; d) Designated disabled-accessible parking spaces; e) Fleet parking.**

The applicant has proposed a total of 730 spaces. The site is located within Zone B and the maximum parking allowed for a vehicle fuel sales use is four (4) spaces and an additional 2.5 spaces for each service bay and 6.2 spaces per 1,000 of floor area for a sales-oriented retail use. The maximum allowed is 905 spaces. This standard is met.

**18.765.080 Off-Street Loading Requirements**

**A. Commercial, industrial and institutional buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows:**

- 1. A minimum of one loading space is required for buildings with 10,000 gross square feet or more;**
- 2. A minimum of two loading spaces for buildings with 40,000 gross square feet or more.**

The applicant's narrative states that one off-street loading space is provided for the fuel truck, which is located just south of the fuel station. A separate lane for the truck will allow the truck to park and unload fuel without interruption to other vehicle traffic circulation. This standard is met.

FINDING: Based on the analysis above, the off-street parking and loading standards have been fully met.

**Signs (18.780):**

**Requires that a permit be issued for any sign that is erected, re-erected, constructed, structurally altered, or relocated within the City Limits.**

A wall sign is shown on the elevation drawings facing. The applicant states that they will comply with the requirements of the sign design, location and lighting in Chapter 18.620 and 18.780 at the time of building permit issuance. Therefore, all subsequent signage will be reviewed through a Type I process and will be subject to the code standards in effect at the time of application submittal.

FINDING: Because signs will be reviewed and approved as part of a separate permit process, this standard is met.

**Urban Forestry Plan (18.790)**

**18.790.030 Urban Forestry Plan Requirements**

**A. Urban forestry plan requirements. An urban forestry plan shall:**

- 1. Be coordinated and approved by a landscape architect (the project landscape architect) or a person that is both a certified arborist and tree risk assessor (the project arborist), except for minor land partitions that can demonstrate compliance with effective tree canopy cover and soil volume requirements by planting street trees in open soil volumes only;**

An Urban Forestry Plan prepared/approved by a landscape architect has been provided. This standard is met.

- 2. Meet the tree preservation and removal site plan standards in the Urban Forestry Manual (UFM);**

The proposed conditional use permit is to construct a new fuel station at the existing Costco warehouse site. A tree preservation and removal plan was submitted identifying all trees proposed for preservation and 52 for removal. The plan meets the tree preservation and removal standards; this standard is met.

- 3. Meet the tree canopy site plan standards in the Urban Forestry Manual; and**

A existing tree plan (Sheet L-1 and L-2) was provided that identifies the canopy of existing open grown trees. According to the supplemental report, the existing soils on-site are mostly made of silt and clay. The arborist recommends importation of high loam content fill for newly planted trees. The applicant’s Urban Forestry Plan shows that the site meets the minimum effective canopy requirements. The project landscape architect has signed the Urban Forestry site plan and attested that the plan meets the tree canopy site plan standards.

- 4. Meet the supplemental report standards in the Urban Forestry Manual.**

A supplemental report was prepared by the project landscape architect, Art Seidel; Barghausen Consulting Engineers, Inc. and Don Richards; Applied Horticultural Consulting, Inc. The report includes the required inventory data for the existing open grown trees (UFM Section 10, Part 3, and Subsection D). Protection measures, consisting of a 5 foot metal fence secured to the ground located along the dripline of preserved trees shall be in place prior to any site work.

The table below demonstrates the effective tree canopy in accordance with UFM Section 10, Part 3, and Subsection M). Because the site is zoned C-G, the required effective tree canopy is 33% for the entire site. According to the supplemental report, the effective canopy is as outlined below:

	Square feet of Canopy	Percent of Canopy
Existing canopy	43,198	6.6%
Newly Planted Trees**	266,126	41.1%
<b>TOTAL CANOPY FOR SITE</b>	<b>309,324</b>	<b>47.7%</b>

*\*\*This number reflects trees less than 6 inch DBH which are considered as newly planted*

The required canopy for the entire site is met.

- B. Tree canopy fee. If the supplemental report demonstrates that the applicable standard percent effective tree canopy cover will not be provided through any combination of tree planting or preservation for the overall development site (excluding streets) or that the 15% effective tree canopy cover will not be provided through any combination of tree planting or preservation for any individual lot or tract in the R-1, R-2, R-3.5, R-4.5 and R-7 districts (when the overall development site meets or exceeds the standard percent effective tree canopy cover), then the applicant shall provide the city a tree canopy fee according to the methodology outlined in the tree canopy fee calculation requirements in the Urban Forestry Manual.**

The site meets the canopy requirements; therefore, this standard does not apply.

FINDING: Based on the analysis above, the urban forestry plan requirements have been fully met.

### 18.790.060 Urban Forestry Plan Implementation

C. **Tree Establishment.** The establishment of all trees shown to be planted in the tree canopy site plan (per 18.790.030 A.3) and supplemental report (per 18.790.030.A.4) of the previously approved urban forestry plan shall be guaranteed and required according to the tree establishment requirements in Section 11, part 2 of the Urban Forestry Manual.

FINDING: The newly planted trees are not used to meet canopy requirements; therefore, a tree establishment bond is not required. This standard does not apply.

D. **Urban forest inventory.** Spatial and species specific data shall be collected according to the urban forestry inventory requirements in the Urban Forestry Manual for each open grown tree and area of stand grown trees in the tree canopy site plan (per Section 18.790.030.A.3) and supplemental report (per Section 18.790.030.A.4) of a previously approved urban forestry plan.

Section 11, Part 3 of the Urban Forestry Manual states that prior to any ground disturbance work, the applicant shall provide a fee to cover the city's cost of collecting and processing the inventory data for the entire urban forestry plan. This can be met through a condition of approval.

FINDING: Based on the analysis above, the applicable urban forestry inventory standards have not been fully met but can be as conditioned.

### Visual Clearance Areas (18.795)

#### 18.795.030 Visual Clearance Requirements

- A. **At corners.** Except within the CBD zoning district a visual clearance area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.
- B. **Obstructions prohibited.** A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure or temporary or permanent obstruction (except for an occasional utility pole or tree), exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed.

The applicant has indicated in the narrative and shown on the site plan (Sheet DD11-15) that there is an existing tree within the visual clearance area at the north accessway. However, the tree will be maintained to provide a clear vision area.

FINDING: Based on the analysis above, the visual clearance area standard is met.

### Street And Utility Improvements Standards (Chapter 18.810)

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

#### 18.810.030 Streets

##### A. Improvements.

- 1. No development shall occur unless the development has frontage or approved access to a public street
- 2. No development shall occur unless streets within the development meet the standards of this chapter
- 3. No development shall occur unless the streets adjacent to the development meet the standards of this chapter, provided, however, that a development may be approved if the adjacent street does not meet the standards but half-street improvements meeting the standards of this title are constructed adjacent to the development.

The proposed fuel station fronts onto SW Dartmouth Street which has already been improved to city standards. This standard is met.

E. **Minimum Rights-of-Way and Street Widths:** Unless otherwise indicated on an approved street

plan, or as needed to continue an existing improved street or within the Downtown District, street right-of-way and roadway widths shall not be less than the minimum width described below. Where a range is indicated, the width shall be determined by the decision-making authority based upon anticipated average daily traffic (ADT) on the new street segment. (The City Council may adopt by resolution, design standards for street construction and other public improvements. The design standards will provide guidance for determining improvement requirements within the specified ranges.) These are presented in Table 18.810.1

The site is adjacent to SW Dartmouth Street, which is classified as a major arterial in the Tigard Triangle Street Plan. This street has been constructed and the right-of-way has been dedicated in accordance with this plan. This standard is met.

**CC. Traffic study.**

1. A traffic study shall be required for all new or expanded uses or developments under any of the following circumstances:
  - a. When they generate a 10% or greater increase in existing traffic to high collision intersections identified by Washington County.
  - b. Trip generations from development onto the city street at the point of access and the existing ADT fall within the following range:

Existing ADT	ADT to be added by development
0-3,000 vpd	2,000 vpd
3,001-6,000 vpd	1,000 vpd
>6,000 vpd	500 vpd or more

- c. If any of the following issues become evident to the city engineer:
      - i. High traffic volumes on the adjacent roadway that may affect movement into or out of the site.
      - ii. Lack of existing left-turn lanes onto the adjacent roadway at the proposed access drive(s).
      - iii. Inadequate horizontal or vertical sight distance at access points.
      - iv. The proximity of the proposed access to other existing drives or intersections is a potential hazard.
      - v. The proposal requires a conditional use permit or involves a drive-through operation.
      - vi. The proposed development may result in excessive traffic volumes on adjacent local streets.
  2. In addition, a traffic study may be required for all new or expanded uses or developments under any of the following circumstances:
    - a. When the site is within 500 feet of an ODOT facility; and/or
    - b. Trip generation from a development adds 300 or more vehicle trips per day to an ODOT facility; and/or
    - c. Trip generation from a development adds 50 or more peak hour trips to an ODOT facility.

The applicant submitted a traffic study dated August 5, 2013, as supplemented by reports dated April 1, April 23 and April 28, 2014. Collectively, those reports show that the new fuel station will generate about 45 additional net new vehicles (or 90 net new trips) to the site during the critical weekday p.m. peak hour, which is less than 9% of the current traffic on SW Dartmouth Avenue and less than 3% of the current traffic on Highway 99W.

The applicant's traffic reports show that with this small contribution of additional trips and the completion of improvements already under construction, the intersection of 99W and SW Dartmouth Street will meet the adopted prevailing ODOT operational standard (i.e., volume-to-capacity ratio) even with the proposed fuel station in place. The applicant's reports also show that while the intersection as a whole meets the applicable standard, there are individual movements on the northbound and southbound approaches that are currently operating at overcapacity. However, with construction of new right-turn lanes in both the northbound and southbound directions, those movements would operate at equal or better conditions even with the proposed fuel station in place, as compared to operations without the fuel station and without mitigation. Thus, the applicant proposes to mitigate the proposed project's impact on those specific movements by constructing new right-turn lanes in

both the northbound and southbound directions at the 99W Dartmouth intersection. These improvements are required by condition #11.

The City Council finds that substantial evidence shows that the proposed fuel station with the proposed mitigation measures will not worsen the operation of the 99W/SW Dartmouth intersection, or any other transportation facility beyond applicable criteria. The City Council also finds that certain movements at the 99W/Dartmouth intersection presently operate overcapacity, but with construction of dedicated northbound and southbound right-turn lanes as proposed by the applicant, those movements will operate at equal or better capacity with the fuel station and mitigation measures in place as compared to present conditions. Accordingly, to mitigate the impact of the proposal on those specific movements, the City Council agrees with the Planning Commission's adoption of condition #11 requiring construction of dedicated northbound and southbound right-turn lanes at the 99W/Dartmouth intersection.

The City Council further finds that construction of the right-turn lanes is feasible because substantial evidence in the record shows that construction of the turning lanes is possible, likely, and reasonably certain to proceed. Specifically, the applicant has submitted construction drawings showing that the turning lanes can be built. In the case of the northbound right-turn lane, no additional right-of-way is required based on modifications to turning radius standards approved by the City Public Works Department. As to the southbound right-turn lane, evidence submitted by the applicant shows that the property owner at the northwest corner of the intersection is likely to agree to dedicate the necessary right-of-way after further review. A showing of feasibility does not require a showing of absolute certainty.

#### **18.810.070 Sidewalks**

**B. All industrial streets and private streets shall have sidewalks meeting city standards along at least one side of the street. All other streets shall have sidewalks meeting city standards along both sides of the street. A development may be approved if an adjoining street has sidewalks on the side adjoining the development, even if no sidewalk exists on the other side of the street.**

There is an existing 8-foot wide sidewalk along the site frontage on SW Dartmouth Street. This standard is met.

#### **18.810.090 Sanitary Sewers**

**A. Sewers required. Sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.**

This site is served by an existing sanitary sewer system. Drainage from the area under the new canopy will be connected to this sanitary sewer system. There are no identified sanitary sewer concerns in this area and it is anticipated that this limited amount of runoff can be accommodated within the capacity of the existing system. Prior to issuance of the site permit, the applicant shall obtain approval from the city engineer and other appropriate agencies for the pollution controls and protection measures to be used before this under canopy drainage flows into the sanitary sewer.

#### **18.810.100 Storm Drainage**

**A. General provisions. The director and city engineer shall issue a development permit only where adequate provisions for stormwater and floodwater runoff have been made, and:**

- 1. The storm water drainage system shall be separate and independent of any sanitary sewerage system;**
- 2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street; and**
- 3. Surface water drainage patterns shall be shown on every development proposal plan.**

- C. Accommodation of upstream drainage. A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development, and the city engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments).
- D. Effect on downstream drainage. Where it is anticipated by the city engineer that the additional runoff resulting from the development will overload an existing drainage facility, the director and engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

A limited amount of runoff is anticipated from the canopy area; this area will be hydraulically separated from the rest of the site routed through an oil/water separator prior to discharging to the sanitary sewer system. The proposed project will not increase stormwater runoff; however, the project will improve fifty percent of the overall site to comply with current water quality standards. No downstream stormwater issues were identified. This standard is met.

FINDING: Based on the analysis above, the street and utility improvements standards have not been fully met but can be as conditioned.

#### **ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:**

##### **Fire and Life Safety:**

Tualatin Valley Fire and Rescue (TVF&R) is the service provider for fire and emergency services. The District should be contacted for information regarding the adequacy of circulation systems, the need for fire hydrants, or other questions related to fire protection.

##### **Public Water System:**

Water service is available to the site. Tualatin Valley Water District is the service provider for water in this location. The applicant submitted a Statement of Service Availability from Tualatin Valley District.

##### **Storm Water Quality:**

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

##### **(For Private Facilities)**

To ensure compliance with Clean Water Services design and construction standards, the applicant shall employ the design engineer responsible for the design and specifications of the private water quality facility to perform construction and visual observation of the water quality facility for compliance with the design and specifications. These inspections shall be made at

significant stages throughout the project and at completion of the construction. Prior to final building inspection, the design engineer shall provide the City of Tigard (Inspection Supervisor) with written confirmation that the water quality facility is in compliance with the design and specifications.

**(For privately maintained Stormwater Management Units)**

The proposed unit from Stormwater Management is acceptable, provided the property owner agrees to hire the manufacturer (or approved equal) to provide the required maintenance of the unit. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer.

The application did not include a computation of the net change in impervious area resulting from the proposed changes. However, it is apparent that the net change will be less than 1,000sf. Prior to issuance of the site permit, the applicant shall obtain city approval of a site plan with calculations of the net change in impervious area. If this net change is more than 1,000sf, stormwater detention will be required.

The application states that “the project will improve fifty (50) percent of the overall site to current water quality standards with the use of StormFilter catch basins.” This will be adequate to meet the water quality treatment requirements.

**Grading and Erosion Control:**

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land.

A 1200CN/1200C Permit will be required if the disturbed areas on site are over one acre and five acres respectively. The plans shall be submitted to the city development engineer for review, approval and subsequent transmittal to CWS. No work shall begin on-site until the permit is obtained.

**Site Permit Required:**

A site permit from the Building Division is required before any work begins on the site.

**Address Assignments:**

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard. An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the city prior to issuance of the site permit.

For multi-tenant buildings, one address number is assigned to the building and then all tenant spaces are given suite numbers. The city is responsible for assigning the main address and suite numbers. This information is needed so that building permits for tenant improvements can be adequately tracked in the city’s permit tracking system.

The applicant shall contact Paul Izatt, 503-718-2589 to request a new address for the fuel station.

**C – IMPACT STUDY**

**SECTION 18.390.040.B.e** requires that the applicant include an impact study. The study shall address, at a minimum, the transportation system, including bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact of the development on the public at large, public

facilities systems, and affected private property users. In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with the dedication of real property interest, or provide evidence which supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

The applicant has provided an impact analysis addressing the project's impacts on public systems. The applicant's plans propose improvements or upgrades as needed to not have any adverse impact on the city infrastructure. Existing public sanitary sewer and water laterals will serve the site. There is no known deficiency in capacity. Since the site is a commercial development, there should be no impact on the City's parks system. A proportional share contribution will be made for the resulting transportation impacts.

## **ROUGH PROPORTIONALITY ANALYSIS**

The Transportation Development Tax (TDT) due for this proposal is \$192,528. This has been calculated using standard Washington County TDT calculation procedures. This calculation accounts for higher-than-normal internal trips between the Costco warehouse and fuel station, because the fuel station serves only Costco members.

The applicant proposes, and condition #1 requires, construction of dedicated northbound and southbound right-turn lanes at the Highway 99/SW Dartmouth intersection. The report of the applicant's traffic engineer dated April 1, 2014 constitutes substantial evidence that the cost of those improvements is \$237,833, and no contrary evidence has been submitted. Improvement of the Dartmouth/99W intersection is an "eligible capital improvement" under Washington County TDT Code Section 3.17.070(8) and Appendix C thereto, and therefore the full cost of the right-turn lanes is creditable against the TDT. The applicant also proposes driveway modifications but they are not TDT creditable because they serve only the applicant's property.

According to Washington County, the TDT is implemented at a level estimated to recover 23.3% of the cost County-wide to provide transportation system capacity sufficient to accommodate new development. Thus, 100% of the transportation capacity cost resulting from this project would be the TDT amount (\$192,528) divided by 23.3%, which equals \$826,299. The applicant proposes improvements costing \$237,833 which is 28.8% of the full transportation capacity cost.

**FINDING:** The total cost of creditable improvements (\$237,833) exceeds the TDT due (\$192,528). Because the improvements are fully creditable, completion of the improvements would constitute payment of the TDT in full and no additional payment would be due from the applicant. The cost of the creditable improvements is roughly proportional to the project's impact on the transportation system because it equals about 28.8% of the total estimated cost to provide transportation capacity accommodating the development, which is consistent with the 23.3% recovery expected from the TDT County-wide.

## **SECTION VII. OTHER STAFF COMMENTS**

**The City of Tigard Public Works Department** reviewed the proposal and had no comments.

**The City of Tigard Police Department** reviewed the proposal and has no objections to it.

**The City of Tigard Development Engineering Division** has reviewed the proposal and provided findings which are included in the Access, Egress and Circulation section and Street and Utility Improvements Standards section of this report. Recommended conditions are included in the conditions of approval.

## **SECTION VIII. AGENCY COMMENTS**

**Oregon Department of Transportation** reviewed the proposal and supports the city in collecting the proportionate share contribution from this development to fund transportation capacity improvements in this area. (Contact Marah Danielson, Development Review Planner, 503-731-8258)

**Clean Water Services** has reviewed the proposal and responded that a Storm Water Connection Permit Authorization must be obtained. The proposal shall continue to comply with the conditions set forth in the Service Provider Letter No. 11-000222, dated June 2, 2011. These items will be reviewed during the city's site permit and public facility permit review.

**Tualatin Valley Water District** commented that they had no objections to this project. The following comment was provided by Ryan Smith:

1. Submit plans to the TVWD if public water improvements are required or if new meter or fire line is required.

**Tualatin Valley Fire and Rescue (TVF&R)** reviewed the proposal and had no objections to it. The following comment was provided from John Wolff, Deputy Fire Marshal II; 503-649-8577:

1. Assure that adequate fire hydrant is located within 400 feet.

## **SECTION IX. PUBLIC COMMENTS**

Prior to the decision of the conditional use permit, written comments were submitted by nearby residents, including the following:

- Steve Martin, email dated April 4, 2014
- Karen Crichton, email dated May 5, 2014
- Michael Connors; Hathaway Koback Connors, LLP, letter dated April 7, 2014 including a letter from Rick Nys; Greenlight Engineering dated April 7, 2014
- Michael Connors; Hathaway Koback Connors, LLP, letter dated April 28, 2014 including a letter from Rick Nys; Greenlight Engineering dated April 28, 2014
- Michael Connors; Hathaway Koback Connors, LLP, letter dated May 5, 2014 including Appendix A through E

In addition, oral comments were submitted by the following individuals:

- Michael Connors; Hathaway Koback Connors, LLP
- Rick Nys; Greenlight Engineering

No one spoke in favor of the project. Two people, representing Cain Petroleum, spoke in opposition to the project both at the April 7 and May 5, 2014 hearings. Most of the concerns were related to parking, traffic and transportation. These concerns are thoroughly outlined in their submitted comments.

The Planning Commission was presented copies of all written comments and heard all oral testimony before rendering its decision. In response to public comments and Planning Commission feedback, the applicant presented supplemental memorandums and transportation analyses. The Planning Commission found the project to meet all relevant approval criteria pertaining to the topics raised by the public.

The full text of all comments can be found in the project file and Planning Commission minutes of February 10, 2014, March 17, 2014, April 7, 2014 and May 5, 2014.

Prior to the City Council appeal hearing the following written comments were submitted:

- Karen Crichton, email dated August 11, 2014

Ms. Crichton concerns were related to traffic, transportation, and parking.

In addition, oral comments were submitted by the following individuals:

- Charles Blacketer; Tigard resident

Mr. Blacketer spoke in favor of the project. The City Council received copies of all written comments and heard all oral testimony before rendering a tentative decision. The City Council found the project to meet all relevant approval criteria pertaining to the topics raised by the appellant.

The full text of all comments and deliberations can be found in the project file and City Council minutes of August 12, 2014.

## **SECTION X. CONCLUSION**

The City of Tigard City Council has **DENIED the Appeal of the** Conditional Use Permit for Costco Fuel Station (CUP2013-00002) subject to the edits presented in staff memorandum dated August 18, 2014, an addition to condition #11, and the addition of the following condition:

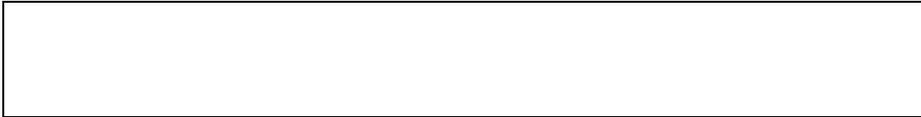
1. Prior to building permit issuance, the applicant shall show evidence that the necessary right of way for the construction of the right turn lanes at Highway 99W /Dartmouth/ 78<sup>th</sup> Ave has been acquired.

Addition to condition #11 (previously condition #10)

“This includes the shared bike lane markings denoting the potential presence of cyclists.”

**IT IS FURTHER ORDERED THAT THE APPLICANT AND ALL PARTIES TO THESE PROCEEDINGS BE NOTIFIED OF THE ENTRY OF THIS ORDER.**

**PASSED: THE 9<sup>TH</sup> DAY OF SEPTEMBER 2014 BY THE CITY OF TIGARD CITY COUNCIL.**



Mayor John Cook

Dated this 9<sup>th</sup> day of September, 2014.

Attachments

Exhibit A: Vicinity Map  
Exhibit B: Site Plan, Sheet DD11-16  
Exhibit C: DET Report, October 28, 2013

VICINITY MAP

CUP2013-00002

Costco Fuel Station

Subject Site



Information on this map is for general location only and should be verified with the Development Services Division.

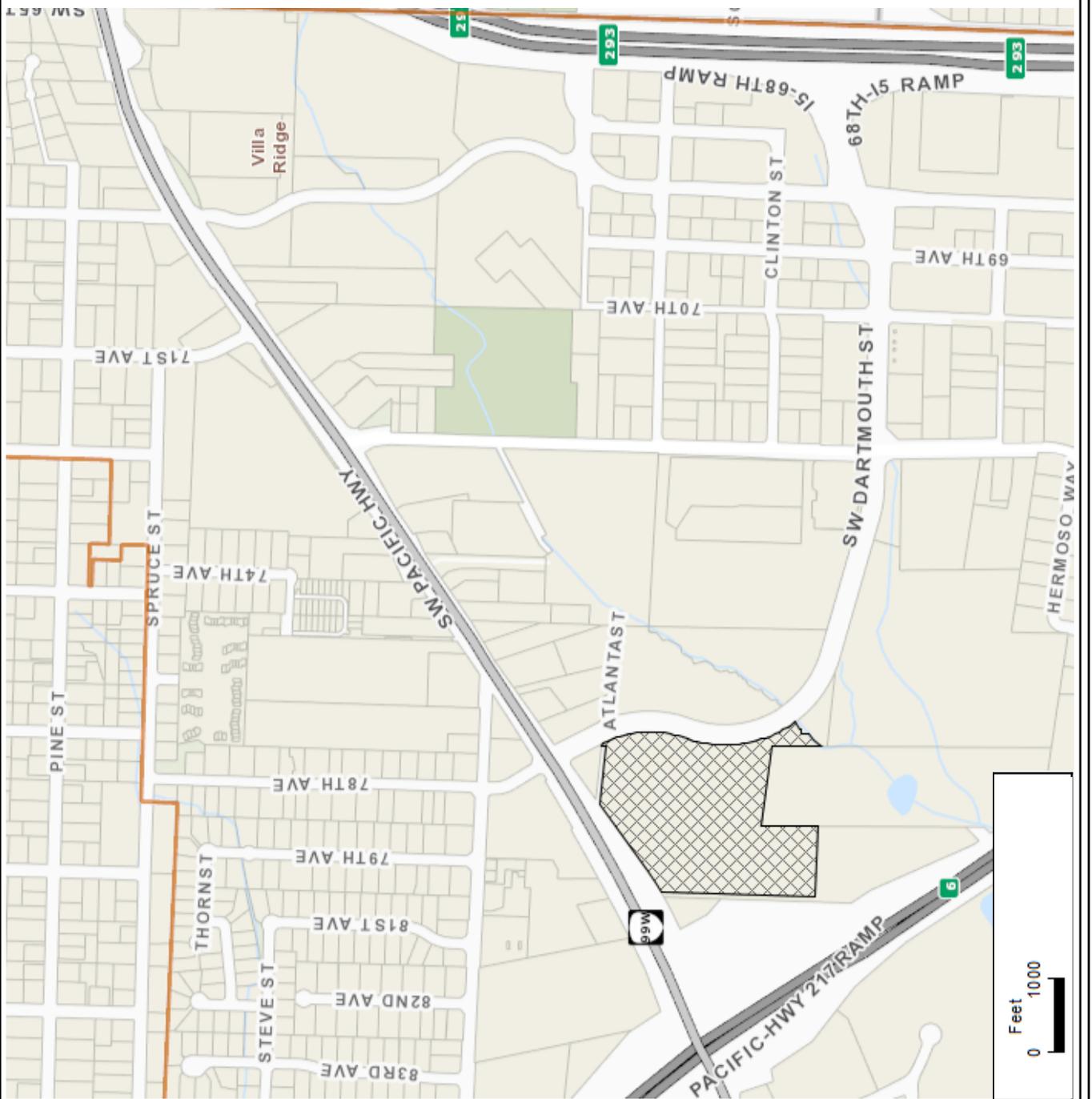
Approx. Scale 1:8,000 - 1 in = 667 ft

Map printed at 02:57 PM on 08-Jan-14

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City of Tigard  
13125 SW Hall Blvd  
Tigard, OR 97223  
503 639-4171  
www.tigard-or.gov



# PROJECT DATA

CLIENT: COSTCO WHOLESALE  
 999 LAKE DRIVE  
 ISSAQUAH, WA 98027

PROJECT ADDRESS: 7850 S.W. DARTMOUTH  
 TIGARD, OR. 97223

SITE AREA: 27.29 ACRES (1,188,962.99 S.F.)

JURISDICTION: CITY OF TIGARD

ZONING: C-G (PD) - GENERAL COMMERCIAL,  
 PLANNED DEVELOPMENT

BOUNDARIES INFORMATION: THIS PLAN HAS BEEN  
 PREPARED BY USING A  
 FRONTIER LAND SURVEYING  
 PLAN DATED 10/30/13.

LANDSCAPE DATA:

EXISTING AREA: 671,325.24 S.F. (56.46% OF SITE)  
 PROPOSED AREA: 671,562.34 S.F. (56.48% OF SITE)

BUILDING DATA:

BUILDING AREA: 140,640 S.F.  
 TIRE CENTER: 5,184 S.F.  
 TOTAL BUILDING AREA: 145,824 S.F.

EXISTING PARKING DATA:

PARKING PROVIDED:

# 10' WIDE COMPACT STALLS	32 STALLS
# 10' WIDE STALLS	467 STALLS
# 9' WIDE STALLS	210 STALLS
#/HC HANDICAP STALLS	21 STALLS
TOTAL PARKING	730 STALLS

NO. OF STALLS PER 1000 S.F.  
 OF BUILDING AREA: (145,890 S.F.) 5.00 STALLS

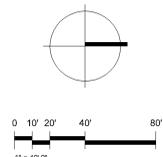
PROPOSED PARKING DATA:

PROPOSED PARKING:

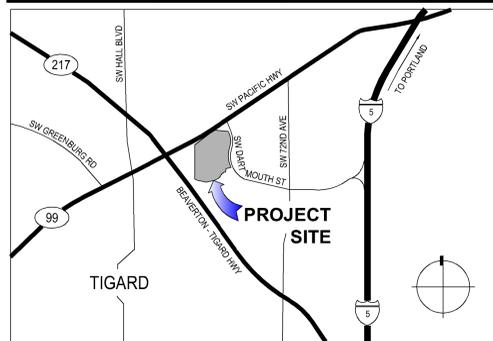
# 10' WIDE COMPACT STALLS	32 STALLS
# 10' WIDE STALLS	391 STALLS
# 9' WIDE STALLS	202 STALLS
#/HC HANDICAP STALLS	21 STALLS
TOTAL PARKING	646 STALLS
NET PARKING LOSS	-84 STALLS
# 10' WIDE STALLS	-76 STALLS
# 9' WIDE STALLS	-8 STALLS

NO. OF STALLS PER 1000 S.F.  
 OF BUILDING AREA: (145,890 S.F.) 4.43 STALLS

NOTES:  
 EXISTING CONDITIONS TO BE FIELD VERIFIED.



## VICINITY MAP



NOTES:  
 EXISTING CONDITIONS TO BE FIELD VERIFIED.



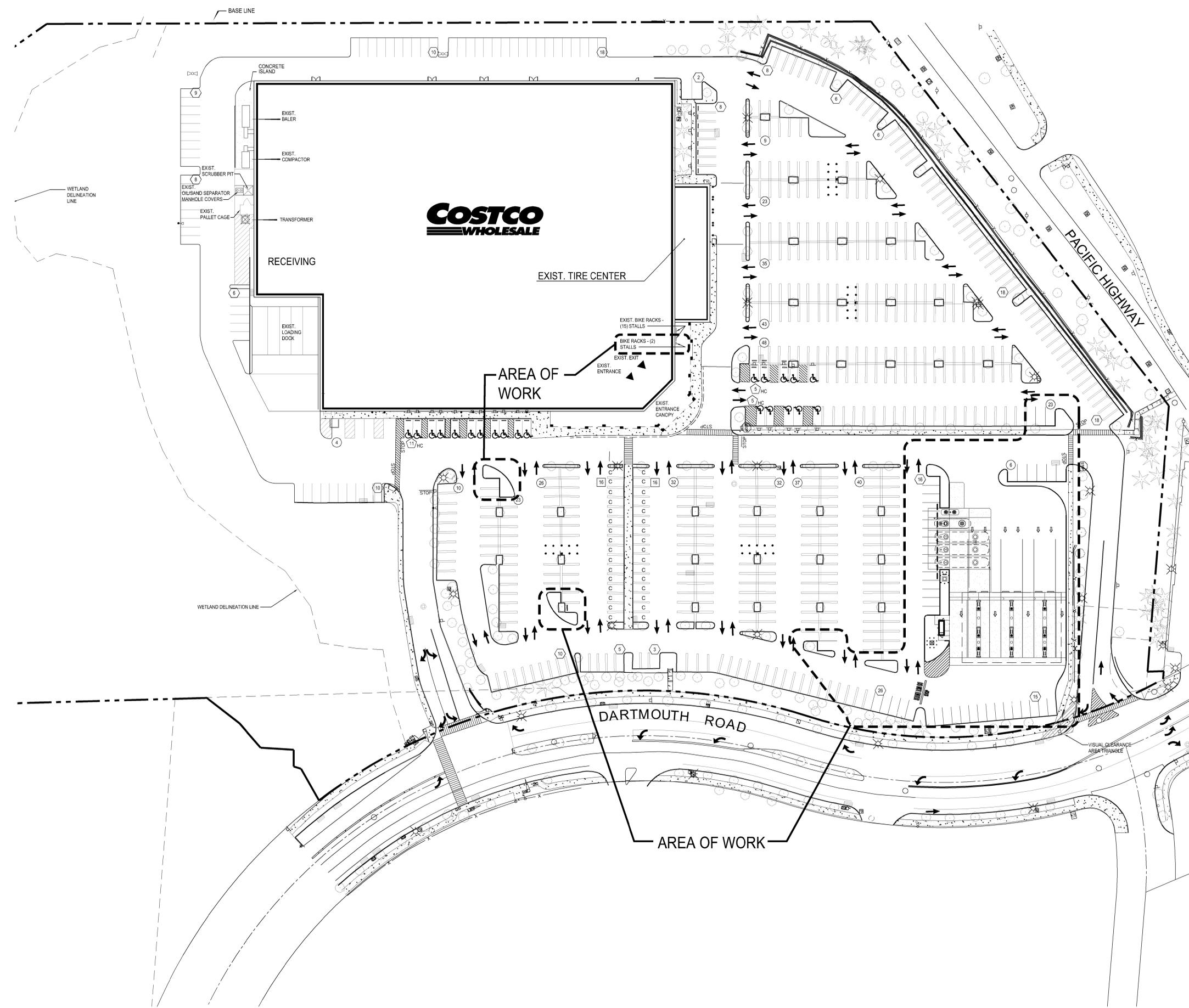
TIGARD, OR  
 #111  
 7850 SW DARTMOUTH ST TIGARD,  
 OR 97223



1110 112TH AVE. NE | SUITE 500  
 BELLEVUE, WA | 98004  
 1 425 463 2000 | 1 425 463 2002  
 MulvannyG2.com

95-1840-16  
 MARCH 31, 2014  
 CONCEPT  
 SITE PLAN

DD11-16



# COSTCO WHOLESALE

TIGARD, OREGON

# CONCEPT SITE PLAN

MARCH 31, 2014



## City of Tigard

October 28, 2013

Costco Wholesale Corporation  
 c/o Barghausen Consulting Engineers, Inc.  
 Attn: Angelo Bologna  
 18215 72<sup>nd</sup> Avenue South  
 Kent, WA 98032

Re: Design Evaluation Team Response to Costco's Tigard Triangle Design Standards Adjustments

Dear Mr. Bologna:

The City of Tigard Design Evaluation Team (DET) convened on October 21, 2013 to review proposed adjustments to the Tigard Triangle Design Standards as outlined in a letter dated October 11, 2013 (Exhibit A). Costco is proposing a new fueling station on property located at 7850 SW Dartmouth Street; the facility would occupy the northeast corner of the site. The applicant is requesting two adjustments, one for a greater setback than allowed on Dartmouth Street, and a second to allow for less than the required minimum 50% building placement along the Dartmouth street frontage.

Based on Exhibit A, the DET recommends approval of the requested adjustments providing that the applicant meets the following recommendations and conditions.

### Applicable City of Tigard Development Code sections

#### 18.620.030 Site Design Standards

A. Compliance. All development must meet the following site design standards. If a parcel is one acre or larger a phased development plan must be approved demonstrating how these standards for the overall parcel can be met. Variance to these standards may be granted if the criteria found in Section 18.370.010.C.2, governing criteria for granting a variance, is satisfied.

1. *Building placement on major and minor arterials. Buildings shall occupy a minimum of 50% of all street frontages along major and minor arterial streets. Buildings shall be located at public street intersections on major and minor arterial streets.*
2. *Building setback. The minimum building setback from public street rights-of-way or dedicated wetlands/buffers and other environmental features shall be zero feet; the maximum building setback shall be 10 feet.*

**Applicant Request:** The applicant requests an adjustment from the minimum 50 % building placement standard. The proposed canopy structure occupies less than the minimum 50 % required of street frontage along Dartmouth Street. The applicant is also requesting a setback of 73 feet from Dartmouth Street.

**DET Discussion and Recommendation:** The DET discussed the proposed adjustments and whether the project with these adjustments still meets the intent of the Tigard Triangle design standards. The intent is to create a high quality development with a streetscape that contributes to the image of the area and provides convenient and pedestrian friendly connections. The discussion included concerns about the large setback

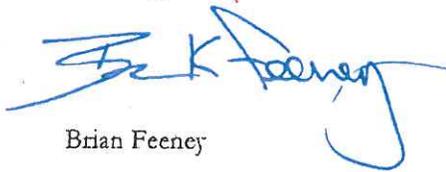
from Dartmouth Street, the queuing of vehicles to use the fueling station, building/canopy articulation, amount and size of signage, creating and maintaining a pedestrian environment (particularly activating the northeast corner near the entrance), and screening the parking along Dartmouth Street. With these concerns in mind, the DET felt that the intent of the Tigard Triangle design standards could still be met as long as they were mitigated through certain conditions.

The DET recommends approval of the applicant's adjustment requests with the following conditions:

**DET Conditions:**

1. Minimize the proposed setback by moving the entire structure toward Dartmouth Street a minimum of 6 to 8 feet or more if possible.
2. The landscaping and screening along Dartmouth Street where the gas station will be located shall be increased to mitigate glare resulting from vehicle headlights, screen the parking spaces along the frontage and provide a more inviting pedestrian environment.

Sincerely,



Brian Feeney



Calista Fitzgerald



Don Schmidt

**AIS-1851**

**8.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 25 Minutes

**Agenda Title:** Fields/Hunziker Industrial Core Public Infrastructure Finance Plan Update

**Submitted By:** Lloyd Purdy, Community Development

**Item Type:** Update, Discussion, Direct Staff

**Meeting Type:** Council Business Mtg - Study Sess.

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

With support from a Department of Land Conservation Development grant, the city retained consulting firm EcoNorthwest to develop a Public Infrastructure Finance Plan for the Fields Industrial Property and the Hunziker Industrial Core. This project includes the following activities:

- Explore infrastructure scenarios that support development and redevelopment.
- Estimate the cost of those investments.
- Document the economic value of a preferred infrastructure alignment (in progress).
- Recommend financing scenarios (in progress).
- Draft an agreement that outlines public and private sector actions and responsibilities for infrastructure financing (in progress).

This presentation will review infrastructure alignments, infrastructure costs, input from stakeholder meetings, and project deliverables with the council. The documents attached to this AIS provide background and context for this project. The first document outlines the existing land use and economic activity on the Fields Industrial Site and in the Hunziker Industrial Core. A map on page two of the attached memo outlines, in blue, the tax lots included in the Hunziker Industrial Core.

The second document maps the full range of road infrastructure alignments analyzed as part of this project. Through discussions with development professionals and adjacent property owners, these five conceptual road alignments were reviewed and narrowed down to a preferred road alignment. Refining a range of alignments to a preferred alignment simplifies future steps of the project like estimating economic impact and gathering private sector agreement.

The third document maps the preferred road alignment that improves circulation, access, and development potential in the Hunziker Industrial Core. For the most part, other infrastructure (sewer, water and storm water) in the Hunziker Industrial Core follow the same alignment. This road alignment provides the highest level of connectivity throughout the Hunziker Industrial Core with the lowest impact on currently occupied buildings.

The fourth attachment estimates costs for the full range of public infrastructure investments (road, sewer, water and storm water). An estimate of cost has been created for each alignment. These individual estimates provide an opportunity to explore alternative scenarios as the project continues to evolve.

The fifth and final attachment is the project scope of work, funded by a DLCD grant, which is guiding this process. Work in progress includes economic impact benchmarks which will help the city determine the value of private sector investment related to the installation of public infrastructure, an infrastructure finance plan that proposes public and private sector tools, investments and costs for the preferred infrastructure alignment, and a model MOU the City of Tigard can use to begin discussions with private sector partners.

This project is consistent with the City of Tigard's three-part economic development strategy of *groundwork*, *business assistance*, and *innovation*. The public infrastructure finance plan for the Fields Property and the Hunziker Industrial Core provides an opportunity to build relationships with public and private sectors partners to improve the city's economic base (EcDev Strategy - Groundwork). By working as a partner with development and real estate professionals, we are ensuring Tigard's limited supply of employment lands are put to productive use by creating opportunities for new business, and business expansion, in Tigard (EcDev Strategy - Business Assistance). Through the support of a Department of Land Conservation and Development grant we are exploring traditional and nontraditional financing solutions for infrastructure that serves public and private uses (EcDev Strategy - Innovation).

## **STAFF RECOMMENDATION / ACTION REQUEST**

No action needed at this time.

## **KEY FACTS AND INFORMATION SUMMARY**

January and February 2014, the City of Tigard's Community Development Department began working with private and public sector partners to encourage development on the Fields Industrial Property with the goal of increasing the employment potential of this vacant property. This process began with a property-owner funded study of the constraints and development potential of the site. This study noted the challenge of constructing large footprint buildings on the 6-10% slope of the upper portion of the property's hillside. Using conceptual building footprints, this preliminary study explored how a developer could locate four buildings totaling 174,000 square feet of industrial development on the lower portion of the hillside, one two-story building totaling 40,000 square feet of commercial development near the rail line, and 12 buildings totaling 324,000 square feet of multi-story residential

development on the upper portion of the hillside. This study was shared with council in February 2014.

March and April 2014, the City of Tigard's Community Development Department issued an RFP for a consultant to work on a Public Infrastructure Finance Plan for the Fields Industrial Property and the Hunziker Industrial Core. This consultancy is funded through a \$30,000 Department of Land Conservation and Development grant.

Now, the City of Tigard's Community Development Department is working with city staff, a consulting team, and real estate professionals, and property owners in the Hunziker Industrial Core. Discussions have centered on public infrastructure alignments, infrastructure costs, measures for economic impact, and financing scenarios.

## **OTHER ALTERNATIVES**

N/A

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

Comprehensive Plan Goal 9 supported by the city's 2011 Economic Opportunity Analysis.

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

October 2013 Infrastructure Finance Plan grant proposal to DLCD

February 2014 Fields Industrial Property - Site Constraint Analysis at City Council Workshop

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### **Attachments**

[Hunziker Industrial Core background memo](#)

[Hunziker Industrial Core preferred infrastructure alignment](#)

[Hunziker Industrial Core draft road alignments](#)

[Hunziker Industrial Core cost estimates](#)

[Hunziker Industrial Core scope of work](#)

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# City of Tigard Memorandum

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**To:** Mayor John Cook and City Council

**From:** Lloyd Purdy, Economic Development Manager

**Re:** Background on Fields Industrial Property & Hunziker Industrial Core

**Date:** August 4, 2014

The Fields Industrial Property, currently owned in trust as part of the Fred Fields estate, includes four contiguous parcels encompassing just over 42 acres. The largest two lots are zoned Industrial Park (I-P). A third parcel is zoned Professional Commercial and the smallest is zoned Low Density Residential. According to GIS maps, a small non-jurisdictional (not controlled or regulated by the city) wetland is located on the northwest portion of the site.

The Fields Industrial Property is bounded on the south by an active rail line and rail car switching yard. On the southwest side of the property runs a privately owned rail spur and a private access road (Wall Street) serving the adjacent industrial properties. On the east side residential zoned property with an R-3.5 and an R-25 designation borders this potential development site. To the immediate north industrial zoned property has already been developed and put to economic use.

The Fields Industrial Property has a combination of development challenges including lack of infrastructure, slope, access constraints from a rail spur, and a variety of land uses I-P, C-P and R3.5. However, the parcels' combined size and the site's location are assets that make this property marketable. It is also the largest undeveloped parcel in the Hunziker Industrial Core.

The Hunziker Industrial Core sits on both sides of Hunziker road. It includes 37 industrial, manufacturing, wholesale, and commercial businesses. Combined these firms employ more than 800 people on 144 acres of industrial (mostly I-L and I-P) zoned land within 1.25 miles of I-5.

New public infrastructure in this area could create an opportunity for private sector investment in new construction on just over 54 acres of undeveloped property (7 different parcels). In some instances it may create an opportunity for redevelopment on underutilized adjacent lots.

The Fields Industrial Property and the larger Hunziker Industrial Core are the focus of a Department of Land Conservation and Development funded study investigating public infrastructure improvements that support economic development. The purpose of this study is to create a Public Infrastructure Finance Plan to inform and guide public and private sector investment in this part of the city. Hunziker Industrial Core map included on page two.

## VICINITY MAP

Hunziker Industrial Core  
 Properties highlighted in  
 blue are part of the City of  
 Tigard's employment lands  
 zoned for economic activity.  
 A DLCD funded study is  
 exploring infrastructure  
 improvements south of SW  
 Hunziker Rd. that could  
 improve the performance of  
 this area as a site for higher  
 levels of employment.

Subject Site



Information on this map is for general location  
 only and should be verified with the  
 Development Services Division.

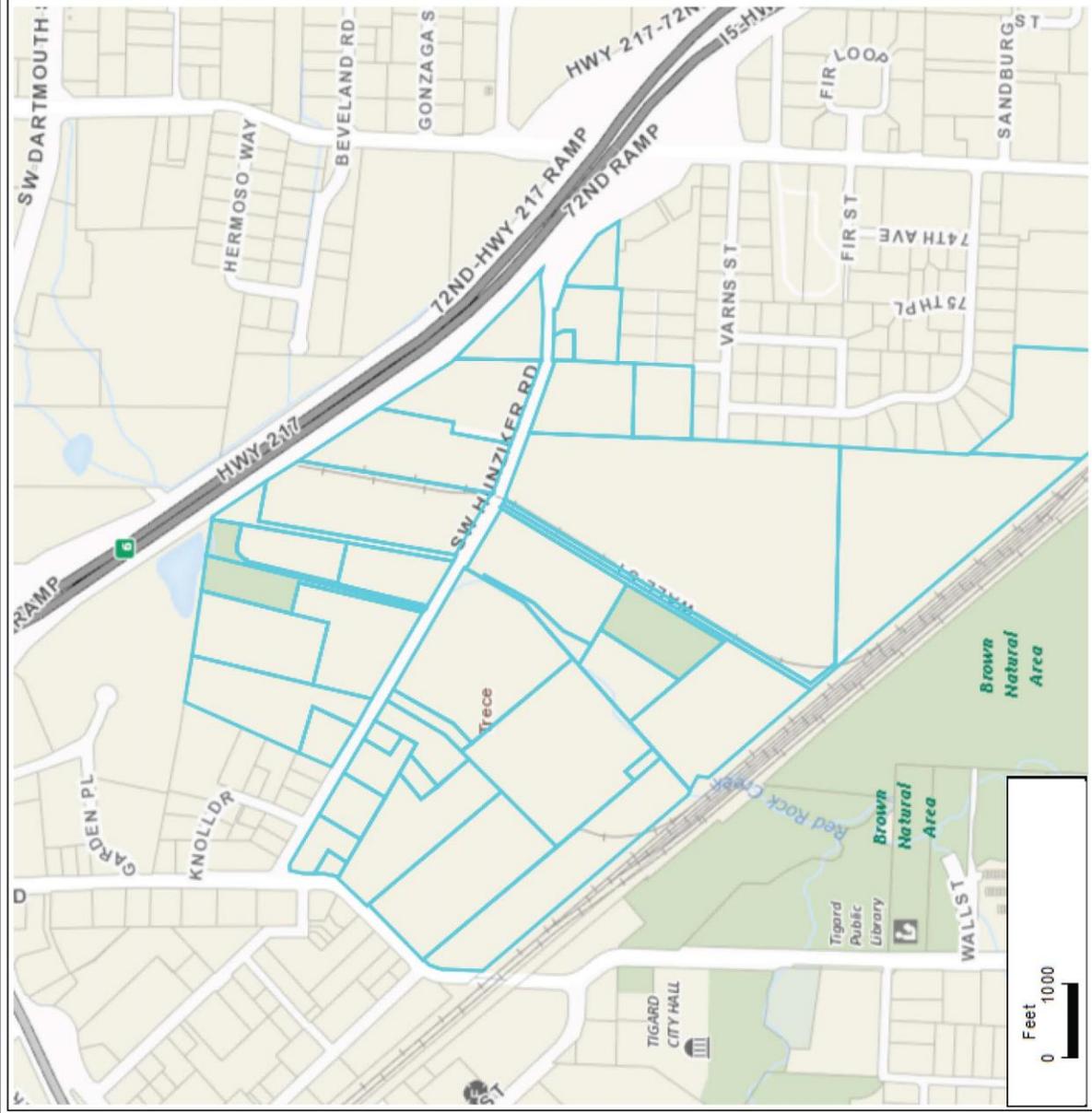
Approx. Scale 1:8,000 - 1 in = 667 ft

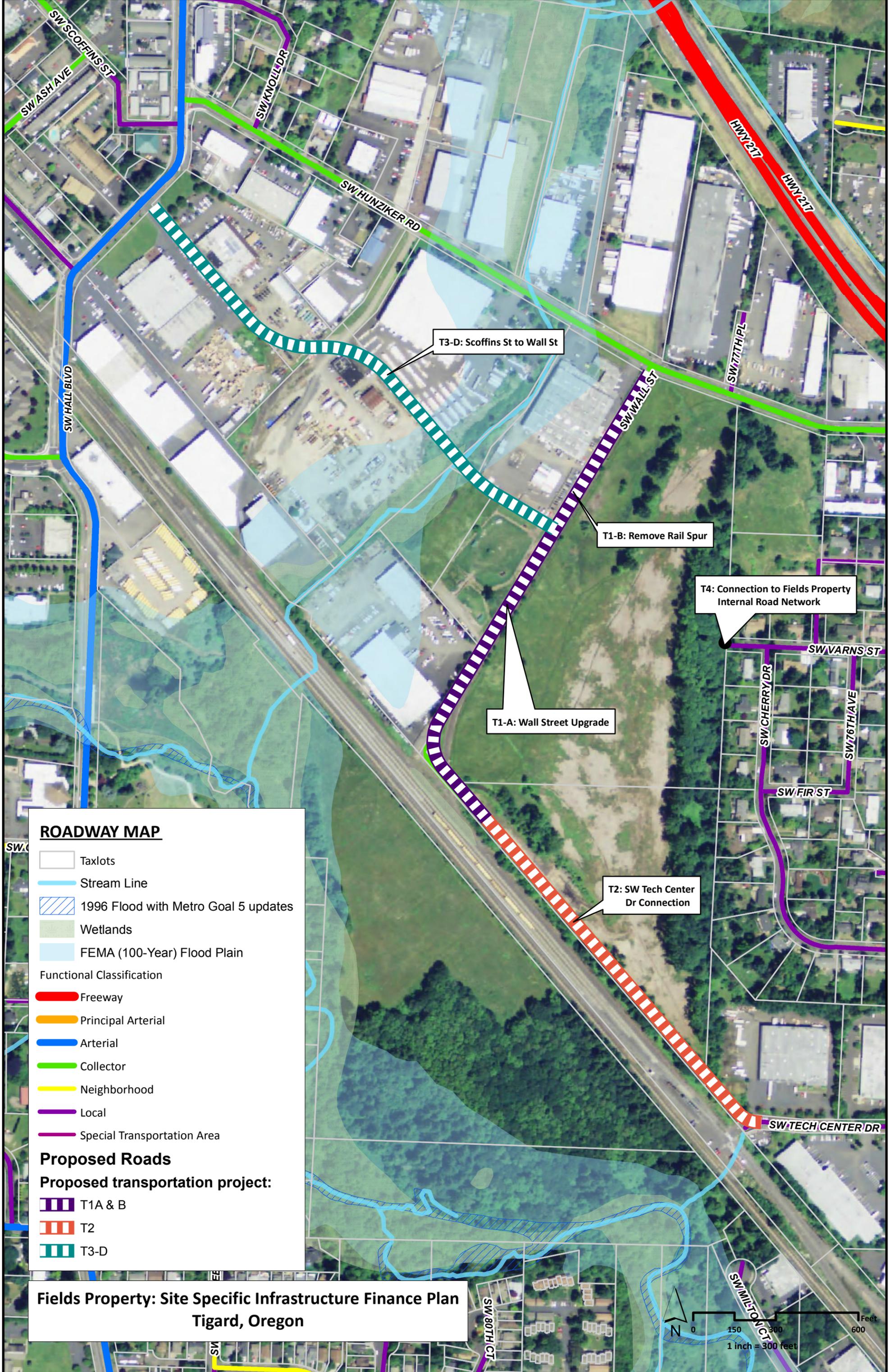
Map printed at 11:38 AM on 06-Aug-14

DATA IS DERIVED FROM MULTIPLE SOURCES. THE DESIGNER MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE CONTENT, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED REGARDLESS OF HOW CAUSED.



City of Tigard  
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 Tigard, OR 97223  
 503.638.4171  
[www.tigard-or.gov](http://www.tigard-or.gov)





T3-D: Scoffins St to Wall St

T1-B: Remove Rail Spur

T4: Connection to Fields Property Internal Road Network

T1-A: Wall Street Upgrade

T2: SW Tech Center Dr Connection

**ROADWAY MAP**

- Taxlots
- Stream Line
- 1996 Flood with Metro Goal 5 updates
- Wetlands
- FEMA (100-Year) Flood Plain

Functional Classification

- Freeway
- Principal Arterial
- Arterial
- Collector
- Neighborhood
- Local
- Special Transportation Area

**Proposed Roads**

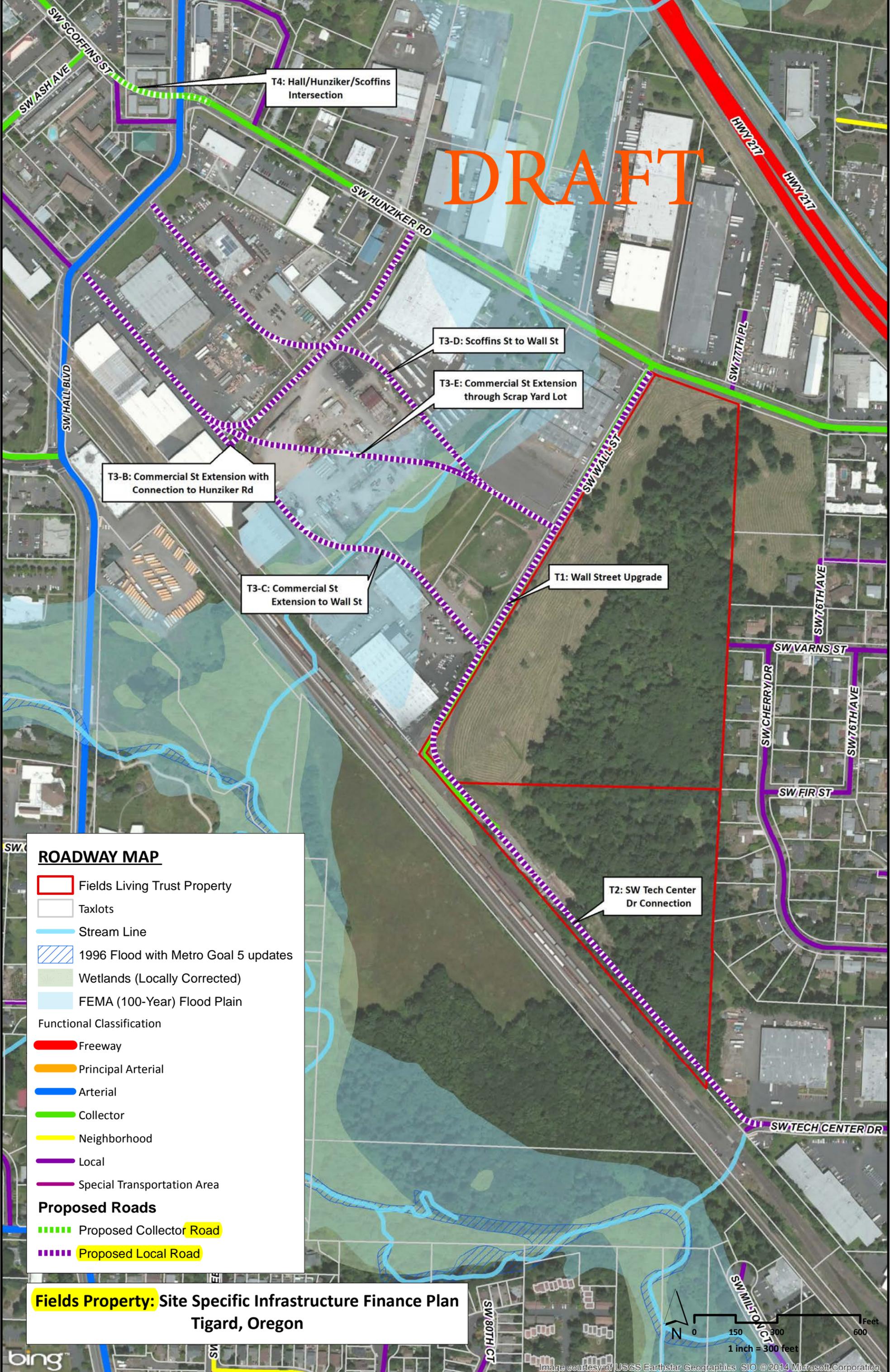
**Proposed transportation project:**

- T1A & B
- T2
- T3-D

**Fields Property: Site Specific Infrastructure Finance Plan  
Tigard, Oregon**



DRAFT



T3-B: Commercial St Extension with Connection to Hunziker Rd

T3-C: Commercial St Extension to Wall St

T3-D: Scoffins St to Wall St

T3-E: Commercial St Extension through Scrap Yard Lot

T1: Wall Street Upgrade

T2: SW Tech Center Dr Connection

T4: Hall/Hunziker/Scoffins Intersection

**ROADWAY MAP**

- Fields Living Trust Property
- Taxlots
- Stream Line
- 1996 Flood with Metro Goal 5 updates
- Wetlands (Locally Corrected)
- FEMA (100-Year) Flood Plain
- Functional Classification
- Freeway
- Principal Arterial
- Arterial
- Collector
- Neighborhood
- Local
- Special Transportation Area
- Proposed Roads
- Proposed Collector Road
- Proposed Local Road

**Fields Property: Site Specific Infrastructure Finance Plan**  
**Tigard, Oregon**





## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### Transportation Projects

##### **T1-A Wall Street Upgrade**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road along west frontage of Fields property	1,910	LF	\$ 700	\$ 1,337,000
50' ROW Acquisition for Wall Street (incl. city ROW costs = \$25,000)	100,268	SF	\$ 6.00	\$ 626,608
Retaining wall adjacent to rail spur (assume 3' high)	4,500	SF	\$ 25.00	\$ 112,500
Rail spur crossing at southwest corner of Fields site	1	EA	\$ 35,000	\$ 35,000
Intersection improvements at Wall St / Hunziker (Wall St stop controlled)	1	LS	\$ 50,000	\$ 50,000
<b>Project T1-A Total Cost</b>				<b>\$ 2,161,108</b>

##### **T1-B Remove Wall Street Rail Spur**

Description	Quantity	Units	Unit Cost	Item Cost
Remove existing rail spur	1,971	LF	\$ 30	\$ 59,130
Remove existing rail switch	1	LS	\$ 8,000	\$ 8,000
Remove and reconstruct signalized at-grade crossing on Hunziker St	1	EA	\$ 75,000	\$ 75,000
Restore rail spur area to landscaping (assume 12' strip)	23,652	SF	\$ 5.50	\$ 130,086
<b>Project T1-B Total Cost</b>				<b>\$ 272,216</b>

##### **T2 SW Tech Center Drive Connection**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial roadway extending Wall St to Tech	1,500	LF	\$ 700	\$ 1,050,000
50' ROW acquisition for Wall Street extension (incl. city ROW costs = \$25,000)	82,084	SF	\$ 6.00	\$ 517,504
Retaining wall for road grading near Summit Properties (assumed 15' average height)	3,000	SF	\$ 25	\$ 75,000
<b>Project T2 Total Cost</b>				<b>\$ 1,642,504</b>

##### **T3-A Hall/Hunziker/Wall Road Network: Alignment A**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road from Hall to Hunziker	1,680	LF	\$ 700	\$ 1,176,000
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	83,934	SF	\$ 6.00	\$ 528,604
<b>Project T3-A Total Cost</b>				<b>\$ 1,704,604</b>



## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### **T3-B Hall/Hunziker/Wall Road Network: Alignment B**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road from Hall Blvd to Wall St and Hunziker Rd to Commercial St	3,059	LF	\$ 700	\$ 2,141,300
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	150,365	SF	\$ 6.00	\$ 927,190
Rail spur crossing	1	EA	\$ 35,000	\$ 35,000
Creek crossing (assumed precast bridge or arch culvert)	1	EA	\$ 250,000	\$ 250,000
Wetland impact mitigation	0.35	AC	\$ 50,000	\$ 17,417
<b>Project T3-B Total Cost</b>				<b>\$ 3,370,907</b>

#### **T3-C Hall/Hunziker/Wall Road Network: Alignment C**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road from Hall Blvd to Wall St	2,037	LF	\$ 700	\$ 1,425,900
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	100,527	SF	\$ 6.00	\$ 628,162
Rail spur crossing	1	EA	\$ 35,000	\$ 35,000
Creek crossing (assumed precast bridge or arch culvert)	1	EA	\$ 250,000	\$ 250,000
Wetland impact mitigation	0.35	AC	\$ 50,000	\$ 17,417
<b>Project T3-C Total Cost</b>				<b>\$ 2,356,479</b>

#### **T3-D Hall/Hunziker/Wall Road Network: Alignment D**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road from Hall Blvd to Wall St	1,936	LF	\$ 700	\$ 1,355,200
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	95,780	SF	\$ 6.00	\$ 599,680
Intersection improvements at Hall Blvd (new roadway to be stop controlled)	1	LS	\$ 50,000	\$ 50,000
Rail spur crossing	1	EA	\$ 35,000	\$ 35,000
Creek crossing (assumed precast bridge or arch culvert)	1	EA	\$ 250,000	\$ 250,000
Wetland impact mitigation	0.29	AC	\$ 50,000	\$ 14,458
<b>Project T3-D Total Cost</b>				<b>\$ 2,304,338</b>

#### **T3-E Hall/Hunziker/Wall Road Network: Alignment E**

Description	Quantity	Units	Unit Cost	Item Cost
Construct local industrial road from Hall Blvd to Wall St through Northwest Demolition property	2,030	LF	\$ 700	\$ 1,421,000
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	100,270	SF	\$ 6.00	\$ 626,620
Intersection improvements at Hall Blvd (minor leg stop)	1	LS	\$ 35,000	\$ 35,000
Rail spur crossing	1	EA	\$ 15,000	\$ 15,000
Creek crossing (assumed precast bridge or arch culvert)	1	EA	\$ 250,000	\$ 250,000
Wetland impact mitigation	0.42	AC	\$ 50,000	\$ 21,135
<b>Project T3-E Total Cost</b>				<b>\$ 2,368,755</b>



## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### **T4** *Street Connection Between Fields Property and Varns Street*

Description	Quantity	Units	Unit Cost	Item Cost
Construct public roadway connection to Varns St to access eastern residential properties	250	LF	\$ 700	\$ 175,000
Slope mitigation and re-grading for street connection	10,000	SF	\$ 15	\$ 150,000
50' ROW acquisition for roadway (incl. city ROW costs = \$25,000)	12,500	SF	\$ 6.00	\$ 100,000
Intersection/driveway improvements at Hunziker Road	1	LS	\$ 35,000	\$ 35,000
<b>Project T4 Total Cost</b>				<b>\$ 460,000</b>



## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### Water Projects

##### **W1 Wall Street Water Line**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 12" water line along Wall Street (includes allowance for hydants, valves, etc.)	2,020	LF	\$ 180	\$ 363,600
Construct bored 8" water line crossings under rail spur for connections to Fields property parcels (3 EA @ 40')	120	LF	\$ 250	\$ 30,000
<b>Project W1 Total Cost</b>				<b>\$ 393,600</b>

##### **W2 Hunziker Core Water Lines**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 8" water lines along new road alignment (includes allowance for hydrants, valves, etc.)	1,770	LF	\$ 140	\$ 247,800
<b>Project W2 Total Cost</b>				<b>\$ 247,800</b>

##### **W3 Tech Center Extension Water Line**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 12" water line along Tech Center extension (includes allowance for hydants, valves, etc.)	1,480	LF	\$ 180	\$ 266,400
<b>Project W3 Total Cost</b>				<b>\$ 266,400</b>



## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### Sewer Projects

##### **SS1 CIP Sewer Upgrades**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 15" sewer bypass line (includes allowance for manholes, connections, etc.)	1,110	LF	\$ 210	\$ 233,100
Construct 10" sewer connection to Wall Street (includes allowance for manholes, connections, etc.)	493	LF	\$ 170	\$ 83,810
Wetland impact mitigation	0.56	AC	\$ 50,000	\$ 27,789
<b>Project SS1 Total Cost</b>				<b>\$ 344,699</b>

##### **SS2 Wall Street Sewer**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 8" sewer line within Wall Street (includes allowance for manholes, connections, etc.)	1,690	LF	\$ 155	\$ 261,950
Construct bored 8" sewer line crossings under rail spur (3 EA @ 40')	120	LF	\$ 250	\$ 30,000
<b>Project SS2 Total Cost</b>				<b>\$ 291,950</b>

##### **SS3 Sewer Extension to Septic-Served Neighborhood**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 8" sewer line through Fields property to residential neighborhood the east (includes allowance for manholes, connections, etc.). Sewer service is expected to extend with on-site development from Wall Street to east property line	700	LF	\$ 155	\$ 108,500
<b>Project SS3 Total Cost</b>				<b>\$ 108,500</b>

##### **SS4 Hunziker Core Sewer Lines**

Description	Quantity	Units	Unit Cost	Item Cost
Construct 8" sewer lines through Hunziker Core area along new road network	2,000	LF	\$ 155	\$ 310,000
Bored rail spur crossing - 8" line	75	LF	\$ 250	\$ 18,750
Bored creek crossing - 8" line	150	LF	\$ 250	\$ 37,500
<b>Project SS4 Total Cost</b>				<b>\$ 366,250</b>



## Hunziker Industrial Core Evaluation of Potential Infrastructure Investments

### Public Infrastructure Cost Estimate

#### Storm Water Projects

##### **S1 Wall Street Green Street and Piping**

Description	Quantity	Units	Unit Cost	Item Cost
Construct swale or basin facilities along Wall Street	3,600	SF	\$ 12	\$ 43,200
Construct 18" storm line within Wall Street	2,075	LF	\$ 185	\$ 383,875
Construct bored 8" storm lateral crossings under rail spur for connections to Fields property parcels (3 EA @ 40')	120	LF	\$ 250	\$ 30,000
Construct storm outfall to Fanno Creek tributary	1	LS	\$ 3,500	\$ 3,500
<b>Project S1 Total Cost</b>				<b>\$ 460,575</b>

##### **S2 Tech Center Drive Extension Green Street and Piping**

Description	Quantity	Units	Unit Cost	Item Cost
Construct swale or basin facilities along Wall Street to Tech Center Drive	2,650	SF	\$ 12	\$ 31,800
Construct 18" storm line within Wall Street extension	1,470	LF	\$ 185	\$ 271,950
Construct storm outfall to Fanno Creek tributary	1	LS	\$ 3,500	\$ 3,500
<b>Project S2 Total Cost</b>				<b>\$ 307,250</b>

##### **S3 Hunziker Core Area Green Street and Piping**

Description	Quantity	Units	Unit Cost	Item Cost
Construct swale or basin facilities along Hunziker Core road network	5,400	SF	\$ 12	\$ 64,800
Construct 18" storm line within Hunziker Core roads	5,380	LF	\$ 185	\$ 995,300
Construct storm outfall to Fanno Creek tributary	1	LS	\$ 3,500	\$ 3,500
<b>Project S3 Total Cost</b>				<b>\$ 1,063,600</b>

## Methodology

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### Task 1: Scope, Define & Cost Infrastructure Project

**A. Project kick-off.** The ECONorthwest Team would meet with City staff to discuss the details of the project scope of work and schedule. At this meeting, the City would bring ECONorthwest up to speed on the project, identifying key questions that need to be answered, and areas where general consensus has already been reached. This is an additional subtask, not stated in the IRFP.

**B. Preliminary engineering.** We would work with the City, building off of the 2014 Fields Property Study to identify specific infrastructure projects that are anticipated to be needed for development of the site. These would include both on- and off-site projects, including transportation, water, and sewer projects. We would provide preliminary engineering for each project, in sufficient detail to provide cost estimates. Note that engineering analysis for infrastructure on Fields Industrial Property should provide a higher level of detail than surrounding area.

Note that the 2014 Fields Property Study did not conclusively identify the specific infrastructure improvements needed for the site. Choices remain on which potential road alignments, intersection improvements, and other projects are most critical to stimulate development of the Fields Property and surrounding area. During this task, we would review supporting documents and solicit input from City staff and key stakeholders, and make a recommendation to the City on which specific infrastructure projects should be included in the Site-Specific Infrastructure Plan, based on the expected ability of the projects to leverage private investment. In short, we will determine which projects will give the City the most bang for their buck, and these projects will be the subject of the preliminary engineering analysis.

For the Fields property, we will advance an estimate based on known conditions, ranging from the slopes and soils conditions to specific planning around the rail spur and adjacent business access. As related to off-site improvements or work extending beyond our set of existing data, we will work with the City's Master Plans and work recently provided by others related to nearby developments to provide cost impacts.

**C. Cost estimates.** We would provide cost estimates for the infrastructure improvements documented in the Task 1.B. The cost estimates would be in current, 2014 dollars, including an inflation schedule for future years, so that project costs can easily be adjusted for inflation if the project schedule changes. After providing the City with the opportunity to review and comment on these cost estimates we would convene an Advisory Committee, comprised of property owners, prospective developers, and infrastructure providers. These cost estimates would be shared with the Advisory Committee, and revisions to the cost estimates or the project list would be made based on feedback. For additional information on the Advisory Committee's role on the project, see Task 4.

Historically, Mackenzie has completed a range of projects spanning both public works and private development. Their experience on those projects lends them a database of construction costs and a network of contacts to utilize in their estimates. Their recent public projects, which includes a wide assortment of types from industrial collectors to green street improvements, have shown their preliminary estimates to be in line with contractor bidding. The goal is always to set a reasonable and practical budget such that the City can plan appropriately.

### Task 1 Product: Identification and description of infrastructure projects with cost estimates

*Meetings (2):*

*Kick-Off Meeting with City Staff*

*Advisory Committee Meeting #1*

*Budget: \$11,500*

*Schedule: April – May*

### Task 2: Infrastructure Finance Plan

**D. Infrastructure finance plan template.** We would create a generic model “infrastructure finance plan,” which would serve two purposes: (1) The document could be re-used by similar cities with challenging development sites, providing a template for solving infrastructure funding issues. (2) The document would serve as an outline for the Infrastructure Finance Plan, showing the City all of the topics that would be covered, the steps in the analysis, and the format of the final report. This document would include a tool (like a PERT chart) to track agreement from public- and private-sector partners on roles and responsibilities.

**E. Determine funding roles and responsibilities.** The Advisory Committee would be convened a second time to discuss the “fair share” of project costs that should be borne by all parties. This conversation would be informed by estimates of SDC and TDT revenue (and any other development derived funding sources that may be available for these infrastructure projects). After agreeing on a high-level, draft funding strategy, we would analyze and document the public and private sector actions, costs, benefits and fiscal impacts.

The IRFP also requests that an economic impact analysis be included as part of this task. ECONorthwest has conducted hundreds of economic impact analyses for all types of economic activities. For a complete economic impact analysis, we would use an input-output modeling program called IMPLAN to map expenditures in hundreds of specific industry sectors, and model the economic impacts as those expenditures ripple through the local economy. Such analysis would require a level of effort that cannot be achieved with the limited project budget. Moreover, such analysis is unnecessary at this time, as the cost estimates are too preliminary and too high-level to provide sufficient detail, regarding the breakdown of expenditures by industry sector.

What we could do, however, is leverage our experience on other economic impact studies in the region to identify the appropriate multipliers (i.e., how many direct, indirect, and induced jobs are created for every \$1 million spent on new construction and infrastructure), and provide estimates of the total jobs and spending that would be created by the project. This approach will result in summary tables showing the number of jobs, personal income, and economic output generated from

short-term construction impacts, as well as ongoing operating impacts from new development. Additionally, we will estimate the property tax revenues that would be generated from development on the site, including impacts to the City of Tigard, and other affected taxing districts.

**F. Infrastructure finance plan.** The final step in this task is writing the Infrastructure Finance Plan. This would include taking general funding responsibilities and refining them into specific financing tools, showing how much revenue would be generated by each tool, each year, and when each infrastructure project could be funded based on those revenue projections. At the second Advisory Committee meeting, we would provide the group with an overview of their numerous financing tools and funding sources available for the project. We would quickly lead the Advisory Committee through a group discussion to whittle down the list of potential tools to focus only on those tools with the greatest applicability to these projects. Following the second Advisory Committee meeting, we would create a detailed financing plan, using the tools identified by the group.

The draft infrastructure finance plan would be reviewed by the City, and we would make whatever revisions are necessary based on City feedback. We would then convene the Advisory Committee to review the draft finance plan.

#### Task 2 Products:

*Infrastructure Finance Plan Template Infrastructure Finance Plan  
(Draft and Final)*

*Revenue forecasts*

*Meetings (2):*

*Advisory Committee Meeting #2*

*Advisory Committee Meeting #3*

*Budget: \$10,790*

*Schedule: June – July*

### Task 3: Infrastructure Memorandum of Understanding

**G. Infrastructure finance memorandum of understanding (MOU) template.** The IRFP requests that the Infrastructure Finance Plan be implemented through a formal development agreement. Development agreements are legally binding documents that obligate each party to honor commitments or suffer penalties. As such, they take lots of time and expense to negotiate (particularly if there are numerous parties involved). These development agreements are frequently amended over time, requiring additional time and expense. Development agreements also require attorneys fees for each party involved, which adds considerable expense, beyond the budget that has been identified for this project. Given the City’s limited budget, we recommend negotiation of a rigorous MOU instead of a development agreement. An MOU, while lacking the legally binding obligations of a development agreement, still accomplishes the same key objectives: Getting the public- and private-sector partners to agree on the pivotal business points.

We would create a template/reusable model for an infrastructure finance MOU that can be used by other communities to commit public- and private-sector partners to their agreed upon roles and responsibilities in financing infrastructure for new development. We would begin by collecting examples of similar agreements that have been used on successful projects in the region. After reviewing these example agreements, we would create a new MOU, building upon the strengths of each of the documents we will have reviewed. Note that the City Attorney’s Office will likely want to participate in this task, reviewing our draft infrastructure finance MOU template, and ensuring that the document adequately protects the City’s interests. This template document will also serve as an outline for the Fields Property infrastructure finance MOU that would be created in the next subtask.

**H. Infrastructure finance MOU.** Based upon the template created in Task G, we would prepare a public infrastructure finance MOU for use by the City and its private sector partners. A fourth Advisory Committee meeting would be held to review the draft MOU with all public- and private-sector partners. It is possible that not all parties may be satisfied with the agreement, and some may want extensive negotiations and revisions to the language in the agreement before they are willing to sign onto it. The amount of time required for these negotiations is impossible to estimate at this time. Given the fixed-fee nature of the contract, we cannot promise to be heavily involved in whatever negotiations may be required. Any negotiations that would need to occur outside of the specified Advisory Committee meetings, and one-on-one meetings (described in Task 4), would be outside of this scope of work, and would require additional budget.

#### Task 3 Products:

*Infrastructure development agreement template*

*Infrastructure development agreement (draft and final)*

*Meeting: Advisory Committee Meeting #4*

*Budget: \$5,040*

*Schedule: August*

## Task 4: Stakeholder involvement

**I. One-on-one meetings with key stakeholders.** One task that is not described in the IRFP, is stakeholder facilitation. However, we believe that this is an important component for this project, and we believe the City agrees, as part of the evaluation criteria is “experience facilitating collaborations between public and private sector partners...” We have specifically called out this fourth task on stakeholder facilitation, and make it an explicit part of our work program. We recommend two approaches to stakeholder involvement: one-on-one meetings, and an Advisory Committee. Both approaches would involve the same key stakeholders, but in different formats.

For one-on-one meetings, ECONorthwest’s key personnel would meet once with each key stakeholder, defined as any party who may be asked to fund a portion of the infrastructure costs for the Fields Property. We know that these stakeholders will include the Trust that owns the field site, and prospective developers working with the trust, and the City of Tigard. The City will identify other stakeholders who should be involved in the process, and we will conduct one-on-one meetings with them as well. At these meetings we will solicit candid opinions from all stakeholders on their role in funding infrastructure on the site.

**J. Advisory Committee meetings.** In addition to one-on-one meetings, we will convene a series of Advisory Committee meetings with all key stakeholders. The scope of work assumes four of these meetings, tied to key project milestones requiring input from the stakeholders who will be asked to contribute to the infrastructure finance plan. Each of these meetings would be led by the ECONorthwest Team, but meeting locations would need to be provided by the City. In each of the tasks above, we note when a meeting would occur, and how it relates to the broader scope of work. We summarize these Advisory Committee meetings below:

Meeting 1. Cost estimates

Meeting 2. Roles and responsibilities

Meeting 3. Infrastructure finance plan

Meeting 4. Infrastructure finance MOU

### Task 4 Products:

*Agendas, PowerPoint presentation, and meeting minutes for four meetings*

*Meetings:*

*(4) Advisory Committee Meetings*

*(4) One-on-one meetings*

*Budget: \$7,520*

*Schedule: April – August*

**AIS-1854**

**9.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 15 Minutes

**Agenda Title:** Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA) Amendment

**Prepared For:** Jim DeSully, Police

**Submitted By:** Julia Jewett, Police

**Item Type:** Update, Discussion, Direct Staff

**Meeting Type:** Council Business Meeting - Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA) changes will be presented to council.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends council authorize the city manager to sign the subject Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA).

**KEY FACTS AND INFORMATION SUMMARY**

Washington County Consolidated Communications Agency (WCCCA) Intergovernmental Agreement (IGA) Changes

1. Several sections address authority for decisions, language added to allow for inclusion of Technical Advisory Committee (TAC) when appropriate in the customary chain of authority for WCCCA (look for this language) "*... as approved through the normal chain of authority for the Agency.*"
2. Section 3b. Old language specific to Forest Grove removed as Forest Grove structure is defined generally in other areas of the IGA as current status and practice dictate.
3. Section 5 - Language updated to ensure that TAC is the reflected title throughout this section (and other sections), to address alternates, eliminate each individual jurisdiction in this section so if changes develop in the future, the IGA does not have to be reopened specifically for that, define the appropriate participants, ensure that the duties of TAC are appropriately

represented and define quorum and the vote process for TAC.

4. Section 7 - Added the current 3% cap language (it had been in the former Appendix A) and is written here as it is written in WCCCA by-laws.

5. Section 10 and Appendix A - Update language to reflect the currently used "member fee" and eliminating the term "user."

6. Appendix A - Revises the following language:

- a. Eliminate the former "black box" process and language in favor of the member fee sub-committee recommendations for new elements of a fee formula, outlined generally with the understanding there may be change in the future
- b. Encourages monitoring of the efficacy of costing ratios
- c. Member involvement in review of the formula by convening member fee sub-committees in the future
- d. Fee formula can be modified without reopening the IGA

7. In general, changes primarily address the member fee formula and the current function of TAC.

## **OTHER ALTERNATIVES**

N/A

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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### **Fiscal Impact**

#### **Fiscal Information:**

No additional fiscal impact is anticipated. Current Police Department budget includes the financial obligation to WCCCA.

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### **Attachments**

WCCCA IGA

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AMENDMENT TO INTERGOVERNMENTAL AGREEMENT  
WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY

THIS AMENDMENT to the Washington County Consolidated Communications Agency Intergovernmental Agreement (herein "Intergovernmental Agreement") is made and entered into, pursuant to ORS 190.010 and by and among the Cities of Banks, Beaverton, Cornelius, Durham, Forest Grove (including Forest Grove Rural Fire Protection District), Gaston, Hillsboro, King City, North Plains, Sherwood, Tigard, and Tualatin; the Fire Districts of Tualatin Valley Fire & Rescue, Washington County Fire District #2, Cornelius Rural Fire, Gaston Rural Fire, Banks Fire Protection District #13; Forest Grove Rural Fire and Washington County (herein "participating jurisdictions").

WITNESSETH

WHEREAS the participating jurisdictions have previously entered into the Intergovernmental Agreement creating the Washington County Consolidated Communications Agency (herein "Agency" or "WCCCA") for purposes of establishing and operating a public safety emergency communications system inclusive of a 9-1-1 jurisdiction as contemplated by ORS 403.105 to 403.250 that provides a cooperative and coordinated 9-1-1 primary public safety answering point for police, fire and emergency medical services for the benefit of all participating jurisdictions; and

WHEREAS, from time to time, by amendment, the Intergovernmental Agreement has been modified to provide, among other things, expanded membership in the Agency; and

WHEREAS the participating jurisdictions now desire to further amend the Intergovernmental Agreement to provide, among other things, for a new fee formula for participating jurisdictions and updating the language of the Intergovernmental Agreement to appropriately reflect the current ORS references and participating jurisdictions;

NOW THEREFORE, the Intergovernmental Agreement is hereby amended, with said amendments incorporated into the text of the Intergovernmental Agreement and the entirety of the Intergovernmental Agreement, as amended, set forth below.

TERMS AND CONDITIONS

1. WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY

The participating jurisdictions hereby create a 9-1-1 jurisdiction responsible for the provision of 9-1-1 service and public safety communications and agree that the Agency will be under ORS 190.003; and known as the WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY.

2. POWERS AND AUTHORITY

The Agency is vested with all powers, rights and duties necessary for performing the functions of a 9-1-1 public safety answering point and initiating appropriate response pursuant to ORS 403.105 to 403.250, including, but not limited to contracting for such services, as approved through the normal chain of authority for the Agency.

3. GOVERNING BODY AND VOTING BOARD

- a. The Agency shall be governed by a Board of Commissioners (herein "Board"), whose membership shall consist of voting and non-voting members. One representative from each participating jurisdiction shall constitute the Board. Each participating jurisdiction shall appoint, at its pleasure, one primary representative and one alternative representative, who may attend and participate, as provided herein, in all Board meetings in the absence of the participating jurisdiction's primary representative. Representatives and alternates shall be an elected official or employee of their respective participating jurisdictions.
- b. Only the herein identified participating jurisdictions' Board members shall have the authority to move, second or vote on any Agency Board action. These participating jurisdiction representatives shall be known as the Agency Voting Board. The Agency Voting Board will consist of those representatives of participating jurisdictions, singly or in combination, that contribute one percent or more of the total user fees paid by all participating jurisdictions. Initially the Voting Board shall consist of representatives of the cities, of Beaverton, Hillsboro, Tigard, Tualatin, Forest Grove, Sherwood, and Cornelius; Washington County; and the Tualatin Valley Fire and Rescue. In addition the Voting Board shall include one representative selected by the City participating jurisdictions of King City, Durham, North Plains, Gaston, and Banks, and one representative selected by the participating Fire District participating jurisdictions of Cornelius Rural Fire Protection District, Banks Fire Protection District #13, Gaston Rural Fire Protection District, and Washington County Fire District #2.
- c. The Voting Board shall be responsible for
  - Approval and adoption of the Agency Strategic Plan
  - Adoption of the Agency's annual budget and objectives
  - Approval of the "User Formula" for calculating fees to participating jurisdictions
  - Approval of all contracts in amounts as authorized by Agency administrative directive.

- d. All meetings of the Voting Board and CEO Board shall be held in accordance with Oregon Public Meeting Laws, ORS 192.610 to 192.690. A majority of the members of the Voting Board shall constitute a quorum for purpose of deliberation and decision of the Agency. All decisions of the Voting Board, unless otherwise provided herein, shall require a majority vote of those representatives in attendance and voting.
- e. The Voting Board, at the first meeting of every other calendar year, shall elect a Chair and Vice-Chair. The Chair shall be an elected official unless there is no elected official on the Voting Board willing to accept the position of Chair. If an elected official is unavailable or unwilling to serve, any member of the Voting Board may be elected Voting Board Chair. The term of the Chair and Vice-Chair shall be two years. The Chair, and in his/her absence the Vice-Chair, shall preside over all Voting Board meetings. The Communications Director, or designee, shall act as Clerk of the Board and be responsible for providing notices of meetings and keeping of minutes, as required by Oregon Public Meetings Laws.

4. CEO BOARD

- a. There is hereby established a Chief Executive Officer's Board (herein "CEO Board") consisting of five (5) Voting Board participating jurisdiction representatives. The CEO Board shall consist of the Chair of the Voting Board (who shall be the Chair of the CEO Board); the Chief Administrative Officers or their designees from the two largest participating jurisdictions (as determined by the participating jurisdiction's user fee contribution), and two Chief Administrative Officer members who shall be appointed at-large by the Voting Board from the remaining participating jurisdictions. In the event the CEO Chair also represents one of the two largest participating jurisdictions, then three at-large members of the CEO Board shall be appointed, by the Voting Board, from the remaining participating jurisdictions. The CEO Board shall elect a Vice-Chair at the first meeting of every other calendar year. The term of the Vice-Chair shall be two years. In no case shall any jurisdiction have more than 1 member on the CEO Board.
- b. The CEO Board shall, among other things:
  - Nominate and recommend contract employment terms and conditions for the Agency Director subject to Board ratification
  - Based upon the direction of the WCCCA Board of Commissioners, provide oversight and direction to the WCCCA Director regarding all Agency operations
  - Approve policies and strategies for Agency service levels and administrative directives
  - Approve salary levels for all Agency employees subject to Board ratification

- Recommend the Agency's annual budget to the Voting Board
- Review and make recommendations to the Voting Board regarding user fees as detailed in Appendix A
- Provide for an annual audit of the Agency's finances
- Approve all contracts in amounts as authorized by Agency administrative directive.
- Review all contracts over \$50,000 and make recommendations to the Voting Board
- Serve as final step of grievance procedure for unclassified employees
- Provide direction and advice to Director regarding labor negotiations and make recommendations to Board of Commissioners.
- Perform other duties and responsibilities that may be assigned by the Voting Board.

c. A majority of the members of the CEO Board attending a duly held meeting shall constitute a quorum for the purpose of deliberation and decision. Each CEO Board member shall have one vote. Approval of at least three (3) CEO Board members is required for any action.

#### 5. TECHNICAL ADVISORY COMMITTEE

There is hereby established a Technical Advisory Committee (herein "TAC"), consisting of one representative appointed from each member law and fire agency. Each agency may also appoint an alternate, who will have voting authority in the absence of their agency's primary representative. (Refer to section 3b for list of member jurisdictions that will provide user agency participation.) . . TAC representatives shall be employees of their respective agencies and possess the appropriate decision-making authority needed to participate in the TAC function.

a. TAC shall 1) provide advice and counsel to the Board, CEO Board and Communications Director in matters of Agency operational priorities, policies and procedures; 2) review and recommend to the Communications Director for adoption by the Agency, Standard Operating Guidelines (herein "SOG"); 3) provide advice and counsel to the Communications Director in the development of the Agency's annual operating budget; and 4) review and make recommendations to the CEO Board and Voting Board regarding user fees as detailed in appendix A.

A majority of TAC members in attendance at a duly held meeting shall constitute a quorum for the purpose of deliberation and decision. Each agency representative on TAC shall have one vote. Any TAC Representative who provides the contracted response for a single or multiple jurisdictions shall have one vote. Any TAC Representative who has oversight responsibility of multiple user agencies shall have a vote for each of those agencies.

- b. All decisions of TAC shall require a majority vote of those representatives in attendance.
- c. TAC, at its first meeting of each calendar year, shall elect a Chair and Vice-Chair for one-year terms. TAC shall meet at least quarterly, and at a time and place designated by its members. Special meetings of TAC may be called by the Chair or any two (2) members upon at least seven (7) days prior written notice to all TAC members.

6. COMMUNICATIONS DIRECTOR

- a. The Board shall select and appoint a Communications Director, based upon administrative and technical competence.
- b. The Communications Director shall be the chief administrative officer of the Agency and be responsible for 1) Agency administration, personnel, purchasing and budget functions, in conformance with the policies and rules adopted by the Board; 2) dispatching, phone answering, recordkeeping, security and other Agency functions in conformance with the policies adopted by the Board; 3) hiring, training, discipline and/or discharge of all subordinate Agency personnel, subject to applicable Agency rules and policies; 4) attending and providing executive staffing of Board, CEO Board and TAC meetings; and 5) preparing and presenting to the Agency Budget Committee a proposed budget for the next fiscal year.

7. FUNDING

- a. The services of the Agency shall be funded from contributions from participating jurisdictions, including the relinquishment or assignment of each participating jurisdiction's 9-1-1 excise taxes. Distributions of the 9-1-1 excise tax will be made in accordance with ORS 403.240.
- b. Participating jurisdiction contributions shall be calculated in a manner known as the "Member Fee Formula" as described in Appendix A. Member Fee contributions shall be paid in four (4) equal installments and due no later than July 10, October 10, January 10, and April 10 of each year.
- c. Those consolidated Voting Board members from small city and small fire district Agency members, shall have their annual member fee contribution increases capped at no more than three percent (3%) each fiscal year. The affected Agency members are specifically identified in article 3b (Governing body and Voting Board) of this agreement. The portion of member fees not paid by consolidated Voting Board members as a result of section 3b is paid by non-consolidated Voting Board members on a proportionate-share basis of total user fees for Voting Board members whose votes are not consolidated.

8. INCREASING MEMBERSHIP

The Voting Board shall develop a method for allowing Agency membership for other units of local government. New participating jurisdictions shall be accepted as members of the Agency *only upon unanimous approval* of all Board members, via the normal chain of authority for the Agency. All participating jurisdictions shall be responsible for directly or indirectly providing an emergency service. Emergency services are police, fire or emergency medical services.

9. DURATION, WITHDRAWAL AND TERMINATION

This Agreement is perpetual and the Agency shall continue from year-to-year provided, however, 1) any participating jurisdiction may withdraw from the Agency upon providing written notice to the Chairman not later than June 30 of any year for withdrawal effective July 1 of the following calendar year; and 2) the Agency may be dissolved upon mutual agreement of all participating jurisdictions. A participating jurisdiction may withdraw from the Agency without written notice required herein, only if agreed to by all remaining participating jurisdictions

10. REMEDIES

If a participating jurisdiction withdraws from this Agency, but fails to provide necessary notice or to obtain mutual consent of all participating jurisdictions, the parties agree that the liquidated damages for such action shall be not less than the withdrawing party's share of the Agency's annual operation costs for the next fiscal year, as determined by the Agency's Member Fee Formula. In the event any party files litigation to enforce this Agreement, or any portion thereof, the prevailing party shall be entitled to reasonable attorney fees and costs, including any fees and costs incurred in an appeal, and as determined by the appropriate court.

11. AMENDMENTS

This Agreement may only be changed, modified, or amended upon three-fourths (3/4) vote of all participating jurisdictions.

12. EFFECTIVE DATE

This Agreement shall become effective when it has been authorized by resolution of a majority of the governing bodies of the participating jurisdictions identified herein. Notwithstanding paragraph 8, Increasing Membership, those participating jurisdictions that do not enter into this Agreement prior to its effective date, may become members of the Agency upon authorization by resolution of their governing bodies, provided such authorization is enacted prior to December 1, 1990. Any jurisdiction desiring to join the Agency after December 1, 1990, may do so subject to paragraph 8, Increasing Membership.

13. PRIOR AGREEMENTS

This Agreement, upon its effective date, supersedes the previous WCCCA Intergovernmental Agreement, however, any and all prior agreements of WCCCA and/or between the participating jurisdictions regarding cooperative and coordinated efforts to provide a 9-1-1 primary public safety answering point for police, fire and emergency medical services shall remain in full force and effect until modified, terminated and/or replaced by the participating jurisdictions. The WCCCA established pursuant to this Agreement shall maintain any and all rights and responsibilities of the previous WCCCA in regard to other persons or parties.

14. SEVERABILITY

The terms of this Agreement are severable and a determination by an appropriate body having jurisdiction over the subject matter of this Agreement that results on the invalidity of any part, shall not affect the remainder of the Agreement.

15. INTERPRETATION

The terms and conditions of this Agreement shall be liberally construed in accordance with the general purposes of this Agreement.

16. EXECUTION AND COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and such counterparts together will constitute only one instrument. Any one counterpart will be sufficient for the purpose of proving the existence and terms of this Agreement, and no party will be required to produce an original or all of the counterparts in making such proof.

SUBSCRIBED TO AND ENTERED INTO by the appropriate officer (s) who is duly authorized by resolution to execute this Agreement on behalf of the governing body of the below-named unit of local government.

**SIGNATURE LINES HERE**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Banks

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Banks Fire Protection District #13

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Forest Grove

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Forest Grove Rural Fire Protection District

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Beaverton

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Cornelius

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Cornelius Rural Fire District

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Durham

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Gaston

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Gaston Rural Fire District

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Hillsboro

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of King City

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of North Plains

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Sherwood

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Tigard

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
City of Tualatin

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Tualatin Valley Fire & Rescue

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Washington County Fire District #2

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Washington County

\_\_\_\_\_  
Legal Counsel  
APPROVED AS TO FORM

## APPENDIX A

### COST ALLOCATION PLAN

Agency costs shall be allocated to the members based on factors and metrics such as, but not limited to, the ratio of population, public calls for service, and air time, as approved by the Board.

### REVIEW

The Agency shall monitor the ratio of costing factors to determine if those ratios provide equitable costs to all members. At each annual Board Retreat, the Director (or designee) shall report on the efficacy of the costing ratios.

### CHANGES TO THE COST ALLOCATION PLAN

The Director, TAC, CEO Board or Board may request a review of the costing ratios. . If a review is requested, the Agency Director may convene a member fee sub-committee. The recommendations of the sub-committee shall be presented to the TAC, CEO Board and Board of Commissioners. The Board of Commissioners may modify the costing ratios at such time as the Board establishes member fees for the upcoming fiscal year.

**AIS-1863**

**10.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 15 Minutes

**Agenda Title:** Consider a Resolution of Necessity to Acquire Easements for the Bonita Pump Station Project

**Prepared For:** Dennis Koellermeier      **Submitted By:** Judy Lawhead, Public Works

**Item Type:** Resolution      **Meeting Type:** Council Business Meeting - Main

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

**Information**

**ISSUE**

Shall the council adopt a resolution of necessity to acquire easements for pipelines and water supply equipment necessary to convey water to the new Bonita pump station?

**STAFF RECOMMENDATION / ACTION REQUEST**

Adopt the resolution.

**KEY FACTS AND INFORMATION SUMMARY**

Design of the water pipelines which will connect Tigard to the new water system improvements constructed by the Lake Oswego-Tigard Water partnership have now progressed to the point that final alignment is being confirmed and necessary easements can be identified. While the vast majority of the pipeline route is in public right of way, permanent and/or temporary easements are required from four property owners. Those easements known at this time are shown on the two exhibits accompanying the proposed resolution.

The city's standard practice is to negotiate with the property owner and purchase the easements at fair price. However, as a last resort, it is sometimes necessary to acquire 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.

In this case the city's agent will be the property team assembled by the Lake Oswego-Tigard Water Partnership.

If council adopts the resolution of necessity, the city (or the city's agent) will enter into negotiations with the property owner to obtain the required easements 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 direct staff on how to proceed in acquiring the easements. The city must obtain the easements in order to construct the project. If the city fails to acquire the easements, it is likely that Tigard's access to the new partnership water will be delayed, causing additional cost to Tigard Water Service Area (TWSA) rate payers.

## **COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

Tigard City Council - Proposed Goals and Milestones  
September 2013 - December 2014

*Lake Oswego-Tigard Water Partnership*

- *Monitor progress of construction and budget; LOTWP projects operational*

## **DATES OF PREVIOUS CONSIDERATION**

The council was briefed on this resolution of necessity in executive session on September 9, 2014.

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### **Fiscal Impact**

**Cost:** \$10,000

**Budgeted (yes or no):** Yes

**Where Budgeted (department/program):** Capital Improvement Plan project # 96018

### **Additional Fiscal Notes:**

This expenditure is included in the city's \$79-million water partnership budget for fiscal year 2014-2015.

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### **Attachments**

Resolution

Exhibits A and B to the Resolution

Vicinity Map - Four Properties Where Easements Are Required

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CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 14-

A RESOLUTION DECLARING THE NEED TO ACQUIRE PROPERTY FOR THE PURPOSE OF CONSTRUCTING WATER IMPROVEMENTS ALONG SW BONITA ROAD 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 Lake Oswego / Tigard water partnership program is an approved capital improvement project identified in the City of Tigard Capital Improvement Plan (the “Project”); and

WHEREAS, the City will be constructing this Project for the health, safety, benefit, and general welfare of the public by addressing water supply for the City; and

WHEREAS, the City needs to acquire both permanent and temporary construction easements on which to construct and maintain the Project improvements (including without limitation, buried pipelines, bore pits and related equipment); and

WHEREAS, to allow for acquisition of the properties 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 interests needed for the Project, including the exercise of eminent domain, if needed.

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

SECTION 1: The City does hereby find and declare that property located in the City of Tigard, Washington County, Oregon is immediately needed and required for the construction, operation, maintenance, repair, and improvement of the Lake Oswego / Tigard water partnership program. These properties are generally depicted in Exhibits A and B (collectively, the “Property”, “Properties” or “Property Interests”); these exhibits are incorporated herein by this reference.

SECTION 2: The City does hereby find the acquisition of the Property and Property Interests is necessary and is in the public interest, and the improvements to the Properties 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 agreements with the owners and other persons who have an interest in the Properties as to the just compensation for the Properties.

SECTION 4: In the event that satisfactory agreement cannot be reached for purchase of any Property or Property Interest, 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 the applicable Property and/or Property Interest, 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 \_\_\_\_\_ 2014.

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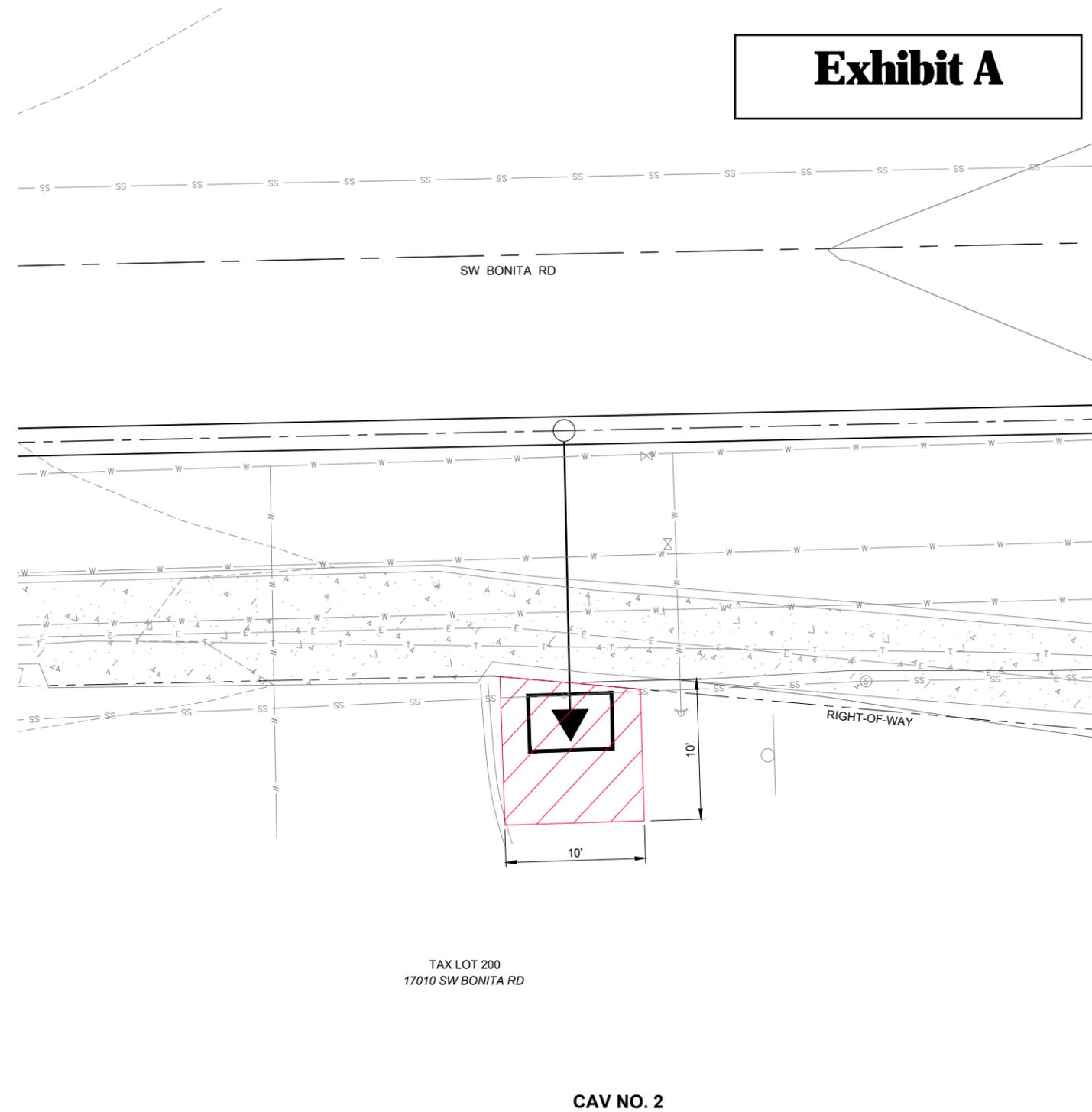
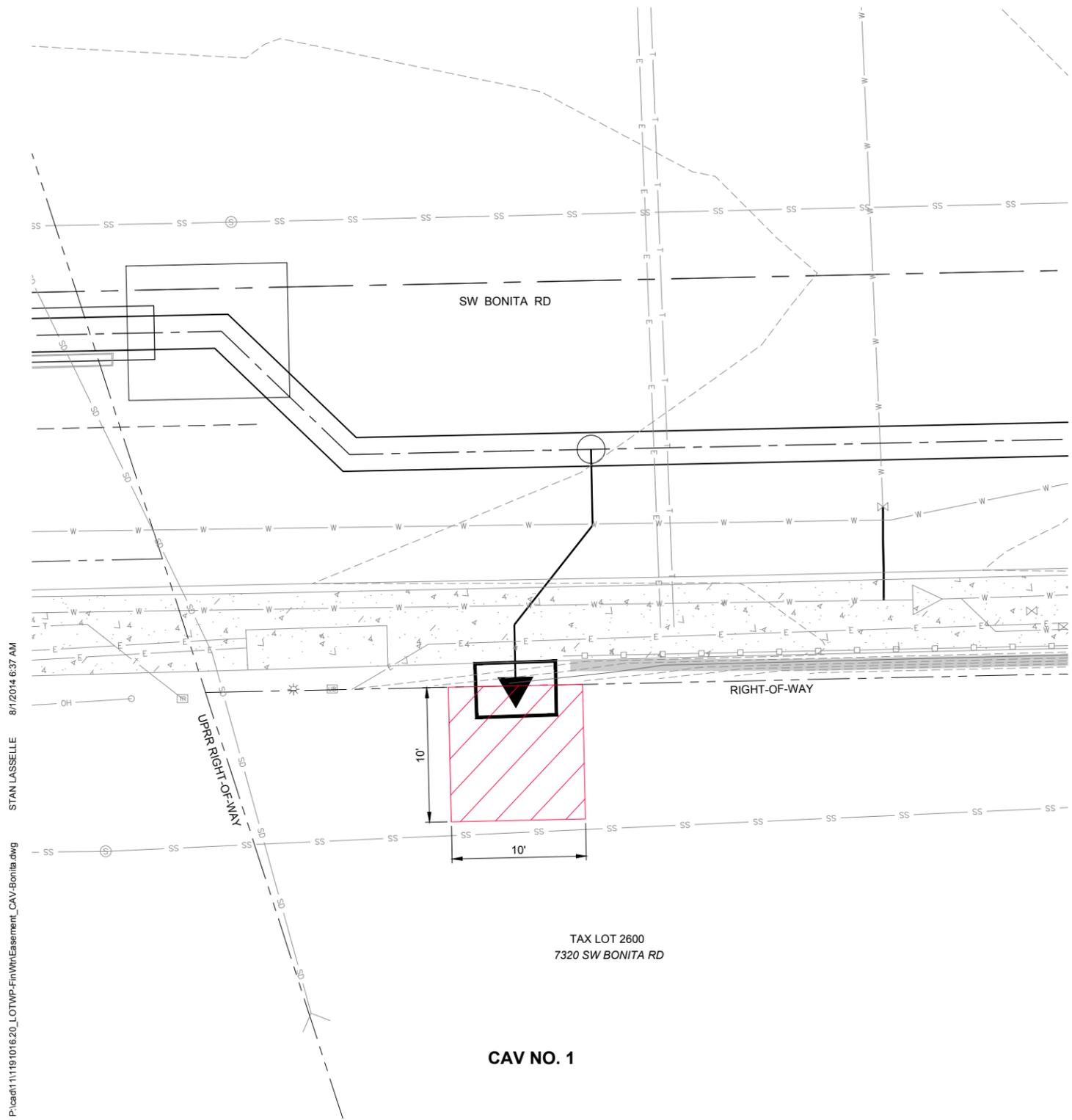
Mayor - City of Tigard

ATTEST:

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City Recorder - City of Tigard

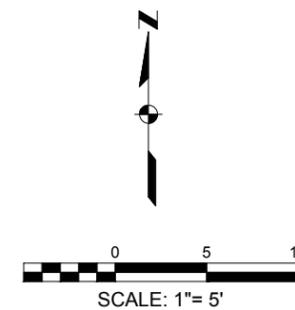
# Exhibit A



## LEGEND

-  PERMANENT EASEMENT
-  PROPERTY LINES

**Water supply equipment refers to the combination air-vacuum devices (CAVs) noted on this page.**

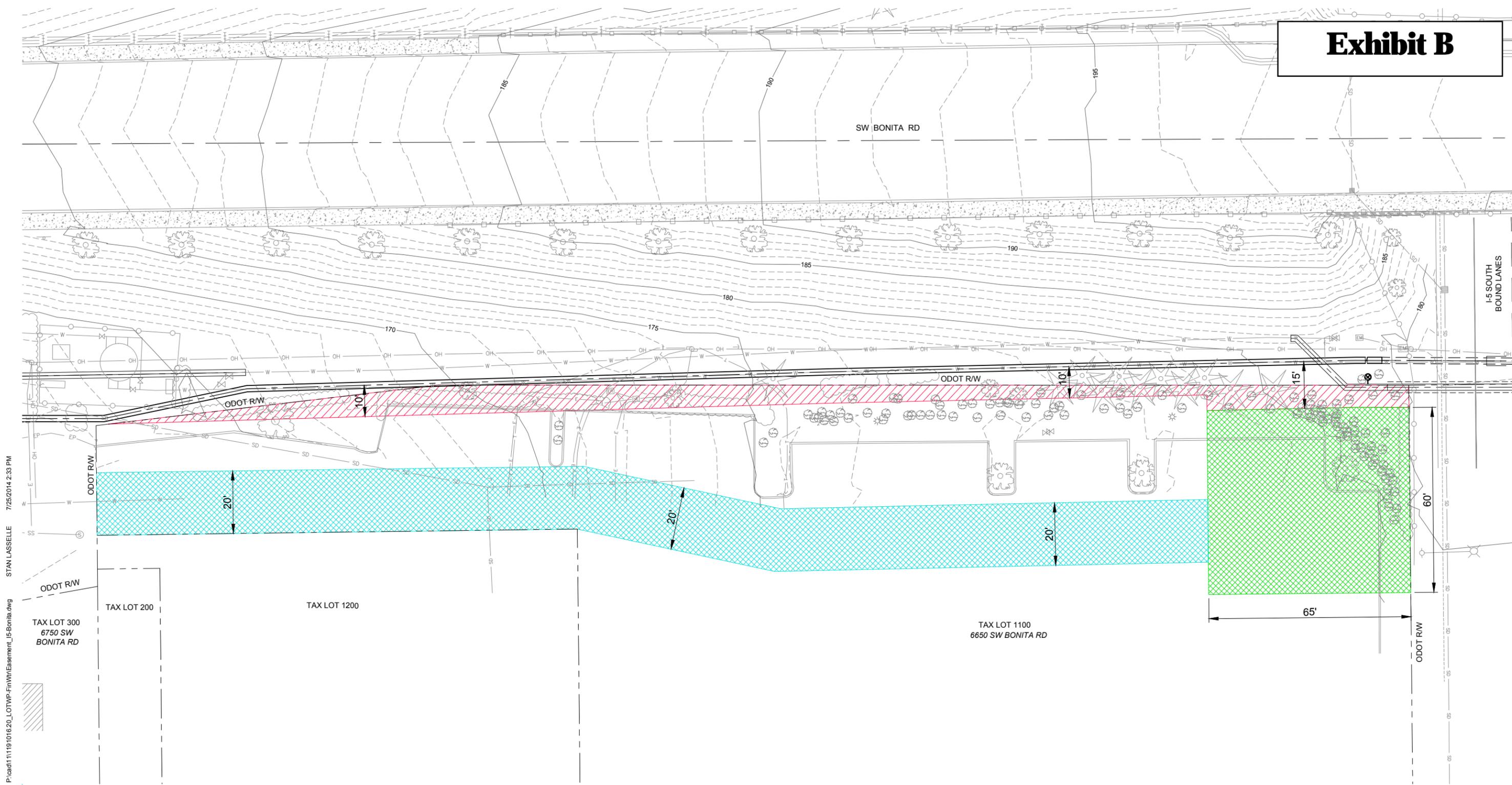


Kennedy/Jenks Consultants  
LAKE OSWEGO-TIGARD WATER PARTNERSHIP  
FINISHED WATER PIPELINE-SCEDULE 6  
LAKE OSWEGO, OREGON

CAV EASEMENTS  
SW BONITA ROAD

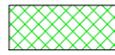
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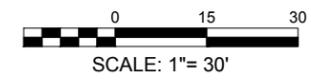
# Exhibit B



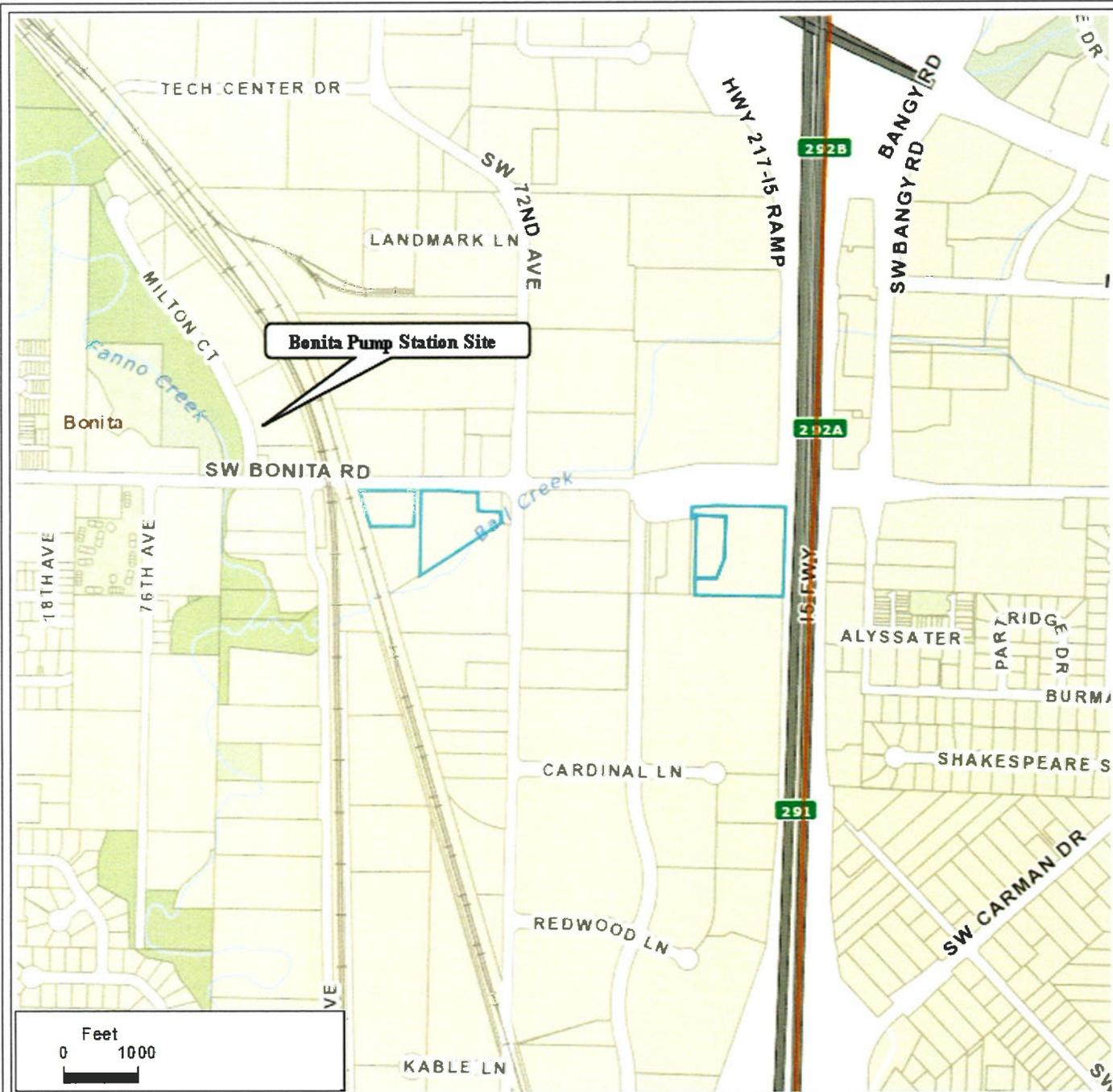
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STAN LASSELLE 7/25/2014 2:33 PM

## LEGEND

-  INGRESS AND EGRESS EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT
-  PERMANENT EASEMENT
-  PROPERTY LINES



Kennedy/Jenks Consultants  
LAKE OSWEGO-TIGARD WATER PARTNERSHIP  
FINISHED WATER PIPELINE-SCEDULE 6  
LAKE OSWEGO, OREGON  
  
PIPELINE EASEMENTS  
WEST SIDE INTERSTATE 5  
  
K/J 1191016.20



**VICINITY MAP**

**Four Properties Where Easements Are Required**

Approx. Scale 1:8,000 - 1 in = 667 ft  
 Map printed at 02:48 PM on 21-Aug-14

DATA IS DERIVED FROM MULTIPLE SOURCES. THE CITY OF TIGARD MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE CONTENT, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY OF THE DATA PROVIDED HEREIN. THE CITY OF TIGARD SHALL ASSUME NO LIABILITY FOR ANY ERRORS, OMISSIONS, OR INACCURACIES IN THE INFORMATION PROVIDED REGARDLESS OF HOW CAUSED.



**TIGARD MAPS**

City of Tigard  
 13125 SW Hall Blvd  
 Tigard, OR 97223  
 503 639-4171  
 www.tigard-or.gov

**AIS-1883**

**11.**

**Business Meeting**

**Meeting Date:** 09/09/2014

**Length (in minutes):** 25 Minutes

**Agenda Title:** Discuss Potential for Establishing Tax on the Sale of Marijuana

**Prepared For:** Toby LaFrance, Financial and Information Services

**Submitted By:** Toby LaFrance, Financial and Information Services

**Item Type:** Update, Discussion, Direct Staff      **Meeting Type:** Council  
Business Meeting - Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

Should the City of Tigard establish a tax on the sale of marijuana and marijuana-infused products?

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff seeks City Council direction regarding an ordinance establishing a tax on the sale of marijuana and marijuana-infused products. If the Council directs the consideration of such an ordinance, it would be considered by the City Council at its September 23, 2014 meeting.

**KEY FACTS AND INFORMATION SUMMARY**

**SUMMARY**

Oregon cities currently have the authority to tax the sale of marijuana and marijuana-infused products. If the City Council desires to impose a tax on marijuana, time is limited to take action due to a potential initiative on the November ballot. The last opportunity to impose the tax would be at the September 23, 2014 business meeting for a hearing and adoption. Currently the cities of Ashland, Milwaukie, Medford and Portland have considered taxation of marijuana. The ordinance that Council would consider is modeled after an ordinance considered by Ashland, Oregon. It imposes a gross receipts tax on the sale of medical marijuana, recreational marijuana (if it is legalized by Oregon voters in November) and marijuana-infused products. The ordinance imposes a lower tax rate on medical marijuana (5%) than would be imposed on recreational marijuana (10%). The ordinance applies to all state-licensed retailers of marijuana and medical marijuana, as well as all required to be licensed by the state. The ordinance allows the seller to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.

**BACKGROUND AND POLICY IMPLICATIONS**

Oregon voters legalized medical marijuana via initiative petition in 1999, after which medical marijuana dispensaries began operation. These dispensaries essentially served as intermediaries between marijuana growers and medical marijuana patients. While these dispensaries were legal, they were unregulated and the source of controversy in many communities. The 2013 Oregon Legislature passed HB 3460, which created a regulatory and licensing regimen for medical marijuana dispensaries. To date, there are 198 approved and 115 provisionally approved dispensaries in Oregon. Tigard has placed a limitation on siting medical marijuana dispensaries that will be reconsidered before May, 2015.

Oregon Ballot Measure 91 has qualified for the November, 2014 ballot regarding whether or not to enact a state law "legalizing the recreational use of marijuana, based on regulation and taxation to be determined by the Oregon Liquor Control Commission." The measure is similar to a measure approved by Washington voters in 2012. No retail marijuana outlets have opened yet in Washington.

The ordinance presented for Council consideration is a gross receipts tax on the sale of marijuana, medical marijuana and marijuana-infused products. A gross receipts tax is applied to the total gross taxable revenues of a business. It is similar to a sales tax except that it is levied on the seller rather than the purchaser. The seller is responsible for maintaining accurate records of its gross revenues from taxable goods and services and then remitting a percentage to the taxing entity. Many businesses that are subject to a gross receipts tax will show the tax on the bill of sale they present to the customer, but it is nonetheless the business that is responsible for paying it. A gross receipts tax is similar to a franchise fee, and has the administrative advantages to be easy to collect, and easy to audit. \

While no provisions in current Oregon law prohibit the City from taxing marijuana, Measure 91 contains the following language:

**SECTION 42. State has exclusive right to tax marijuana. No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items.**

Because this language does not specifically repeal a local marijuana tax in effect at the time of the measure's passage, and because this language can be interpreted to read "No county or city of this state shall [after the effective date of this measure] impose any fee or tax..." it can be argued that this language does not pre-empt city taxation. Alternatively, the language can be read as "No county or city of this state shall [be allowed at any time to] impose any fee or tax..." As such, absent adjudication in a state court, there is no guarantee that a local tax imposed prior to passage of this initiative would survive beyond the effective date of the initiative, unless this language is modified by the Legislature.

## **OTHER ALTERNATIVES**

The City Council may choose to:

- Direct staff to bring the ordinance for Council consideration at the September 23, 2014 meeting; or
- Do nothing; or
- Amend the draft ordinance for other policy considerations.

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

### **DATES OF PREVIOUS COUNCIL CONSIDERATION**

On July 22, 2014, Council received an update on the options for development code amendments regarding siting of medical marijuana dispensaries.

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### **Fiscal Impact**

#### **Fiscal Information:**

At this time, the fiscal impacts of such an ordinance are unknown. Even if the Council proceeds to consider a taxation ordinance, it would be very difficult to estimate the local fiscal impacts of taxation since the statewide measure has not been considered by voters and the siting of medical marijuana dispensaries is unlikely to be known until 2015.

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### **Attachments**

Proposed Ordinance

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS IN THE CITY OF TIGARD**

**WHEREAS**, Tigard is an Oregon home-rule municipal corporation having the authority and power under the terms of its Charter to exercise all the powers and authority that the constitution, statutes, and common law of the United States and this State expressly or impliedly grant or allow as fully as though each such powers were specifically enumerated therein; and

**WHEREAS**, except as otherwise provided, all powers of the City shall be vested in the Council; and

**WHEREAS**, the City Council wishes to exercise that power to tax the sale or transfer of marijuana and marijuana-infused products within the City.

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

**SECTION 1.** Tigard Municipal Code is amended by adding a new Chapter 3.70 Marijuana Tax, to read as follows:

**Chapter 3.70            MARIJUANA TAX**

- 3.70.010        Purpose**
- 3.70.015        Definitions**
- 3.70.020        Tax Imposed**
- 3.70.025        Amount and Payment, Deductions**
- 3.70.030        Seller Responsible for Payment of Tax**
- 3.70.035        Penalties and Interest**
- 3.70.040        Failure to Report and Remit Tax – Determination of Tax by Director**
- 3.70.045        Appeal**
- 3.70.050        Refunds**
- 3.70.055        Actions to Collect**
- 3.70.060        Violation**
- 3.70.065        Confidentiality**
- 3.70.070        Audit of Books, Records, or Persons**
- 3.70.075        Forms and Regulations**
  
- 3.70.010        Purpose**

For the purposes of this chapter, every person who sells marijuana, medical marijuana, or marijuana-infused products in the City of Tigard is exercising a taxable privilege. The purpose of this chapter is to impose a tax upon the retail sale of marijuana, medical marijuana, and marijuana-infused products.

**3.70.015 Definitions**

As used in this ordinance, unless the context requires otherwise:

1. “Director” means the Director of Finance for the City of Tigard or his/her designee.
2. “Gross Sales” means the total amount received in money, credits, property or other consideration from sales of marijuana, medical marijuana and marijuana-infused products that is subject to the tax imposed by this chapter.
3. “Marijuana” means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
4. “Oregon Medical Marijuana Program” means the office within the Oregon Health authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
5. “Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.
6. “Purchase or Sale” means the acquisition or furnishing for consideration by any person of marijuana or marijuana-infused product within the City.
7. “Registry identification cardholder” means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.
8. “Retail sale” means the transfer of goods or services in exchange for any valuable consideration.
9. “Seller” means any person who is required to be licensed or has been licensed

by the State of Oregon to provide marijuana or marijuana-infused products to purchasers for money, credit, property or other consideration.

10. "Tax" means either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

11. "Taxpayer" means any person obligated to account to the Director of Finance for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

### **3.70.020 Tax Imposed**

A tax is hereby levied and shall be paid by every seller exercising the taxable privilege of selling marijuana and marijuana-infused products as defined in this chapter. The Director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the marijuana tax.

### **3.70.025 Amount and Payment, Deductions**

1. In addition to any fees or taxes otherwise provided for by law, every seller engaged in the sale of marijuana and marijuana-infused products shall pay a tax as follows:
  - a. Five percent (5%) of the gross sale amount paid to the seller by a registry identification cardholder.
  - b. Ten percent (10%) of the gross sale amount paid to the seller of marijuana and marijuana-infused products by individuals who are not registry identification cardholders purchasing marijuana under the Oregon Medical Marijuana Program.
2. The following deductions shall be allowed against sales received by the seller providing marijuana or marijuana-infused products:
  - a. Refunds of sales actually returned to any purchaser;
  - b. Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana or marijuana-infused products and does not include any adjustments for other services furnished by a seller.

### **3.70.030 Seller Responsible for Payment of Tax**

1. Every seller will obtain a business license from the City of Tigard pursuant to TMC 5.04. The seller will indicate on the business license application whether the seller is licensed by or registered with the State of Oregon to provide marijuana or marijuana-

infused products to purchasers for money, credit, property or other consideration.

2. Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the City, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the City may establish shorter reporting periods for any seller if the seller or City deems it necessary in order to ensure collection of the tax and the City may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.
3. At the time the return is filed, the full amount of the tax collected shall be remitted to the City.
4. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to ensure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the City until payment is made to the City. A separate trust bank account is not required in order to comply with this provision.
5. Every seller required to remit the tax imposed in this chapter shall be entitled to retain five percent (5%) of all taxes due to defray the costs of bookkeeping and remittance.
6. Every seller must keep and preserve, in an accounting format established by the Director, records of all sales made by the dispensary and such other books or accounts as may be required by the Director for a period of three (3) years or until all taxes associated with the sales have been paid, whichever is longer. The City shall have the right to inspect all such records at all reasonable times.

### **3.70.035 Penalties and Interest**

1. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of ten percent (10%) of the amount of the tax, in addition to the amount of the tax.
2. If the City determines that the nonpayment of any remittance due under this chapter is

due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraphs 1 and 2 of this section.

3. In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
4. Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.
5. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Tigard General Fund to offset the costs of auditing and enforcement of this tax.

### **3.70.040 Failure to Report and Remit Tax – Determination of Tax by Director**

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in section 3.70.045. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.

### **3.70.045 Appeal**

Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the Appeals to Civil Infractions Hearings Officer in Chapter 1.17 of this code, except that the appeal shall be filed within 30 (thirty) days of the serving or mailing of the determination of tax due. The hearings officer shall hear and consider any records and evidence presented bearing upon the Director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the appellant in the manner prescribed in Chapter 1.17. Any amount found to be due shall be immediately due and payable upon the service of notice.

### **3.70.050 Refunds**

1. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the City under this

chapter, it may be refunded as provided in subparagraph 2 of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the City.

2. The Director shall have twenty (20) calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than fifteen (15) days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the fifteen (15) day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.
3. Any credit for erroneous overpayment of tax made by a seller taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a seller must be so taken or filed within three (3) years after the date on which the overpayment was made to the City.
4. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.

### **3.70.055      Actions to Collect**

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the City. Any such tax collected by a seller which has not been paid to the City shall be deemed a debt owed by the seller to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Tigard for the recovery of such amount. In lieu of filing an action for the recovery, the City of Tigard, when taxes due are more than 30 (thirty) days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Tigard has complied with the provisions set forth in ORS 697.105, in the event the City turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of fifty dollars (\$50.00) or fifty percent (50%) of the outstanding tax, penalties and interest owing.

### **3.70.060      Violation**

1. Violation of this chapter shall constitute a Class 1 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil

Infractions. It is a violation of this chapter for any seller or other person to:

- a. Fail or refuse to comply as required herein;
  - b. Fail or refuse to furnish any return required to be made;
  - c. Fail or refuse to permit inspection of records;
  - d. Fail or refuse to furnish a supplemental return or other data required by the City;
  - e. Render a false or fraudulent return or claim; or
  - f. Fail, refuse or neglect to remit the tax to the city by the due date.
2. Filing a false or fraudulent return shall be considered a Class B misdemeanor, subject to Chapter 7.28.020 of this code, Unsworn Falsification. The remedies provided by this section are not exclusive and shall not prevent the City from exercising any other remedy available under the law, nor shall the provisions of this ordinance prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

### **3.70.065 Confidentiality**

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

1. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana or marijuana-infused products are sold or provided; or
2. The disclosure of general statistics in a form which would not reveal an individual seller's financial information; or
3. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the City or an appeal from the City for amount due the City under this chapter; or
4. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
5. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six (6) months or the tax exceeds five thousand dollars (\$5,000). The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in

confidentiality under ORS 192.501(5).

### **3.70.070 Audit of Books, Records, or Persons**

1. The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the City limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director.
2. If the examinations or investigations disclose that any reports of sellers filed with the Director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the Director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
3. The seller shall reimburse the City for reasonable costs of the examination or investigation if the action disclosed that the seller paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of 1 percent per month, or the portion thereof, from the date the original tax payment was due.
4. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the City may immediately seek a subpoena from the Tigard Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts and records for examination.
5. Every seller shall keep a record in such form as may be prescribed by the City of all sales of marijuana and marijuana-infused products. The records shall at all times during the business hours of the day be subject to inspection by the City or authorized officers or agents of the Director.
6. Every seller shall maintain and keep, for a period of three (3) years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana and marijuana-infused products sold.

### **3.70.075 Forms and Regulations**

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of Ordinance No. \_\_\_\_\_

said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

1. A form of report on sales and purchases to be supplied to all vendors;
2. The records which sellers providing marijuana and marijuana-infused products are to keep concerning the tax imposed by this chapter.

**SECTION 2.** Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 3.** Savings. Notwithstanding any amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**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 September, 2014.

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Carol Krager, City Recorder

APPROVED: Approved by Tigard City Council this \_\_\_\_\_ day of September, 2014.

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John L. Cook, Mayor

Approved as to form:

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City Attorney