City *of* Tigard

Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL & CITY CENTER DEVELOPMENT AGENCY

MEETING DATE & TIME: April 14, 2015 - 6:30 p.m.

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

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

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

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

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

• Qualified sign language interpreters for persons with speech or hearing impairments; and

• Qualified bilingual interpreters.

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

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:
http://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

TIGARD CITY COUNCIL & CITY CENTER DEVELOPMENT AGENCY

MEETING DATE AND TIME: April 14, 2015 - 6:30 p.m.

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

6:30 PM

- EXECUTIVE SESSION: The Tigard City Center Development Agency 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.

1. BUSINESS MEETING **7:30 p.m. estimated time**

   A. Call to Order

   B. Roll Call

   C. Pledge of Allegiance

   D. Council Communications

   E. Call to Council and Staff for Non-Agenda Items

2. CITIZEN COMMUNICATION (Two Minutes or Less, Please) **7:35 p.m. estimated time**

   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 - City Council and Local Contract Review Board: 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: **7:45 p.m. estimated time**

A. RECEIVE AND FILE:

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

B. CONSIDER AWARDING A LEASE FOR PUBLIC WORKS BULK STORAGE SPACE

- *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. RECEIVE BASKET PRESENTATION FROM TIGARD DOWNTOWN ALLIANCE **7:50 p.m. estimated time**

5. PROCLAIM THE MONTH OF APRIL AS ARBOR MONTH **7:55 p.m. estimated time**

6. RECEIVE ANNUAL ARBOR DAY REPORT AND RECOGNIZE CITY OF TIGARD'S ACTIVITIES AND ACCOMPLISHMENTS IN URBAN FORESTRY **8:00 p.m. estimated time**

7. CONTINUATION OF MARCH 10, 2015, LEGISLATIVE PUBLIC HEARING ON MARIJUANA FACILITIES DEVELOPMENT CODE AMENDMENT **8:10 p.m. estimated time**

8. COUNCIL CONSIDERATION OF AMENDMENT #2 TO THE CITY CENTER URBAN RENEWAL PLAN **8:40 p.m. estimated time**

9. CITY CENTER DEVELOPMENT AGENCY

   CCDA BOARD CONSIDERATION OF AMENDMENT #2 TO THE CITY CENTER URBAN RENEWAL PLAN **8:45 p.m. estimated time**

10. CCDA CONSIDERATION OF RESOLUTION APPROVING PROPERTY DEVELOPMENT AGREEMENT **8:50 p.m. estimated time**

11. RECEIVE UPDATE FROM OTHER AGENCIES ON WILLAMETTE WATER SUPPLY PIPELINE PROJECT **9:05 p.m. estimated time**

12. NON AGENDA ITEMS **9:25 p.m. estimated time**

13. ADJOURNMENT **9:30 p.m. estimated time**

AIS-2212 **3. A.**

Business Meeting

Meeting Date: 04/14/2015

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:**

Information

ISSUE

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

STAFF RECOMMENDATION / ACTION REQUEST

No action is requested; these are 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

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A - Receive and File Items

Attachments

Three-month Council Meeting Calendar

Tentative Agenda

M E M O R A N D U M

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

FROM: Carol A. Krager, City Recorder

RE: Three-Month Council/CCDA Meeting Calendar

DATE: April 7, 2015

April

7	Tuesday	City Center Development Agency Meeting – CANCELLED
14*	Tuesday	Council Business/CCDA Meeting – 6:30 p.m., Town Hall
20	Monday	Budget Committee Meeting– 6:30 p.m., Public Works Auditorium
21*	Tuesday	Council Workshop/Business Meeting – 6:30 p.m., Town Hall
27	Monday	Budget Committee Meeting– 6:30 p.m., Public Works Auditorium
28*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall

May

4	Monday	Budget Committee Meeting– 6:30 p.m., Public Works Auditorium
5	Tuesday	City Center Development Agency Meeting – 6:30 p.m., Town Hall
11	Monday	Budget Committee Meeting– 6:30 p.m., Public Works Auditorium
12*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
19*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
26*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall

June

2	Tuesday	City Center Development Agency Meeting – 6:30 p.m., Town Hall
9*	Tuesday	Council Business/CCDA 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

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

i:\adm\city council\council calendar\3-month calendar word format.doc

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

City Council Tentative Agenda
4/6/2015 2:29 PM - Updated

Form #	Meeting Date	Submitted By	Meeting Type	----------Title----------	Department	Inbox or Finalized
2016	04/14/2015	Carol Krager	AAA	April 14, 2015 Business and CCDA Meeting **NO STUDY SESSION**		
				60 Minutes - Executive Session CCDA – Real Property Negotiations		
2212	04/14/2015	Carol Krager	CCBSNS	Consent Item - Receive and File: Council Calendar and Council Tentative Agenda	City Management	04/01/2015
2213	04/14/2015	Joseph Barrett	CCBSNS	Consent Item - Lease Award - 8200 SW Hunziker Road	Financial and Information Services	MartyW, City Manager
2203	04/14/2015	Lloyd Purdy	CCBSNS	5 Minutes - Tigard Downtown Alliance: Basket Presentation	Community Development	03/30/2015
2175	04/14/2015	Joanne Bengtson	CCBSNS	5 Minutes - Proclaim April as Arbor Month	City Management	03/09/2015
2184	04/14/2015	Marissa Grass	CCBSNS	10 Minutes - Annual Arbor Day report and recognition of the City of Tigard's activities and accomplishments in urban forestry.	Community Development	MartyW, City Manager
2007	04/14/2015	John Floyd	CCBSNS	30 Minutes - Marijuana Facilities Development Code Amendment - Continuance Date	Community Development	Floyd J, Associate Planner
2190	04/14/2015	Carol Krager	CCBSNS	5 Minutes - Council Consideration of Amendment #2 to the City Center Urban Renewal Plan	Community Development	03/30/2015
2185	04/14/2015	Sean Farrelly	CCBSNS	10 Minutes - CCDA Board Consideration of Amendment #2 to the City Center Urban Renewal Plan	Community Development	MartyW, City Manager
2154	04/14/2015	Sean Farrelly	CCBSNS	15 Minutes - CCDA Property Development Agreement	Community Development	MartyW, City Manager

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

City Council Tentative Agenda
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2060	04/14/2015	John Goodrich	CCBSNS	20 Minutes - Update on Willamette Water Supply Pipeline Project - by Other Agencies	Public Works	MartyW, City Manager
			Total Time: 100 of 100 Minutes Scheduled MEETING FULL			
				April 20, 2015 Budget Committee Meeting, 6:30 pm Public Works Auditorium		
2017	04/21/2015	Norma Alley	AAA	April 21, 2015 Workshop and Business Meeting		
2104	04/21/2015	Alison Grimes	CCWKSHOP	30 Minutes - Annual Joint Meeting with the Library Board	Library	02/03/2015
2188	04/21/2015	John Floyd	CCWKSHOP	60 Minutes - Legislative Hearing: Marijuana Regulations	Community Development	Floyd J, Associate Planner
2057	04/21/2015	Judy Lawhead	CCWKSHOP	10 Minutes - Briefing on an Agreement Regarding Revised Funding for the Pacific Highway/Gaarde Street/McDonald Street Intersection Improvements	Public Works	Rager B, PW Director
2145	04/21/2015	Steve Martin	CCWKSHOP	10 Minutes - Briefing on a Property Use Agreement with the Tigard Tualatin School District	Public Works	Rager B, PW Director
2098	04/21/2015	Norma Alley	CCWKSHOP	30 Minutes - Discussion on Possible Ballot Measures	City Management	Newton L, Assistant City Manager
			Total Time: 140 of 180 Minutes Scheduled			
				April 27, 2015 Budget Committee Meeting, 6:30 pm Public Works Auditorium **Mayor Cook Absent**		
2018	04/28/2015	Norma Alley	AAA	April 28, 2015 Business Meeting **Mayor Cook Absent**		

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

City Council Tentative Agenda
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2054	04/28/2015	Norma Alley	ACCSTUDY	15 Minutes - Council Liaison Reports	City Management	12/16/2014
2112	04/28/2015	Norma Alley	ACCSTUDY	15 Minutes - Review Solid Waste Franchise Fee Audit and Potential TMC Changes	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
			Total Time: 30 of 45 Minutes Scheduled			
2058	04/28/2015	Judy Lawhead	ACONSENT	Consent Item - Authorize the City Manager to Sign an Agreement Regarding Revised Funding for the Pacific Highway/Gaarde St./McDonald St. Intersection Improvements	Public Works	Gaston G, Conf Executive Asst
2146	04/28/2015	Steve Martin	ACONSENT	Consent Item - Authorize the City Manager to sign an agreement with the Tigard Tualatin School District regarding joint use of property	Public Works	Gaston G, Conf Executive Asst
2147	04/28/2015	Steve Martin	ACONSENT	Consent Item - Authorize the City Manager to Sign a Property Purchase Agreement	Public Works	Martin S, Parks Manager
2179	04/28/2015	Dana Bennett	CCBSNS	10 Minutes - HEAL City Campaign	City Management	Bennett, D, HR Director
2000	04/28/2015	Debbie Smith-Wagar	CCBSNS	40 Minutes - Legislative Public Hearing on Storm water, Parks, and Transportation SDCs and fees	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
1889	04/28/2015	Judy Lawhead	CCBSNS	15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	Faha L, City Engineer
2215	04/28/2015	Joseph Barrett	CCBSNS	30 Minutes - Upcoming Contract Discussion – Downtown Entryway Monuments	Financial and Information Services	Barrett J, Sr Mgmt Analyst - Finance

Meeting Banner		Business Meeting	
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City Council Tentative Agenda
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2202	04/28/2015	Norma Alley	CCBSNS	10 Minutes - Placeholder - Executive Session: ORS 192.660(2)(h) Litigation or Litigation Likely to Happen	City Management	03/24/2015
			Total Time: 105 of 100 Minutes Scheduled MEETING OVERSCHEDULED			
				May 4, 2015 Budget Committee Meeting, 6:30 pm Public Works Auditorium		
2019	05/05/2015	Norma Alley	AAA	May 5, 2015 CCDA Meeting		
2182	05/05/2015	Norma Alley	CCDA	0 Minutes - APPROVE CITY CENTER DEVELOPMENT AGENCY MINUTES	City Management	03/10/2015
2118	05/05/2015	Sean Farrelly	CCDA	15 Minutes - Strolling Street Program Update	Community Development	Farrelly S, Redev. Proj. Mrg.
2122	05/05/2015	Sean Farrelly	CCDA	30 Minutes - Housing Design Presentation	Community Development	Farrelly S, Redev. Proj. Mrg.
2197	05/05/2015	Sean Farrelly	CCDA	10 Minutes - Prospective Purchaser Agreement	Community Development	Farrelly S, Redev. Proj. Mrg.
2118	05/05/2015	Sean Farrelly	CCDA	15 Minutes - Strolling Street Program Update	Community Development	Farrelly S, Redev. Proj. Mrg.
2117	05/05/2015	Sean Farrelly	CCDA	20 Minutes - Brownfield Initiative Update	Community Development	Farrelly S, Redev. Proj. Mrg.
2119	05/05/2015	Sean Farrelly	CCDA	10 Minutes - Update on Downtown Dog Park	Community Development	Farrelly S, Redev. Proj. Mrg.
			Total Time: 85 of 180 Minutes Scheduled			

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

City Council Tentative Agenda
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				May 11, 2015 Budget Committee Meeting, 6:30 pm Public Works Auditorium		
2023	05/12/2015	Norma Alley	AAA	May 12, 2015 Business Meeting		
2063	05/12/2015	Norma Alley	ACCSTUDY	15 Minutes - Council Liaison Reports	City Management	12/22/2014
2180	05/12/2015	Joseph Barrett	ACCSTUDY	20 Minutes - Potential Contract Discussion - Pavement Management Program Overlay Construction	Financial and Information Services	Barrett J, Sr Mgmt Analyst - Finance
1820	05/12/2015	Carissa Collins	ACCSTUDY	10 Minutes - Adopt Citywide Master Fees and Charges Schedule	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
			Total Time: 45 of 45 Minutes Scheduled MEETING FULL			
2178	05/12/2015	Joanne Bengtson	CCBSNS	10 Minutes - Award "If I Were Mayor" Contest Winners	City Management	Bengtson J, Exec Asst to City Mgr
2200	05/12/2015	Norma Alley	CCBSNS	30 Minutes - Continued Discussion on Charter Review	City Management	Newton L, Asst. City Mgr.
2198	05/12/2015	Carissa Collins	CCBSNS	10 Minutes - FY 2015 Third Quarter Budget Amendment	Financial and Information Services	Collins C, Sr Mgmt Analyst (Fin Adm)
2214	05/12/2015	Norma Alley	CCBSNS	60 Minutes - PLACEHOLDER - Briefing on the YMCA Study	City Management	MartyW, City Manager

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City Council Tentative Agenda
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			Total Time: 110 of 100 Minutes Scheduled MEETING OVERSCHEDULED			
2020	05/19/2015	Norma Alley	AAA	May 19, 2015 Workshop Meeting		
2193	05/19/2015	Mike Lueck	CCWKSHOP	1 60 Minutes - New Emergency Operations Plan Review	Public Works	Rager B, PW Director
2186	05/19/2015	Mark Bernard	CCWKSHOP	2 15 Minutes - Briefing on an IGA with Metro to Accept and Manage a Regional Travel Options Grant Award for Safe Routes to School Programming	Community Development	Bernard, Mark Temp Assoc. Transp Pl
2099	05/19/2015	Norma Alley	CCWKSHOP	3 40 Minutes - Discussion on the Strategic Plan	City Management	Wyatt K, Management Analyst
2196	05/19/2015	Tom McGuire	CCWKSHOP	4 15 Minutes - Briefing on Results of the Strategic Plan Code Audit	Community Development	McGuire, T, Asst CD Director
2201	05/19/2015	Norma Alley	CCWKSHOP	5 50 Minutes - Continued Discussion on Street Maintenance Fee	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
			Total Time: 180 of 180 Minutes Scheduled MEETING FULL			
2021	05/26/2015	Norma Alley	AAA	May 26, 2015 Business Meeting		
2064	05/26/2015	Norma Alley	ACCSTUDY	15 Minutes - Council Liaison Reports	City Management	12/22/2014
2208	05/26/2015	Judy Lawhead	ACCSTUDY	10 Minutes - Executive Session Real Property Negotiations	Public Works	03/31/2015
			Total Time: 25 of 45 Minutes Scheduled			

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Study Session		Special Meeting	
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Workshop Meeting		CCDA Meeting	

City Council Tentative Agenda
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2181	05/26/2015	Joseph Barrett	CCBSNS	1 10 Minutes - Contract Award - Construction of Pavement Overlay Project of the Pavement Management Program	Financial and Information Services	Barrett J, Sr Mgmt Analyst - Finance
2210	05/26/2015	Joseph Barrett	CCBSNS	2 10 Minutes - Contract Award - Pavement Management Program - Crack Sealing Project	Financial and Information Services	Barrett J, Sr Mgmt Analyst - Finance
2216	05/26/2015	Joseph Barrett	CCBSNS	3 15 Minutes - Contract Award - Downtown Entryway Monument Construction	Financial and Information Services	Barrett J, Sr Mgmt Analyst - Finance
2113	05/26/2015	Norma Alley	CCBSNS	4 20 Minutes - Adopt Solid Waste Franchise Rates and TMC Changes	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
2191	05/26/2015	Louis Sears	CCBSNS	5 20 Minutes - Comcast Cable Franchise Agreement Renewal	Financial and Information Services	Sears L, IT Network Admin
1758	05/26/2015	Carol Krager	CCBSNS	15 Minutes - PLACEHOLDER - Google Franchise Agreement	City Management	Mills L, Asst to City Manager
			Total Time: 90 of 100 Minutes Scheduled			
2022	06/02/2015	Norma Alley	AAA	June 2, 2015 CCDA **Meeting City Manager Wine Absent**		
2120	06/02/2015	Sean Farrelly	CCDA	30 Minutes - Meeting with Tigard Downtown Alliance Board of Directors	Community Development	Farrelly S, Redev. Proj. Mrg.
2121	06/02/2015	Sean Farrelly	CCDA	25 Minutes - Downtown Events and Programming – Assessment and Future Options	Community Development	Farrelly S, Redev. Proj. Mrg.

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City Council Tentative Agenda
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2123	06/02/2015	Sean Farrelly	CCDA	20 Minutes - Downtown Parking Plan Update	Community Development	Farrelly S, Redev. Proj. Mrg.
2124	06/02/2015	Sean Farrelly	CCDA	20 Minutes - Fanno Creek Remeander Presentation	Community Development	Farrelly S, Redev. Proj. Mrg.
2125	06/02/2015	Sean Farrelly	CCDA	15 Minutes - Fanno Creek Overlook Update	Community Development	Farrelly S, Redev. Proj. Mrg.
2089	06/02/2015	Sean Farrelly	CCDA	20 Minutes - Update on Prospective Property Purchase Agreement and Future of Site	Community Development	Farrelly S, Redev. Proj. Mgr. Mgr.
			Total Time: 130 of 180 Minutes Scheduled			
2024	06/09/2015	Norma Alley	AAA	June 9, 2015 Business and CCDA Meeting		
2065	06/09/2015	Norma Alley	ACCSTUDY	15 Minutes - Council Liaison Reports	City Management	12/22/2014
			Total Time: 15 of 45 Minutes Scheduled			
2176	06/09/2015	Loreen Mills	ACONSENT	Consent Item - Approve Tigard Senior Center Lease Renewal 2015-2020	City Management	Mills L, Asst to City Manager
2187	06/09/2015	Mark Bernard	ACONSENT	Consent Item - Approve an IGA with Metro to Accept and Manage a RTO Grant Award for Safe Routes to School Programming and Authorize the City Manager to Sign It	Community Development	Bernard, Mark Temp Assoc. Transp Pl
2209	06/09/2015	Judy Lawhead	ACONSENT	Consent Item - Adopt a Resolution of Necessity to Acquire Property	Public Works	McMillan K, Engineering Manager

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City Council Tentative Agenda
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1888	06/09/2015	Judy Lawhead	CCBSNS	1 15 Minutes - Briefing on Capital Improvement Plan (CIP) Projects	Public Works	Faha L, City Engineer
2204	06/09/2015	Liz Lutz	CCBSNS	2 5 Minutes - Resolution Certifying that the City of Tigard Provides Services Qualifying for State-Shared Revenues	Financial and Information Services	LaFrance T, Fin/Info Svcs Director
2205	06/09/2015	Liz Lutz	CCBSNS	3 5 Minutes - Resolution Declaring the City's Election to Receive State Revenue Sharing	Financial and Information Services	Lutz L, Conf Exec Asst
2206	06/09/2015	Liz Lutz	CCBSNS	4 10 Minutes - Adopt Citywide Master Fees and Charges Schedule Replacing Resolution 14-31 and Subsequent Amendments and Resolution	Financial and Information Services	Lutz L, Conf Exec Asst
2207	06/09/2015	Liz Lutz	CCBSNS	5 15 Minutes - Public Hearing-Adopting the Budget, Making Appropriations, Declaring the Ad Valorem Tax Levy and Classifying the Levy as Provided	Financial and Information Services	Lutz L, Conf Exec Asst
2211	06/09/2015	Liz Lutz	CCDA	6 10 Minutes - Adopt CCDA FY 2016 Budget with Adjustments, Make Appropriations, and Impose and Categorize Taxes-Resolution	Financial and Information Services	Lutz L, Conf Exec Asst
			Total Time: 60 of 100 Minutes Scheduled			
2025	06/16/2015	Norma Alley	AAA	June 16, 2015 Workshop Meeting		
2086	06/16/2015	Tom McGuire	CCWKSHOP	40 Minutes - Joint Meeting with the Planning Commission to Receive a Briefing on the Tigard Triangle	Community Development	Caines C, Assoc Planner
2110	06/16/2015	Norma Alley	CCWKSHOP	45 Minutes - Discussion on Homelessness and Panhandling	City Management	Newton L, Assistant City Manager
			Total Time: 85 of 180 Minutes Scheduled			

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City Council Tentative Agenda
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2026	06/23/2015	Norma Alley	AAA	June 23, 2015 Business Meeting		
2066	06/23/2015	Norma Alley	ACCSTUDY	15 Minutes - Council Liaison Reports	City Management	12/22/2014
2166	06/23/2015	Lloyd Purdy	ACCSTUDY	20 Minutes - Quarterly Economic Development Update	Community Development	Purdy, L, Econ Dev. Mgr.
			Total Time: 35 Minutes Scheduled			
			June 30, 2015 5x1x10 Council Meetings			

AIS-2213 **3. B.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	Consent Item		
Agenda Title:	Lease Award - 8200 SW Hunziker Road		
Prepared For:	Joseph Barrett		
Submitted By:	Joseph Barrett, Financial and Information Services		
Item Type:	Motion Requested	**Meeting Type:**	Consent Agenda - LCRB
Public Hearing Newspaper Legal Ad Required?:	No		
Public Hearing Publication Date in Newspaper:			

Information

ISSUE

Shall the Local Contract Review Board authorize a lease agreement for the property located at 8200 SW Hunziker Road for use as a bulk storage site for the Public Works Department?

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the Local Contract Review Board authorize the lease agreement for the property at 8200 SW Hunziker Road for an amount not exceeding $137,448 over the possible five-year term and direct the City Manager to carry out the necessary steps to fully execute the lease.

KEY FACTS AND INFORMATION SUMMARY

Three divisions within the Public Works Department need to relocate as part of the city's urban renewal efforts. Council authorized a lease for property located at 8955 SW Burnham Street on October 28, 2014. This site is approximately half the size of the existing Ash Avenue facility. At that time, staff notified council that additional space would likely be required to accommodate the needs of the three displaced divisions.

Staff reviewed various options regarding additional space requirements. Outdoor storage of bulk materials and equipment emerged as the challenge. The bulk items, such as gravel, sand, rock and demolished materials to be recycled, are currently stored in portable concrete bunkers. Staff proposes to lease a 15,000-square-foot open storage site at 8200 SW Hunziker Street and move the bunkers and materials to that location. Moving bulk materials to a centralized location would help provide more vehicle and equipment parking at existing properties.

The Hunziker Street site is a fenced industrial area with a level concrete pad and security gate system that allows 24-hour/7-day access. The terms of the lease are for one year with four additional one-year options. The rent for this location is 15 cents per square foot, or $2,250 per month during the first two possible years. There is a three percent increase to $2,318/month in possible years 3-5. The total possible five year cost of the lease is $137,448. There are no utilities or structures associated with the proposed lease. The lease may be terminated by either party with a 90-day notice. A copy of the lease is attached for review. Relocation of the three Public Works division has began and approval of this lease tonight is a significant cog in the relocation wheel.

OTHER ALTERNATIVES

The Local Contract Review Board may direct staff to forego additional space or to pursue other options regarding space for personnel, equipment and materials.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

The City Council was briefed on this lease at their February 24, 2015 Study Session. Additional information, including a copy of the proposed lease was included in the April 2, 2015 Council Newsletter.

Fiscal Impact

Cost: $137,448

Budgeted (yes or no): No

Where budgeted?: Multiple Divisions

Additional Fiscal Notes:

The cost to lease the storage site is $2,250 per month, or $27,000 annually in the first two years. In possible years 3-5 the cost increases 3% to $ 2,318/month or $27,816/annually. The total five year cost of the lease is $137,448.

The site will be utilized by four divisions: water, sewer, stormwater, and streets. Cost shares will be allocated evenly at 25-percent per division, or $6,750 per year per division in years one and two and $6,954 in years three, four, and five. There are no utility costs and no tenant improvements other than setting up the concrete block bunkers to hold bulk storage items.

If the lease is approved, each division has sufficient budget for the 2-3 months of lease payments in fiscal year 2014-2015 costs. Lease payments in future years will be included in each division's budget and will be an additional cost over the current base budget amounts.

Attachments

Hunziker Commerical Lease

COMMERCIAL LEASE

PARTIES: Smith Gerig Western Properties, L.L.C. ("Landlord")
PO Box 930
Wilsonville OR 97070

City of Tigard ("Tenant")
Public Works Department
13125 SW Hall Blvd
Tigard OR 97223

DATE: April 1, 2015

RECITALS

A. Landlord is the owner of the real property located at 8200 SW Hunziker Street, Tigard, OR 97223. A portion of such real property consists of Fifteen Thousand (15,000) square feet of outdoor storage space on a concrete pad within a locked and security fenced site at the real property location ("Premises" as noted in Exhibit A). There are no buildings or shelter, nor any utility services provided or associated with the Premises.

B. Landlord desires to lease the Premises to Tenant, and Tenant desires to lease the Premises from Landlord and utilize the Premises, on the terms and conditions set forth in this Commercial Lease (the "Lease").

NOW THEREFORE, in consideration of the mutual covenants herein, the parties hereto agree as follows:

AGREEMENT

1. Property Leased. Effective on the date set forth above, Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord, on the terms and conditions set forth in this Lease.

2. Term.

2.1 The term of this Lease is for a period of one (1) year, commencing on April 1, 2015 ("Commencement Date") and ending at 11:59 p.m. on March 31, 2016 ("Expiration Date"), unless sooner terminated or extended as provided in this Lease.

2.2 Tenant shall have the option to extend the Lease for up to four (4) consecutive one (1) year periods. If Tenant wishes to exercise its option to extend the Lease, Tenant must notify Landlord at least ninety (90) days prior to the expiration date of each term. Landlord shall have the right to refuse to accept Tenant's exercise of the option to extend the Lease. Landlord shall exercise such right by giving Tenant written notice of such refusal within ten (10) business days of the date of Tenant's notice exercising the extension option. Landlord's failure to provide Tenant with such refusal notice within the time period set forth in this section shall constitute Landlord's agreement to the Lease extension.

3. Rent.

3.1 During the Lease term and the first extension term (if Tenant exercises its option to extend the Lease for the first extension term), Tenant shall pay Landlord monthly rent for the Premises in the amount of Two Thousand Two Hundred Fifty Dollars ($2,250.00). If Tenant extends the term of the Lease for a second, third, and/or fourth term as provided herein, effective April 1, 2017, monthly rent shall increase by three percent (3%) to Two Thousand Three Hundred Eighteen Dollars ($2,318.00) per month during each such extension term through March 31, 2020.

3.2 Rent shall be payable in monthly installments in advance on the first day of each and every calendar month during the term of this Lease. Rent payments shall be delinquent if not paid within ten (10) days after written notice of nonpayment from Landlord to Tenant. Tenant is responsible for payment without notice or invoice from Landlord.

3.3 On the Commencement Date, Tenant shall deliver to Landlord the amount of Two Thousand Two Hundred Fifty Dollars ($2,250.00) as rent, to be applied to rent due for the first month of the Lease term.

4. Security. There is no security deposit except as stated in Section 5.1.

5. Condition of Premises. Landlord represents and warrants to Tenant that the Premises are in good order, condition, and repair as of the Commencement Date. Notwithstanding any other term of this Lease, if such representation and warranty is inaccurate, Landlord, at its sole cost and expense, shall repair and replace any part of the Premises or its systems that was not in good order, condition, or repair on the Commencement Date. Tenant acknowledges that no tenant improvements, replacements, or upgrades for Tenant's benefit are provided for under this Lease or shall be made to the Premises by Landlord, unless agreed to in writing by Landlord and Tenant.

5.1 Landlord will provide Tenant with ten (10) gate entry devices as a part of this Lease. Tenant will return all gate entry devices to Landlord at the expiration or earlier termination of the Lease. If Tenant requires additional gate entry devices, Landlord shall charge Tenant an additional gate entry device deposit in an amount not to exceed Thirty-Five Dollars ($35.00) for each additional gate entry device. All gate entry devices are the sole property of Landlord, and are provided for the use of Tenant. On the Commencement Date, Tenant will deposit with Landlord Three Hundred Fifty Dollars ($350.00) as a gate entry device deposit. On the expiration or earlier termination of the Lease, Tenant shall return the gate entry devices to Landlord and Landlord will refund the gate entry device deposit and any additional deposits fully upon the return of all gate entry devices issued to Tenant. Gate entry devices not returned by Tenant will be charged to Tenant by the amount as stated.

6. Use of Premises.

6.1 Tenant shall use the Premises during the term of this Lease for City of Tigard Public Works Department use as outdoor storage space for materials and equipment, and all activities incidental to such use and for no other purpose without Landlord's prior written consent.

6.2 In connection with the use of the Premises, Tenant shall:

6.2.1 Comply with all applicable laws and regulations affecting the Premises and Tenant's use of the Premises, and correct, at Tenant's own expense, any failure of compliance created solely through Tenant's fault or by reason of Tenant's particular use; provided, however, Tenant shall not be required to make any structural changes to effect such compliance.

6.2.2 Refrain from any activity that would make it impossible to insure the Premises against casualty or would substantially increase the insurance rates over the insurance rate as of the Commencement Date.

7. Utilities. There are no utilities provided to the Premises by Landlord.

8. Repairs and Improvements.

8.1 During the term of this Lease, Landlord, at Landlord's sole cost and expense, shall (a) repair, maintain, and replace, as necessary, the security fencing and automated gate lock system of the Premises and (b) keep clear all ingress and egress to the Tenant space. Landlord is not obligated to repair or replace any such items damaged by Tenant or its employees, agents, contractors, or invitees, which damage shall be repaired or replaced by Tenant at Tenant's sole cost and expense. Tenant shall have ninety (90) days after written notice from Landlord to make any repairs or replacements required to be made by Tenant under this section. Any such repairs or replacements shall return the Premises to satisfactory condition based on the condition of the Premises prior to the need for repair or replacement, as mutually agreed upon my Landlord and Tenant. Except as provided in this Section 8.1, Tenant has no obligation for repair or maintenance of the Premises or replacement of any items located on the Premises.

8.2 Tenant shall not make any alterations, additions, or improvements to the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld. All alternations, additions, or improvements made by Tenant shall comply with applicable laws in effect at the time they are made, the terms of this Lease, and any plans and specifications approved by Landlord. Any alterations, additions, or improvements to or upon the Premises, whether installed by Landlord or Tenant, shall be and remain as part of the Premises at the expiration or earlier termination of this Lease; provided, however, that on the expiration or earlier termination of the Lease and upon demand by Landlord, Tenant shall, at Tenant's sole cost and expense, remove only those alterations, additions, or improvements made by or for the account of Tenant, that are designated by Landlord in its consent to the alterations, additions, or improvements to be removed, and repair and restore the Premises to their original condition, subject to ordinary wear and tear.

8.3 Landlord reserves, and at any and all times shall have, the right to repair or maintain the Premises. Landlord's representatives and contractors for that purpose may enter in or about the Premises on not less than forty-eight (48) hours' prior written notice to Tenant, with such materials as Landlord may deem necessary therefor, provided that entrance to the Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably.

9. Landlord's Right of Entry. On forty-eight (48) hours' prior written notice and during normal business hours (except in an emergency in which event, no notice is required) Landlord and Landlord's agents and representatives shall have the right to enter into or upon the Premises for the purpose of examining the condition of the Premises or for any other lawful purpose. Landlord or Landlord's agents must be accompanied by a representative of Tenant each time Landlord or Landlord's agents enter the Premises.

10. Right of Assignment. Tenant shall not assign or transfer this Lease, or any interest herein, or permit any other person or entity to occupy the Premises, without the prior written consent of Landlord, which shall not be unreasonably withheld. No assignment or sublease, or consent thereto by Landlord, shall relieve Tenant, either wholly or partially, from its obligations under this Lease, unless agreed to in writing by Landlord.

11. Liens. Tenant shall defend, indemnify, and hold Landlord harmless from and against any and all mechanics and other liens and encumbrances filed in connection with any work, labor, services, or materials done for or supplied to Tenant in or about the Premises. Tenant, at its expense, shall procure the satisfaction or discharge of record of all such liens and encumbrances of record within thirty (30) days after the filing thereof; provided, Tenant may contest, in good faith and at its own expense, any lien, provided Tenant posts for the protection of Landlord security in an amount and form acceptable to Landlord or bonds around the lien as provided by law.

12. Indemnity.

12.1 Except if caused in whole or in part by the negligence or willful misconduct of Landlord or its shareholders, officers, directors, employees, agents, or representatives, within the limits of the Oregon Tort Claims Act, Tenant shall defend (with counsel reasonably acceptable to Landlord), indemnify, and hold Landlord harmless from and against all liabilities, damages, claims, losses, judgments, charges, and expenses (including reasonable attorney fees and costs) arising from or in any way related to (a) the use of the Premises by Tenant or its agents, employees, and invitees, (b) the conduct of Tenant's business on the Premises, (c) any activity, work, or thing done or permitted by Tenant in or about the Premises, and/or (d) Tenant's failure to perform any covenant or obligation of Tenant under this Lease. Tenant's agreement to indemnify Landlord pursuant to this Section 12.1 is not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant under this Lease. The obligations of Tenant in this section shall survive the expiration or earlier termination of this Lease.

12.2 Landlord shall defend (with counsel reasonably acceptable to Tenant) indemnify, and hold Tenant harmless from and against all liabilities, damages, claims, losses, judgments, charges, and expenses (including reasonable attorney fees and costs) arising from or in any way related to (a) Landlord's failure to perform any covenant or obligation of Landlord under this Lease, (b) any act or omission of Landlord or its members, partners, managers, employees, agents, or representatives, and (c) Landlord's and any third-party's activities at, about, or near the Premises. Landlord's agreement to indemnify Tenant pursuant to this Section 12.2 is not intended to and shall not relieve any insurance carrier of its obligations under policies carried by Landlord. The obligations of Landlord in this section shall survive the expiration or earlier termination of this Lease.

12.3 Notwithstanding any other term of this Lease, Tenant will not be responsible for any liabilities, damages, claims, losses, judgments, charges, and/or expenses pertaining to Landlord's business activities or uses by other parties at or about the Premises.

13. Insurance. Tenant shall, during the term of the Lease, procure at its expense and keep in force the following insurance:

13.1 Commercial general liability insurance naming Landlord as an additional insured against any and all claims for bodily injury and property damage occurring in, or about the Premises arising out of Tenant's use of the Premises. Such insurance shall have a combined single limit of not less than One Million Dollars ($1,000,000.00) per occurrence, with a Two Million Dollars ($2,000,000.00) aggregate limit. Such liability insurance shall be primary and not contributing to any insurance available to Landlord and Landlord's insurance shall be in excess thereto.

13.2 Workers' compensation insurance in accordance with statutory law.

13.3 The policies required to be maintained by Tenant shall be with (a) companies rated A-X or better by A.M. Best, or (b) may be insured through an insurance pool such as City County Insurance Services, either of which shall be reasonably acceptable to and approved by Landlord. Insurers shall be licensed to do business in Oregon and domiciled in the USA. Certificates of insurance shall be delivered to Landlord on or before the Commencement Date and annually thereafter. Tenant shall have the right to provide insurance coverage which it is obligated to carry pursuant to the terms hereof in a blanket policy, provided such blanket policy expressly affords coverage to the Premises and to Landlord as required by this Lease.

13.4 If Tenant does not purchase the insurance required by this Lease or keep the same in full force and effect during the Lease term, Landlord may, but shall not be obligated to, purchase the necessary insurance and pay the premiums. Tenant shall repay to Landlord, as additional rent, the amount so paid promptly upon demand. In addition, Landlord may recover from Tenant and Tenant agrees to pay, as additional rent, any and all reasonable expenses (including attorneys' fees) and damages that Landlord may sustain by reason of the failure of Tenant to obtain and maintain such insurance.

14. Waiver of Subrogation Rights. Landlord and Tenant hereby mutually waive their respective rights of recovery against each other for any loss of, or damage to, either parties' property, to the extent that such loss or damage is insured by an insurance policy required by the terms of this Lease to be in effect at the time of such loss or damage. Each party shall obtain any special endorsements, if required by its insurer, whereby the insurer waives its rights of subrogation against the other party. The provisions of this section shall not apply in those instances in which waiver of subrogation would cause either party's insurance coverage to be voided or otherwise made uncollectible.

15. Taxes. Landlord shall pay when due all real property taxes and general and special assessments assessed against the Premises during the term of this Lease.

16. Quiet Enjoyment. So long as Tenant pays all rent when due and complies with all terms and conditions of this Lease, Tenant shall peaceably and quietly have, hold, and enjoy the

Premises. This covenant shall, subject to the provisions of this Lease, be binding upon any successors in interest of Landlord's interest in this Lease.

17. Subordination.

17.1 Subject to Landlord's compliance with Section 17.2, this Lease is and shall at all times be and remain subject and subordinate to the lien of any present or future deed of trust, mortgage, or other security instrument (a "Mortgage") (and to any and all advances made thereunder) upon the Premises (the mortgagee under any Mortgage is referred to herein as "Landlord's Mortgagee"). Subject to Landlord's compliance with Section 17.2, Tenant shall execute and return to Landlord any and all documentation required by Landlord to evidence the subordination of this Lease to any Mortgage or Primary Lease.

17.2 As a condition of the subordination of this Lease, Landlord will obtain from Landlord's Mortgagee, a written nondisturbance agreement to the effect that (a) in the event of a foreclosure or other action taken under the Mortgage by the holder thereof, this Lease and the rights of Tenant hereunder shall not be disturbed but shall continue in full force and effect so long as Tenant shall not be in default hereunder, and (b) if Landlord's Mortgagee shall be in possession of the Premises, that so long as Tenant observes and performs all of the obligations of Tenant to be performed pursuant to this Lease, Landlord's Mortgagee will perform all obligations of Landlord required to be performed under this Lease.

17.3 Subject to Landlord's Mortgagee entering into the nondisturbance agreement as provided in Section 17.2, in the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any Mortgage made by Landlord covering the Premises, Tenant shall attorn to the purchaser at any such foreclosure, or to the grantee of a deed in lieu of foreclosure, and recognize such purchaser or grantee as the landlord under this Lease. Tenant hereby agrees that no mortgagee or its successor shall be (a) bound by any payment of rent for more than one (1) month in advance, (b) liable for any breach, act, or omission of any prior landlord, or (c) subject to any claim of offset or defenses that Tenant may have against any prior landlord.

18. Damage by Casualty, Fire and Duty to Repair. If the Premises are damaged by fire or other casualty, Landlord shall forthwith repair the same unless this Lease is terminated as permitted herein. Within thirty (30) days of the date of such damage, Landlord shall notify Tenant if the Premises is damaged in excess of twenty-five percent (25%) of its precasualty value, as reasonably determined by Landlord (damage in excess of such amount being referred to as "Major Damage" and damage equal to or less than such amount being referred to as "Minor Damage"). If Minor Damage occurs, then Landlord shall repair such damage and rebuild that portion of the Premises damaged. If Major Damage occurs, Landlord may elect to terminate the Lease or to repair the damage and rebuild the Premises. If Landlord gives its written notice to Tenant within sixty (60) days of the date of damage electing to rebuild, or in the event of Minor Damage, this Lease shall remain in full force and effect provided the repairs are completed within one hundred eighty (180) days of the date of damage, except the rent shall be reasonably abated during the period of repair based on that portion of the Premises not reasonably useable by Tenant. If, in the event of Major Damage, Landlord does not timely elect by written notice to Tenant to rebuild, then this Lease shall automatically terminate as of the sixtieth (60th) day after the date of the damage, the rent shall be reduced by a proportionate amount based upon the

extent to which Tenant's use of the Premises is impaired, and Tenant shall pay such reduced rent up to the date of termination. Landlord agrees to refund to Tenant any rent previously paid for any period of time subsequent to such date of termination. Landlord shall not be required to repair any damage by fire or other cause to the property of Tenant.

19. Eminent Domain.

19.1 If a portion of the Premises is condemned and Section 19.2 does not apply, the Lease shall continue on the following terms:

19.1.1 Landlord shall be entitled to all of the proceeds of condemnation and Tenant shall have no claim against Landlord as a result of the condemnation. Notwithstanding the foregoing, Tenant shall have the right to claim and recover from the condemning authority separate compensation for any loss that Tenant may incur for Tenant's moving expenses, business interruption, or taking of Tenant's personal property (but specifically excluding any leasehold interest in the Premises) under the then applicable eminent domain laws, provided that Tenant shall not make any claim that will detract from or diminish any award for which Landlord may make a claim.

19.1.2 Landlord shall proceed as soon as reasonably possible to make such repairs and alterations to the Premises as are necessary to restore the remaining Premises to a condition as comparable as reasonably practicable to that existing at the time of the condemnation.

19.1.3 After the date on which title vests in the condemning authority or an earlier date on which alterations or repairs are commenced by Landlord to restore the balance of the Premises in anticipation of taking, rent shall be reduced in proportion to the reduction in value of the Premises as an economic unit on account of the partial taking. If the parties are unable to agree on the amount of the reduction of rent, the amount shall be determined by arbitration in the manner provided in Section 24.

19.2 If a condemning authority takes all of the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for the use that Tenant was making of the Premises prior to the taking, the Lease shall terminate as of the date the title vests in the condemning authority. Such termination shall have the same effect as a termination by Landlord under Section 19.1. If a condemning authority takes all or a portion of the Premises, Section 23 of this Lease shall be null and void and of no force or effect.

19.3 Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purposes of this Section 19 as a taking by condemnation.

20. Hazardous Material.

20.1 Except in strict compliance with all applicable federal, state and local laws, regulations, codes, and ordinances, Tenant shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about, or disposed of on the Premises by Tenant or its agents, employees, contractors, or invitees. To the extent permitted by the Oregon Tort Claims Act, Tenant shall indemnify, defend and hold Landlord harmless from any and all actions, costs,

claims, damages, expenses (including, without limitation, attorneys fees, court costs and amounts paid in settlement of any claims or actions), liabilities, or losses arising from a breach of Tenant's obligation set forth in this section by Tenant or its agents, employees, contractors, or invitees.

20.2 Landlord shall indemnify, defend and hold Tenant harmless from any and all actions, costs, claims, damages, expenses (including, without limitation, attorneys fees, court costs and amounts paid in settlement of any claims or actions), liabilities, or losses arising from the presence of Hazardous Material in, about, or near the Premises which was not released, generated, produced, brought upon, used, stored, treated, disposed of, or caused by Tenant or its agents, employees, contractors, or invitees.

20.3 As used herein, the term "Hazardous Material" means any hazardous, dangerous, toxic or harmful substance, material or waste including biomedical waste which is or becomes regulated by any local governmental authority, the State of Oregon, or the United States Government, due to its potential harm to the health, safety, or welfare of humans or the environment. The provisions of this section shall survive expiration or termination of this Lease.

20.4 Tenant's and Landlord's indemnification obligations under this Section 20 shall survive the termination or earlier expiration of this Lease.

21. Delivering Up Premises on Termination. At the expiration or earlier termination of this Lease, Tenant will quit and deliver up the Premises to Landlord in good order and condition, reasonable use and wear thereof excepted.

22. Default and Remedies. If (a) Tenant fails to pay rent beyond any applicable notice and cure period, or (b) Tenant fails to perform or observe any of the covenants and agreements contained herein and such default shall continue for thirty (30) days or more after written notice of such failure is given to Tenant by Landlord (or in the case of a default that cannot with due diligence be cured within such time period, if Tenant fails to commence within such time period, and thereafter fails to diligently complete, all steps necessary to remedy the default), or (c) Tenant is declared bankrupt or insolvent according to law, or if any assignment of Tenant's property is made for the benefit of creditors, or (d) on the expiration or earlier termination of this Lease, Tenant fails to surrender possession of the Premises if required to do so by the terms of the Lease, then and in any of these events, Tenant shall be in default under the Lease and Landlord, immediately or at any time thereafter, without demand or notice, may exercise any one or more of the remedies set forth below, or any other remedy available under applicable laws or contained in this Lease:

22.1 Terminate the Lease at the option of Landlord by Landlord giving written notice of termination to Tenant. If this Lease is terminated, Tenant's liability to Landlord for damages shall survive such termination, and Landlord may re-enter and take possession of the Premises, and remove any persons or property by legal action.

22.2 Landlord or Landlord's agents may immediately or at any time thereafter re-enter the Premises, or any part thereof, either by summary eviction proceedings or by any suitable action or proceeding at law, and repossess the same, and may remove any person therefrom, to the end that Landlord may have, hold and enjoy the Premises.

22.3 Relet the whole or any part of the Premises from time to time, either in the name of Landlord or otherwise, to such tenants, for such terms ending before, on or after the expiration date of the Lease term, at such rentals and upon such other conditions (including concessions, tenant improvements, and free rent periods) as Landlord may determine to be appropriate. Landlord at its option may make such physical changes to the Premises as Landlord considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting Tenant's liability.

22.4 Whether or not Landlord retakes possession or relets the Premises, Landlord shall have the right to recover unpaid rent and all damages caused by the default, as well as all costs and expenses incurred in the connection with the enforcement of this Lease, including reasonable attorney fees and court costs. Damages shall include, without limitation: (a) all rentals lost; (b) all legal expenses and other related costs incurred by Landlord following Tenant's default; (c) all costs incurred by Landlord in restoring the Premises to good order and condition or in preparing the Premises for reletting; and (d) all costs incurred by Landlord in reletting the Premises, including, without limitation, any brokerage commissions.

22.5 To the extent permitted under applicable law, Landlord may sue periodically for damages as they accrue without barring a later action for further damages. Landlord may in one action recover accrued damages plus damages attributable to the remaining Lease term equal to the difference between the rent reserved in this Lease for the balance of the Lease term after the time of award, and the fair rental value of the Premises for the same discounted to the time of award at the rate of nine percent (9%) per annum. If Landlord has relet the Premises for the period which otherwise would have constituted the unexpired portion of the Lease term or any part, the amount of rent reserved upon such reletting shall be deemed, *prima facie*, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting.

22.6 Seize and dispose of Tenant's property in any manner permitted by law.

The remedies provided for in this Lease are cumulative and are not intended to be exclusive of any other remedies to which Landlord may lawfully be entitled at any time.

23. Arbitration. Any controversy that arises between Landlord and Tenant regarding the rights, duties, or liabilities of either party hereunder shall be settled by binding arbitration. Such arbitration shall be before one disinterested arbitrator if one can be agreed upon by Landlord and Tenant, otherwise before three disinterested arbitrators, one named by Landlord, one named by Tenant, and one named by the two thus chosen. The arbitrator or arbitrators shall determine the controversy in accordance with the procedures of the Arbitration Service of Portland. The decision of the arbitrator or arbitrators shall be binding on the parties.

24. Attorney Fees and Court Costs. In case suit, action or arbitration is instituted to enforce compliance with any of the terms of this Lease, or to collect the rent due hereunder, the prevailing party shall be entitled to such sums as the trial court or arbitrator may adjudge reasonable as attorney’s fees in such suit, action, or arbitration and in the event any appeal is taken from any arbitration, judgment, or decree in such suit, action, or arbitration, the losing party agrees to pay such further sum as the court shall adjudge reasonable as the prevailing

party's costs and expenses, including reasonable attorney's fees, that shall arise from enforcing any provisions or covenants of this Lease even though no suit or action is instituted.

25. Waiver. Any waiver by either party of any breach of any covenant herein contained to be performed by the other party shall not be deemed as a continuing waiver, and shall not operate to bar or prevent such party from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

26. Notices. Any notice required by the terms of this Lease to be given by one party hereto to the other or desired so to be given, shall be sufficient if in writing and mailed by certified or registered mail with postage prepaid, addressed to the party at the address set forth on the first page of this Lease. Any such notice shall be deemed conclusively to have been delivered to the addressee thereof forty-eight (48) hours after the deposit thereof in the United States mail.

27. Successors and Assigns. All rights, remedies and liabilities herein given to or imposed upon either party hereto shall inure to the benefit of and bind the successors and, so far as this Lease is assignable by the terms hereof, to the assigns of such party.

28. Interpretation. In construing this Lease, it is understood that Landlord or Tenant may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

29. Applicable Law and Venue. This Lease shall be governed by and construed in accordance with the laws of the State of Oregon and in the event of any litigation arising out of this Lease, the parties hereto stipulate and agree that the venue of any such action shall be in Washington County, Oregon.

30. Entire Agreement. This Lease contains the entire agreement between the parties with respect to the lease and cannot be changed or amended except by a written instrument subsequently executed by the parties hereto.

31. Further Assurances. Each party agrees to execute and deliver such other documents and to do and perform such other acts and things as the other party may reasonably request to carry out the intent and accomplish the purposes of this Lease.

32. Time of Essence. Time is of the essence with respect to all dates and time periods set forth or referred to in this Lease.

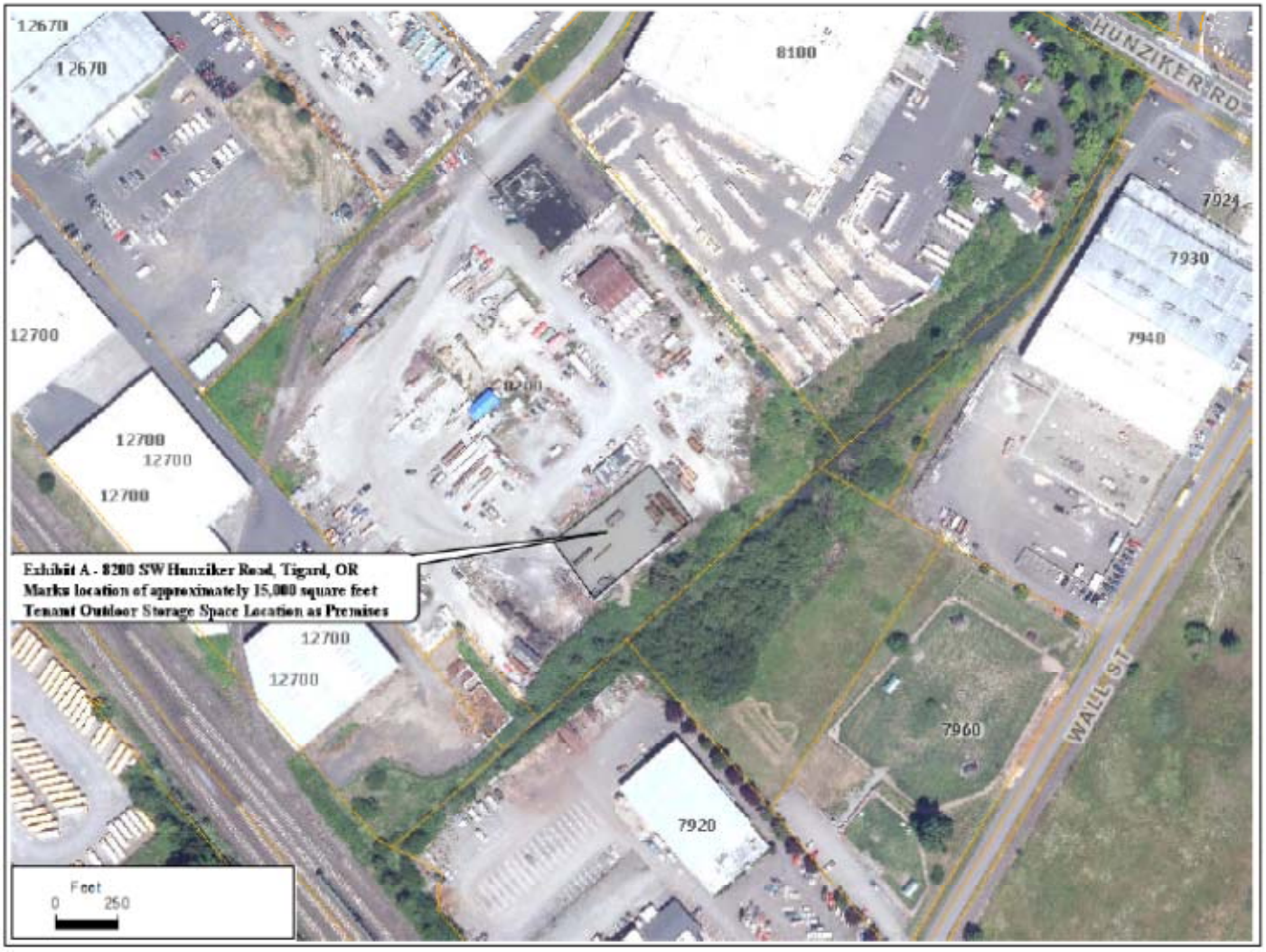
[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have executed this Lease effective the date set forth above.

LANDLORD	**TENANT**
Smith Gerig Western Properties, L.L.C.	**City of Tigard Public Works Department**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

Exhibit A
Premises

Exhibit A - 8200 SW Hunziker Rd., Tigard, OR 97223 - Location of Outdoor Storage Space - noted as "Premises"



AIS-2203 **4.**

Business Meeting

Meeting Date: 04/14/2015

Length (in minutes): 5 Minutes

Agenda Title: Tigard Downtown Alliance: Basket Presentation

Prepared For: Lloyd Purdy, Community Development

Submitted By: Lloyd Purdy, Community Development

Item Type: Receive and File **Meeting Type:** Council Business Meeting - Main

Public Hearing: No **Publication Date:**

Information

ISSUE

In October 2014, the Tigard Downtown Alliance successfully competed for $52,500 in Washington County Visitors Association funding to be used to improve the visitor experience in downtown Tigard.

The Tigard Downtown Alliance (TDA) dedicated this funding to streetscape amenities that complement the City of Tigard's Main Street/Green Street project. Thanks to the TDA, a variety of new elements will be installed downtown including new bike racks, benches, bike tune-up stations, light pole banners, and hanging baskets.

The new basket features, which will be hung from 20 light poles on the southern end of Main Street, showcase the creative problem solving of the TDA leadership team. The team quickly realized that many downtowns have seasonal hanging flower baskets. Hanging flower baskets, just like those found in every other downtown, don't show off the unique character of downtown Tigard. And, these temporary hanging flower baskets carry more than just a one-time install cost. The maintenance contract is often more than the cost of the basket. The TDA explored other options and realized they could draw upon the expertise of a local artist/entrepreneur to create a uniquely downtown Tigard solution.

The TDA would like to give the City Council a sneak peak at downtown Tigard's newest and most unique streetscape element.

STAFF RECOMMENDATION / ACTION REQUEST

The Tigard Downtown Alliance is a private sector partner in the city's work to revitalize downtown Tigard. These volunteer community leaders are working to turn a new vision for downtown into reality. One way this group is helping to improve downtown is through physical streetscape enhancements like new benches, bike racks, banners and baskets.

As part of the unveiling of new benches, bike racks, banners, and baskets the TDA invites City Council to fill out the attached form and make a wish for downtown. During the April 14th council meeting, council will be invited to share their wish for downtown by completing the following statement, "*My wish for downtown is....*" and then placing the written version of their wish in the prototype hanging basket.

Before the baskets are hung, the Tigard Downtown Alliance will invite other downtown stakeholders to share their wish for downtown in the same way.

KEY FACTS AND INFORMATION SUMMARY

The Tigard Downtown Alliance will unveil the prototype of the new hanging baskets for Main Street. Councilors are invited to share their wish for downtown by placing their written wish in the prototype basket.

The full list of streetscape elements funded by the TDA include:

- Benches – 7 benches from corner of Tigard Street to Scoffins.
- Bike Racks – 10 between Fanno Creek Trail and the post office.
- Banners – 20 2'x4' banners on alternating light poles from railroad tracks to the southern end of Main Street.
- Bike Fix Stations – 2 fix stations, 1 in the future plaza for Tigard Street Trail, the other in proximity to Fanno Creek Trail.
- Baskets – 20 on alternating light poles from south of the railroad tracks to the southern end of Main Street.

The TDA is working with Public Works to install these elements before the Downtown Art Walk. The May 1st through 15th Downtown Art Walk will be an opportunity for residents to see these new additions to Main Street as they visit the creative talent of local artists hosted by 25 downtown businesses.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Support and partnership with the Tigard Downtown Alliance to revitalize downtown Tigard is consistent with the City's Urban Renewal Plan and

Strategic Plan Goal 2 Objective 1: Encourage town center development.
Strategic Plan Goal 2 Objective 2: Market, brand and promote Tigard as the place where businesses are healthy and thrive.
Strategic Plan Goal 2 Objective 3: Invest in public spaces.

DATES OF PREVIOUS COUNCIL CONSIDERATION

No previous action or consideration.

Attachments

My Wish for Downtown form

The Tigard Downtown Alliance is a partnership of property owners, business owners, residents and downtown stakeholders working to revitalize Downtown Tigard. This group of volunteer community leaders would like to know more about your vision for downtown Tigard. Please share your thoughts below.

My wish for downtown Tigard is…

_____

_____

_____

_____

_____

The TDA is inviting all of downtown's stakeholders to share their wish for downtown. Thank you for sharing yours.

AIS-2175 **5.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	5 Minutes		
Agenda Title:	Proclaim April as Arbor Month		
Prepared For:	Joanne Bengtson, City Management		
Submitted By:	Joanne Bengtson, City Management		
Item Type:	Update, Discussion, Direct Staff	**Meeting Type:**	Proclamation
Public Hearing:	No	**Publication Date:**	

Information

ISSUE

Should Mayor Cook proclaim the month of April as Arbor Month in Tigard?

STAFF RECOMMENDATION / ACTION REQUEST

KEY FACTS AND INFORMATION SUMMARY

Each April, Tigard celebrates Arbor Day all month long! The city offers a multitude of family-friendly activities dedicated to planting, protecting and appreciating our trees. The Mayor proclaims April as Arbor Month and celebrates by planting trees with local students on the grounds of their school.

The state of Oregon is the only state to declare an entire week as Arbor Week, instead of a single day. Because National Arbor Day falls outside Oregon Arbor Week, and it can be confusing, Tigard has a history of declaring the entire month of April as Arbor Month. An Arbor Day Observance and Proclamation are one of four requirements for the city to be designated as a "Tree City USA."

OTHER ALTERNATIVES

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

Last year, Mayor Cook issued the proclamation on March 25, 2014.

Attachments

Arbor Month Proclamation

Proclamation

City of Tigard

ARBOR MONTH

Whereas, In 1872, Arbor Day, a special day set aside for the planting of trees, was first celebrated in Nebraska; and

Whereas, Tigard's urban forest is part of a larger ecology that spans from mountains to ocean and is integral to our region's environmental quality; and

Whereas, our urban forest includes a diversity of public and private trees that grace our streets, yards, parks and greenways, provide habitat for wildlife, soften hardscapes, clean the air, protect water resources, and ensure that everyone can experience natural beauty where we live, work and play; and

Whereas, the City of Tigard recognizes that our urban forest is a necessity and is an integral part of the city's infrastructure; and

Whereas, we are committed to providing resources to maintain and enhance the urban forest; and

Whereas, people of all ages and backgrounds, including citizens, civic organizations, businesses, and government agencies, have formed partnerships to participate actively in the stewardship and caretaking of Tigard's urban forest.

NOW THEREFORE BE IT RESOLVED that I, John L. Cook, Mayor of the City of Tigard, Oregon, do hereby proclaim the entire month of April 2015 as,

ARBOR MONTH

in Tigard, Oregon and encourage people throughout the city to become more involved with the planting and stewardship of the urban forest throughout 2015.

Dated this _____ day of _____ , 2015

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-2184 **6.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	10 Minutes		
Agenda Title:	Annual Arbor Day report and recognition of the City of Tigard's activities and accomplishments in urban forestry.		
Prepared For:	Marissa Grass, Community Development		
Submitted By:	Marissa Grass, Community Development		
Item Type:	Update, Discussion, Direct Staff	**Meeting Type:**	Council Workshop Mtg.
Public Hearing:	No	**Publication Date:**	

Information

ISSUE

Receive staff report and Tree City USA Award recognizing the city's leadership and accomplishments in advancing urban and community forestry projects and activities.

Annual Arbor Day report and recognition of the City of Tigard's activities and accomplishments in urban forestry.

STAFF RECOMMENDATION / ACTION REQUEST

Receive staff report and Tree City USA Award recognizing the city's leadership and accomplishments in advancing urban and community forestry projects and activities.

KEY FACTS AND INFORMATION SUMMARY

J. Sterling Morton first proposed a tree planting holiday, Arbor Day, which was celebrated on April 10, 1872, in Nebraska. Today, many communities across the nation celebrate trees on Arbor Day. The state of Oregon declares an entire week as Arbor Week, instead of a single day.

Here in Tigard, there are many ways for residents and business owners to get involved and help the city celebrate Arbor Day. Events are planned all month long.

Highlights include:

Poem Trees (All Ages)
Sunday, April 5 | 1:30 – 2:30 PM | Tigard Public Library Puett Room
Let's paint a tree in the style of artist and poet Douglas Florian to celebrate both Arbor Week and National Poetry Month. Use mixed-media on brown paper bags to create one-of-a-kind

tree paintings. See if you can create a poem to go with your artwork. Dress to get messy!

Arbor Month Celebration and Tree Planting
Tuesday, April 7 | 9:15 – 11:00 AM | Butterfly Garden at Cook Park
Mayor Cook will celebrate Arbor Month by planting new trees with students from Tigard High School's (CE) 2 Program in the Butterfly Garden at Cook Park, the largest park in the City of Tigard.

Arbor Week Toddler Time (Ages 24 to 26 months)
Wednesday, April 8 | 10:15 – 10:45 AM and 11:15 – 11:45 AM | Tigard Public Library Puett Room
Three cheers for trees! Come celebrate our blossoming, leafy friends with rhymes, songs, books, and activities at this special Arbor Week story time for toddlers.

Arbor Week Family Story Time (Ages 0 to 6 years)
Friday, April 10 | 10:15 – 10:45 AM and 11:15 – 11:45 AM | Tigard Public Library Puett Room
Celebrate Arbor Week in Family Story Time with stories, songs and rhymes about trees and then participate in some science activities including planting seeds of your own.

Awards and Recognition

Tree City USA

An Arbor Day observance and proclamation are one of four standards established by the National Arbor Day Foundation to qualify for Tree City USA. This is the fourteenth year Tigard has received this recognition, and the city's fifteenth Arbor Day celebration. More information about Tigard's tree programs and policies can be found at www.tigard-or.gov/trees or read about the Tree City USA program at www.arborday.org/TreeCityUSA.

OTHER ALTERNATIVES

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

On March 24, 2014, Mayor Cook signed an Arbor Month Proclamation declaring April as Arbor Month in the City of Tigard.

Attachments

No file(s) attached.

AIS-2007 **7.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	30 Minutes		
Agenda Title:	Marijuana Facilities Development Code Amendment - Continuance Date		
Submitted By:	John Floyd, Community Development		
Item Type:	Motion Requested Ordinance Public Hearing - Legislative	**Meeting Type:**	Council Business Meeting - Main
Public Hearing:	Yes	**Publication Date:**	

Information

ISSUE

Continuance date for March 10, 2015 public hearing.

STAFF RECOMMENDATION / ACTION REQUEST

Receive information and provide direction regarding proposed Marijuana Facilities Code Amendment Package to be adopted on April 21, 2015.

KEY FACTS AND INFORMATION SUMMARY

On March 10, Council held a public hearing regarding the Planning Commission recommendation for the regulation of marijuana businesses. After public testimony and discussion, the item was continued due to the absence of two Council members and to allow time for further analysis and deliberation. In addition, the written record was left open until April 1 to allow opportunity for additional public testimony. During the comment period, the City received fourteen letters from a broad range of individuals and organizations. Most letters were regarding the appropriateness of retail marijuana sales on Main Street, and most were opposed to the Planning Commission recommendation. Copies of all letters are attached.

In response to Council inquiries and comments, staff has prepared the attached memorandum which outlines several options for amending the Planning Commission recommendation. Staff understands that Council is particularly concerned regarding the restriction of retail marijuana businesses to Pacific Highway and Main Street, the appropriateness of Main Street for retail marijuana businesses, restrictions on the co-location of medical and recreational marijuana, and certain design standards. To that end, staff has prepared the attached memorandum to help Council consider alternatives it may find preferable to the Planning Commission recommendation. These alternatives may be considered singularly or in

combination.

Upon receipt of further direction from Council on April 14, staff will prepare an amended package to be considered and approved on April 21 to meet the state-mandated sunset date on local moratoriums. Given this timetable, staff is requesting specific direction from Council regarding areas of concern in the Planning Commission recommendation.

OTHER ALTERNATIVES

Approve Planning Commission recommendation.
Approve staff recommendation to the Planning Commission.
Take no action.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

July 22, 2014; November 25, 2014; and March 10, 2015

Attachments

Regulatory Options Memo
Attachment 1 - OLCC Recommendation Letter
Attachment 2 - Written Public Testimony

City *of* Tigard

Memorandum

To: Mayor Cook and the Tigard City Council

From: John Floyd, Associate Planner

Re: DCA2014-00002 Marijuana Facilities (Continued from March 10, 2015)

Date: April 6, 2015

On March 10, Council held a public hearing on the Planning Commission recommendation for marijuana facility regulations. In response to public testimony and subsequent deliberation, the item was continued due to the absence of two Council members and to allow time for further analysis and deliberation. In addition, the written record was left open until April 1 to allow opportunity for additional public testimony.

When considering the following analysis and attached testimony, the Council may wish to keep in mind that the legal marijuana economy is still maturing, with many unknown issues and a dynamic regulatory environment at both the state and federal level. The OLCC has yet to establish rules for licensing, marijuana legislation is pending in Salem, and a new presidential administration will take office in 2 years. As a result, the Council may wish to act conservatively until State and Federal regulations stabilize and integrate, and more information is gathered regarding potential nuisance impacts of marijuana sales. A conservative choice would be for Council to establish greater restrictions on the areas available for retail marijuana facilities now, as it will be easier to expand the areas designated for marijuana sales later rather than to contract them.

Clarification of Medical and Recreational Distribution as "Retail" Uses

The marijuana text amendments are intended to be additive to existing code regulations, and are not intended to replace any existing code. Under existing code, both medical marijuana dispensaries and recreational marijuana retailers fall under the same definition of "sales-oriented retail" as presently defined in the Tigard Development Code. For comparison's sake, this same use classification also encompasses pharmacies and liquor stores. Due to the similarity of use classifications and potential community impacts, staff proposed a singular method of regulating both medical and recreational marijuana sales in order to allow adaptability as the OLCC and Oregon Medical Marijuana Program are adjusted over time by the legislature and state agencies. The planning commission concurred in their recommendation to Council.

Amend to Allow Multiple Licenses on one site

On March 10 the matter of co-licensing on a single property was raised. Should Council wish to allow both recreational and medicinal sales on the same property, language could be added to allow both a medical and a recreational license on the same property. This could also be expanded to allow growing, processing, and testing to occur on the same site (provided the applicant could also obtain state approval for co-location).

It should be noted that on March 3, 2015 the OLCC recommended against the co-location or co-licensing of medical and recreational distributors. As detailed in Attachment 1 of this memorandum, the OLCC is concerned about the integrity of the medical marijuana system when compared to standards it seeks to establish for a successful retail marijuana program. More specifically, the OLCC is concerned that current medical marijuana standards are inadequate in regards to the tracking and testing of marijuana from "seed to sale", is not of sufficient integrity to prevent the diversion of medical marijuana into the black market, and threatens the recreational marijuana program's compliance with federal guidelines.

Amend to Remove Main Street or MU-CBD Zone

Members of the public and individual Council members have questioned the Planning Commission's recommendation to designate Main Street as an allowed location for marijuana distribution. Arguments in favor include multimodal access (car, bike, foot, wheelchair, transit) in a centralized location. Arguments against include the presence of children in an area designated for high pedestrian traffic and community events.

Should Council not find Main Street an appropriate location, changes could be made to simply remove Main Street as a designated location. Alternatively, Council could adopt a general prohibition of such uses in the whole of the MU-CBD zone which encompasses the general downtown area. Such an action would be consistent with regulations adopted by other cities such as Beaverton, Hillsboro (proposed), Salem, and Ashland which all prohibit the siting of dispensaries within their downtown core.

Expand Allowed Locations for Retail Sales

On March 10, Council discussed the suitability of Washington Square, Scholls Ferry Road, and other locations for retail sales. There was also concern about the number of stores on Pacific Highway. Council may wish to the consider the following options:

The Planning Commission recommendation could be expanded to include one or more arterials as allowed locations for retail marijuana facilities, and not just Pacific Highway. Such a recommendation would be consistent with the Planning Commission's desire for locating such businesses in areas with heightened visibility and minimization of impacts to residential land uses. An expansion to include all arterials would open the Washington Square and

Metzger area, as well as the 72nd Avenue Corridor and Bridgeport Village area to retail marijuana sales. The remainder would be practically excluded due to the presence of schools or the predominantly residential zoning of the corridors. That said, it should be noted that there is insufficient time to conduct targeted outreach to these additional locations, should Council wish to do so. A list of the all roads designated as arterials would include the following:

Predominantly Commercial

- Pacific Highway
- 72nd Avenue
- Upper Boones Ferry

Mixed Commercial/Residential

- Hall Boulevard
- Scholls Ferry Road
- Bonita Road
- Greenburg Road

Predominantly Residential

- Durham Road
- Roy Rogers Road
- Beef Bend Road
- Walnut Street
- Gaarde Street
- McDonald Street

In lieu of, or addition to the above changes, Council could adopt the staff recommendation to regulate both retail and non-retail marijuana facilities in an identical manner. This would open a larger proportion of the City provided the facility was at least 500 feet from a residential zone, a parks zone, and 1,000 feet from a school.

Council could expand the minimum required distance between retail facilities from 1000 feet to 1,500 or 2,000 feet in order to reduce concentration and distribute these facilities across a greater area.

Amend Primary Entry Requirements

The Planning Commission recommendation requires primary entrances to be oriented toward and visible from a public or private street. In order to address issues of potential ambiguity regarding older buildings not directly oriented to the roadway, or buildings with large setbacks, Council could remove the restriction for doorway visibility, or amend the recommended text as follows:

D. Primary entrances shall be ~~located on street-facing facades and~~ clearly visible from a public or private street.

As amended above, the regulations would still provide for natural surveillance to deter crime.

Window Coverings & Signage

Concern was expressed regarding the nature of signage and window coverings, and whether or not signage should be regulated and/or the use of film or frosted glass to prevent minors from viewing products contained therein.

The Oregon constitution contains very expansive language regarding freedom of expression, and prohibits any regulation based on content as determined through a robust body of case law. As a result, any sign regulation that does not apply equally to all property owners would likely be challenged and defeated.

However, other restrictions could be made applicable if intended to address unique security issues or other concerns of the community. In the matter of window coverings, the Tigard Police Department recommends the windows of retail marijuana facilities be made clear, as crime is less likely to occur when made visible to the public or passing officers. Council could adopt a requirement that a percentage of windows be made clear, unless otherwise required by the State.

Additional Public Comment

The City received 14 comment letters prior to the April 1 deadline for written comments. Copies of all letters are included in Attachment 2 of this memorandum.

The majority of the comments concern the appropriateness of Main Street as a designated location for retail marijuana facilities. Of those commenting on Main Street, the overwhelming majority opposed the main street designation. The most commonly cited reasons include presence of minors, community events, proximity to the transit center, and a diminishing of the quality of place.

Luke-Dorf submitted a comment letter opposing the location of a marijuana facility within close proximity of vulnerable residents, and requested a five-mile exclusion area from mental health and addiction treatment facilities.

Two potential operators submitted comment letters. One requested the Planning Commission reinstate the staff recommendation for the siting of retail marijuana facilities. The other requested approval of the Planning Commission recommendation and leave Main Street as a designated location.

One letter requested buffers from day-cares and pre-schools, reduced hours of operation, and a reduction in the number of potential facilities that could open within the City.

Attachments:

1. OLCC Recommendation Letter; March 3, 2015.
2. Written Testimony
    a. Tigard Downtown Alliance; letter dated March 25, 2015
    b. Connie Ramaekers; email received March 26, 2015
    c. Linda Cook; letter dated March 24, 2015
    d. Thomas L. Cook, PhD; letter dated March 24, 2015
    e. Mike Stevenson; letter dated March 30, 2015
    f. Tigard Cleaners; letter dated March 30, 2015
    g. Shannon Spahan; undated letter received March 30, 2015
    h. Shawn Keren; email received March 30, 2015
    i. Luke-Dorf; letter dated March 30, 2015
    j. Mark Johnson; email received March 30, 2015
    k. Connie Ramaekers; email received March 31, 2015
    l. Kaleafa; letter dated March 31, 2015
    m. Sunnie Page; email received March 31, 2015
    n. Steve DeAngelo; email received April 1, 2015

Oregon
Kate Brown, Governor

Liquor Control Commission
9079 SE McLoughlin Blvd
Portland, OR 97222-7355
(503) 872-5000
(800) 452-6522

March 3, 2015

The Honorable Peter Courtney,
President of the Senate

The Honorable Tina Kotek,
Speaker of the House

Senator Ginny Burdick,
Co-Chair of the Joint Interim Committee
on Ballot Measure 91 Implementation

Representative Ann Lininger,
Co-Chair of the Joint Interim Committee
on Ballot Measure 91 Implementation

Dear President Courtney, Speaker Kotek, and Co-Chairs Burdick and Lininger:

Last week, the Oregon Liquor Control Commission (OLCC) approved the attached *OLCC Marijuana Policy Recommendations* that detail a variety of important matters of which the Legislature may want to act upon to guide implementation of the Recreational Marijuana Program (Attachment A).

The recommendations are organized into three categories: (1) "Commission Request" are issues on which the Commission is seeking legislative action; (2) "Technical Fix" are recommendations to allow the OLCC to implement Ballot Measure 91 consistent with its provisions and intent; (3) "Other" is a selective compilation of policy issues, many of which were raised by participants in the listening tour meetings and may be of interest to the Legislature.

The Commission believes its recommendations and requested policy actions will better assure that federal guidance is adhered to, ensure integrity and consistency in forming

this new system, as well as reflect some of the best practices we have gleaned from other states and from our experience with regulating liquor. The recommendations reflect the diligent work the OLCC is doing to implement Ballot Measure 91 consistent with the measure's policy statements and with U.S. Department of Justice guidance provided to state medical and recreational programs through the "Cole Memorandum" (Attachment B).

A linchpin for creating a stable recreational program that adheres to federal guidelines is to provide for product tracking through a "seed-to-sale" electronic inventory tracking system. Tracking systems, such as those used in Colorado and Washington and that are being considered by other states to monitor their medical product, are intended to ensure all production enters a legal supply chain and is tracked by electronic technology at each step from producers to retail sales. By implementing this technology for recreational marijuana in Oregon, the OLCC seeks to ensure product is not diverted to illegal markets. Importantly, this system will also ensure the integrity of timely tax collections from producers.

As you are aware, there has been much discussion related to how the recreational and medical programs may intersect, including combining and co-locating facilities.

Because plants and product are not tracked in the Oregon Medical Marijuana Program (OMMP), the program cannot provide assurance that there is no diversion to the black market. Medical production by growers for cardholders, and "card stacking" practices, produces an excess of product, not all of which is delivered to patients. There is debate about how much of the remainder of medical product is being shared with individuals and dispensaries, exported, lost, destroyed, wasted, or simply sold illegally. The fact that there is a debate is evidence that the system cannot meet federal guidelines.
The Commission recommendations reflect concern that federal guideline compliance will be diminished if OMMP licensees or growers are allowed to produce or sell product through the recreational system. The conventions of existing law and practices that

guide the production of OMMP product and its system of medical dispensaries lack the controls the OLCC sees as necessary to secure a stable recreational program.

While there may be efficiencies gained by combining the systems, the OLCC recommendations support the idea that OMMP producers and dispensaries would have to meet all requirements of the recreational program, including a robust seed-to-sale system.

The OLCC is aware that legislation is being offered to improve aspects of the medical program. Without product tracking, the OLCC would not support co-locations of recreational and medical marijuana. It is the intent of the Commission that its licensed retail locations would only be able to sell marijuana products that are tracked through a seed-to-sale tracking system. This would result in no co-location or recreational licensing of existing medical dispensaries. In addition, the OLCC would not be in a position to license processors or wholesalers that work with medical product unless the medical product is tracked by the OLCC seed-to-sale system. The primary concern here is to ensure the integrity of the recreational product and system.

The OLCC would seek to encourage and license any product currently available in the medical system if growers seeking a recreational license agree to abide by the regulatory requirements for licensure within the recreational system and agree to use the OLCC seed-to-sale system.

There are several economic challenges to the success of a well-regulated commercial market for recreational marijuana. The continued independent status of the medical program is a market force that limits the ability of the recreational system in terms of

sales and potential revenue production. In other words, at some level the systems will directly compete for customers.

If the systems remain separate, the OLCC has reason to believe that the recreational system will begin with a potential of 20 percent market penetration of current Oregon marijuana consumption. The actual market will depend on a variety of factors, including prices, market expansion because it is legally available, dispensaries converting from medical facilities to recreational facilities and other factors. The recreational system will have to prove its superiority in terms of security, quality, convenience and price to overcome the illegal market, home grow provisions of Ballot Measure 91 and a medical system largely free of regulations and associated costs that will be present in the recreational system.

As our work continues, the Commission appreciates the open and transparent process that has provided us with the opportunity to make these recommendations and have them considered by the Legislature as we work together on the implementation of this new law.

The Commission is committed to continuing to make thoughtful contributions to the work of the Joint Legislative Committee on Measure 91 Implementation in a timely manner. We deeply appreciate the strong lines of communication the Chairs and committee have provided for the OLCC as we work together to create a successful program for the people of Oregon.

Respectfully,

Rob Patridge, Chairman
Oregon Liquor Control Commission

CC:

Joint Interim Committee on Measure 91 Implementation

Senate Vice-Chair, Senator Floyd Prozanski
House Vice-Chair, Representative Carl Wilson
Senator Jeff Kruse
Senator Lee Beyer
Senator Ted Ferrioli
Representative Peter Buckley
Representative Andy Olson
Representative Ken Helm

Senate Majority Leader Diane Rosenbaum
Senate Republican Leader Ted Ferrioli
House Majority Leader Val Hoyle
House Republican Leader Mike McLane

Members of the Legislature (via email)

OLCC Recommendations on Marijuana Policy

Attachment A

	Subject	Reason	Action Type	Section	Solution
1	Age Verification Equipment	OLCC would like authority to require the use of age verification equipment in order to prevent sales to minors.	Commission Request		Allow OLCC discretion to require age verification equipment.
2	Bonding	Measure 91 does not require marijuana producers to have a bond to cover their tax obligations	Commission Request		Allow OLCC discretion to require producers to purchase a bond to cover tax obligations.
3	Civil Penalty Authority	With uncertainty surrounding the kinds of potential compliance problems that will be faced during implementation, ready authority to utilize civil penalties to gain compliance would provide flexibility as the agency encounters unanticipated issues.	Commission Request	30(2)	Match OLCC's alcohol civil penalty authority.
4	Confiscation of Marijuana	OLCC may need to confiscate or seize limited amounts of marijuana to establish violations. Examples may include: in the case of minor decoy operations; to verify origin of product; to hold product that is in excess of recorded amounts.	Commission Request	7(5)	Amend section 7(5) to make clear that OLCC can possess for purposes related to powers and duties, including seizure and sale as in ORS 473.100 and 473.110.

OLCC Recommendations on Marijuana Policy

	Subject	Reason	Action Type	Section	Solution
5	Fees	There is no fee authority in Measure 91.	Commission Request		Allow the OLCC to impose fees beyond the application fee contemplated in Measure 91 to cover such issues as label approvals and changes in location.
6	Firearms	To comply with U.S. Department of Justice legal guidelines, OLCC would need statutory authority to ban firearms on licensed premises.	Commission Request		Given ORS 166.170(1), if OLCC wants to ban firearms on licensed premises, it likely would need specific statutory authority.
7	Insurance	It is the OLCC's intent that the business practices of its licensees match practices generally followed within the business community, the OLCC should have an ability to require liability protection.	Commission Request		Create provisions that give OLCC the discretion to require marijuana licensees to carry insurance.

	Subject	Reason	Action Type	Section	Solution
8	Investigatory Tools	The issuance of subpoenas compel production of documents or testimony. They are normal regulatory tools necessary for the OLCC to vigorously regulate marijuana just as it does alcohol. These tools are used to determine facts, determine compliance or charges of violations, and to provide evidence of violations for adjudication and sanctions.	Commission Request	7(2)	Create provisions parallel with ORS 471.760OLCC to issue subpoenas, compel production of documents and/or testimony.
9	Lab Testing License	There is no license for labs to hold marijuana and test it for other licensees. This license is necessary to set quality control and health and safety standards.	Commission Request		Create a lab testing license. OLCC will then set the testing standards by rule.

OLCC Recommendations on Marijuana Policy

	Subject	Reason	Action Type	Section	Solution
10	Laboratory Certification	There is widespread agreement on the deficiencies of labs testing marijuana products for potency, solvents, mold, pesticides and other agents related to public health and safety. A clear testing standard and independent lab certification should be required by OLCC.	Commission Request		Establish a third party lab certification process.
11	Limitations on Co-location of Licensees	OLCC may find it necessary to not allow multiple license types at the same location and would put the reason in rule. To clarify that this is a delegated power of the OLCC we would like to have it statutorily clarified.	Commission Request		Statutory authority to allow OLCC to limit license types at a single location.

	Subject	Reason	Action Type	Section	Solution
12	Origin of Seeds & Plants	Since seeds, cuttings, or small or mature plants are necessary for establishing a licensed facility, and the legislature should want to clarify the means by which initial grow stock is established for a regulated grow. Medical card grow inventory and cuttings legally regulated by the State of Oregon may be made available to those wishing to establish recreational grows.	Commission Request		Statutory direction for seed and plant origins.
13	Overlapping ODA jurisdiction	The Oregon Department of Agriculture and the OLCC have been working cooperatively to clarify and understand the extent of dual regulation required and to identify the need for authority changes. In most cases, ODA and OLCC will have dual responsibilities.	Commission Request		Amend statutes to deal with licensees who will be subject to licensure by both ODA and OLCC.

	Subject	Reason	Action Type	Section	Solution
14	Payment of Tax	With a seed to sale tracking system, producers will know immediately for every sale, what tax is owed. There is no reason to wait almost two months for tax to be paid. This will allow for efficient tax collection. OLCC should be authorized to enable electronic payment of taxes if legal means are available and licensee has capability to do so.	Commission Request	34, 35	Amend Section 34 & 35 to require tax to be reported and paid in an efficient and reasonable manner as set by rule of the Commission.
15	Peace Office Authority	Providing the OLCC with equivalent Peace Officer Authority would allow the Commission to utilize the same discretion it has for enforcement of administrative and criminal violations of alcohol law. This would create potential efficiencies as existing experienced personnel could be cross trained to regulate both alcohol and marijuana.	Commission Request		Create peace officer authority over marijuana licensees similar to what is in ORS 471.775.

	Subject	Reason	Action Type	Section	Solution
16	Possession of Marijuana by Government Entities	ODA, OHA, and DEQ may all have a need to possess amounts of marijuana for compliance, and enforcement. There are no provisions that would protect individuals from criminal laws related to possession. State agencies with a need to possess limited amounts of marijuana for regulatory compliance should be authorized to do so. To effect this ability, protection of the regulatory workforce from violation of criminal laws related to possession is a practical step.	Commission Request		Add a statutory section that allows any government agency with some jurisdiction over marijuana licensees or that is involved in the testing of marijuana an exception from criminal laws related to marijuana.
17	Potential Overlap between Medical and Recreational	The OLCC desires to implement Measure 91 in full compliance with US Department of Justice guidance and would not want the integrity of that approach to be compromised by allowing product into the system that has not been subject to vigorous regulation.	Commission Request		If system integration is contemplated, require medical products that come into the recreational system to be subject to all of the standards recreational system.

	Subject	Reason	Action Type	Section	Solution
18	Presenting Identification for Age	One of the most important responsibilities of the OLCC will be to prevent minors from gaining access to marijuana, the OLCC should have broad authority to require necessary I.D. check regulations to deny entry to any licensed location. Sec 16 implies that a retailer only has to check ID if there is a question about a person's age. OLCC would like the ability to mandate checking ID if it deems necessary.	Commission Request	16	Amend this Section to allow OLCC to set by rule when IDs will be checked.
19	Processing Licenses	The OLCC would like to be able to develop license sub-categories for processors since this category is inclusive of diverse processing activities, some of which are increasingly complex and pose added regulatory challenges.	Commission Request	5(26),18	Allow OLCC to create three sub-categories of processor licenses: 1) Packaging; 2) Concentrates; and 3) Manufactured Products.
20	Producer Packaging for Sale	Producers should be able to package bulk product for retail sale without holding an additional processor license	Commission Request	5(27)	Allow OLCC to define packaging at the producer level or incorporate certain packaging privileges via an endorsement to the producer license.

	Subject	Reason	Action Type	Section	Solution
21	Regulatory Authority	The OLCC has operated with broad authority to protect public health and safety in alcohol regulation and has use that authority responsibly, providing similar statutory authority for the protection of the public in marijuana regulation would be a prudent and consistent.	Commission Request		Give OLCC authority to adopt rules to protect public health and safety.
22	Retail Packaging for Sale	Retail outlets may wish to receive bulk flower product from a producer and package that into individual packages without having to hold and additional processor license.	Commission Request		Allow OLCC discretion to define packaging at the retail level or incorporate certain packaging privileges via an endorsement to the retail license.
23	Review of Books and Records for Cause/Emergency	Given the nature of the product and that it is still illegal federally, the OLCC believes that with cause and in the case of an emergency, it should have an ability to immediately access books and records. Its regulations regarding licensing should support business practices that keep the books and records in an accessible manner.	Commission Request	23	Amend Sec. 23 to permit authority to examine if cause/emergency exists rather than the 72 hour provision in the Measure.

	Subject	Reason	Action Type	Section	Solution
24	Seed to Sale Tracking System	OLCC intends to implement an electronic marijuana tracking system that uses radio frequency tracking technology to monitor the growing, processing, wholesaling, retailing and transportation of marijuana products in the recreational system to comply U.S. Department of Justice legal guidelines. Authorization of this system would make clear state law affirms this implementation choice.	Commission Request		Grant specific authority for use of seed to sale tracking for all license types and that the system will be available to transportation, local government, and state government in order to account for marijuana they may encounter in the scope of their duties.
25	Server Permits	Servers of alcohol hold permits issued by the OLCC and must pass a background check and take mandatory education. Also, permitted servers are held accountable for liquor law violations. Issues have been raised regarding whether employees of marijuana licensees should be similarly licensed.	Commission Request		Require employees of marijuana licenses to hold a permit as a condition of employment.

	Subject	Reason	Action Type	Section	Solution
26	Use of Marijuana in a Vehicle	The prohibition of any use of marijuana in a car is consistent with the protection of public safety. The Measure prohibits using marijuana while driving but not in a car.	Commission Request		Prohibit use of marijuana in a car in a manner that mirrors the open container prohibition in ORS 811.170.
27	Commission Membership	The OLCC was formed to regulate alcohol and the ballot measure clearly designated the OLCC as the body charged with regulation of marijuana, however, the OLCC has no industry representation requirement for a member from the marijuana industry. The OLCC currently has one member designated as a representative of the alcohol industry.	Other		Require at least one person from marijuana industry be on Commission. (May create problems with federal law.)
28	Contraband in Correctional Facilities	There is inconsistency between Measure 91 and other state law regarding the penalties for bringing marijuana into a correctional facility.	Other	55	Harmonize criminal penalty in Section 55 and ORS 162.185 or repeal section 55.

	Subject	Reason	Action Type	Section	Solution
29	Definition of marijuana product.	It is not clear whether concentrates produced without the use of chemical solvents would be defined as marijuana products under Sec 5 (19).	Other	5(19)	Expand definition of marijuana products to explicitly include these products.
30	Electronic Fund Transfer	OLCC may need authority to require electronic fund transfer for the payment of taxes, application fees and license fees.	Other		Allow OLCC discretion to require electronic fund transfer payment.
31	Home Delivery	Unclear what "bona fide order" means in the context of marijuana legalization. Concern that might lead to push for home delivery.	Other	27	Does the legislature want to allow home delivery?
32	Marijuana Lounges/Bars	There is a lack of clarity surrounding the issue of private lounges or clubs that only would allow members to access a private premises. This raises the question of should marijuana use be allowed at lounges if it is not served and sold or, should these potential social uses of marijuana be banned.	Other		Licensing or authority for marijuana lounges/bars.

	Subject	Reason	Action Type	Section	Solution
33	Name of Commission	The nature of OLCC regulation is changing and the question of changing the name of the Commission is raised by that change.	Other		Change Commission name to reference new cannabis authority.
34	Racketeering Law	Racketeering as a crime includes alcohol but the Measure did not include this for marijuana. Historical criminal relationships and cartels are a present threat to a well-regulated recreational marijuana system and providing for the application of racketeering crimes to marijuana is a tool to ensure the integrity of the recreational program.	Other		Amend measure 91 to include the definition contained in ORS 166.715(6)(a)(BB).
35	Residency Requirement	Residency requirement is a policy issue with implications for public safety and economic security. Since marijuana is not available for interstate commerce and legal only within the state, limiting licensing to residence of that state is an option available to the legislature.	Other	29	Enact residency requirement and requirement for formation of business entity in Oregon of both the applicant an the business entity.

	Subject	Reason	Action Type	Section	Solution
36	1000 Feet of a School	As written, the OLCC could approve license applications within 1000 feet of a school but the business would violate Criminal Law. While OLCC could manage this issue by rule, cleaning up the statutes would provide policy clarity.	Technical Fix	7, 29(2)(a)	Specify no licensees within 1000 feet of a school.
37	Age Discrimination	Being able to insure that minors do not access marijuana is of the highest priority for OLCC. There are statutes that make it clear that it is not age discrimination to enforce age restrictions against minors consuming alcohol or frequenting a place that serves alcohol or liquor. The same should be made clear for enforcing the state's marijuana age restrictions.	Technical Fix		Add parallel provisions to ORS 659A.403(2) and 659A.409.
38	Controlled Substance Definition	For purposes of safety and clarity, marijuana as a controlled substance should be recognized in the Oregon Vehicle Code.	Technical Fix	72	Add definition of marijuana as a controlled substance in ORS 475.005 into the Oregon Vehicle Code.

	Subject	Reason	Action Type	Section	Solution
39	Definition of Extract/Concentrates	It is common practice for extracts to be made with vegetable glycerin or other non-toxic solvents and the regulation of extracts should cover the variation of industry practices in creating extracts. Given definition of "extract" not clear where a concentrate made with vegetable glycerin or other non-toxic solvents would fall. The statute should be changed to include these as marijuana products.	Technical Fix	5(19)	Expand definition of extract to include vegetable glycerin or other non-toxic solvents and allow the OLCC to regulate these and other extract processes.
40	Definition of Leaves	The measure only taxes flowers, leaves and immature plants. Definition of flower and immature plant is clear, definition of leaves is not. Leaves should be defined as everything that is not a flower or immature plant, exclusive of unusable waste material. This will reduce confusion and allow for effective tax collections.	Technical Fix	33	Clarify definition of leaves to be everything that is not flower or immature plant, exclusive of unusable waste material.

	Subject	Reason	Action Type	Section	Solution
41	Definition of Marijuana	Marijuana has been re-classified and is not in the plant family Moraceae. Further, the definition of marijuana should be the same as that in the Oregon Medical Marijuana Program (OMMP).	Technical Fix	5(12)(a)	Amend 5(12)(a) to read: "Marijuana" means all parts of the plant genus Cannabis within the plant family Cannabaceae , whether growing or not, other than marijuana extracts.
42	Definition of School	The definition of school has been a problem related to other state licensing activities, for the purposes of siting recreational marijuana licensees, OLCC believes a clear definition of "school" as a K-12 school with mandatory attendance would provide certainty for the licensing process.	Technical Fix	5	Add definition. K-12 with mandatory attendance.
43	Fingerprints & Background Checks	Without the authority to obtain fingerprints, background checks will not conclusively prove identity and OLCC may be limited from accessing certain criminal history data.	Technical Fix		Grant specific authority to allow OLCC to obtain fingerprints from applicants.

	Subject	Reason	Action Type	Section	Solution
44	Immature Plant Definition	The Measure and the OMMP define immature plant differently. There should be no distinction in the definition of immature plants between the medical and recreational program.	Technical Fix	5(9)(29)	Use the medical definition of immature plants.
45	Imposition of Tax Limitation	This raises concerns about tax collections after 36 months.	Technical Fix	34(3)	Clarify that tax can not be imposed after 36 months. (similar language used in ORS 473.060(3)).
46	License Renewal	The OLCC would like to have the flexibility to create an even work flow for license renewals. This will prevent large peaks of renewals following implementation. Generally, the license renewal should be due one calendar year from the date of issuance.	Technical Fix	26	Amend Section 26 to say that licenses are issued for a period of one year.
47	Licensee Possession Limits	The measure exempts individuals who hold marijuana licenses from certain marijuana offenses, but does not tie this exemption to operation of the licensed business.	Technical Fix	79(6)	Clarify that Section79(6) only applies to licensees when they are exercising privileges under their license.

	Subject	Reason	Action Type	Section	Solution
48	Minor Attempts to Purchase	Sec 49 reads "A person under 21 years of age may not attempt to purchase marijuana items." Similar provision in chapter 471 states a minor may not, "attempt to purchase, purchase or acquire marijuana items."	Technical Fix	49	Revise section in order to make it consistent with standards for alcoholic beverages.
49	ODOT Definition	ODOT is improperly referred to in the Measure as ODA and needs to be changed to ODOT.	Technical Fix	49(5)	Spell out ODOT rather than use "department."
50	Tax Collection	The measure is not clear that the OLCC has the authority to enforce liens for delinquent taxes. OLCC believes it should have strong fiduciary powers to collect taxes owed and to do so in a timely manner.	Technical Fix	37	Create authority for OLCC to enforce liens for delinquent taxes.

	Subject	Reason	Action Type	Section	Solution
51	Tax Deductions	Act permits tax deductions for business expenses for production and sale of things like meth, cocaine. The Legislature should consult with the Oregon Department of Revenue on the treatment of tax deductions for business expenses as they relates to income earned in the marijuana industry.	Technical Fix	71, 74	Limit tax deductions to business expenses connected with marijuana production and sale permitted under the Act; retain prohibition for all other deductions disallowed under IRC Section 280E.
52	Tax Records Retention	Records retention period shorter than time period for revenue to do tax audit. Consult with the Department of Revenue recommendation concerning the maintenance of records for the purposes of tax audits.	Technical Fix	39	Make records retention period longer.

Tigard Downtown Alliance (TDA)
12345 SW Main Street
Tigard, OR 97223

March 25, 2015

Tigard City Council
City of Tigard
13125 SW Hall Blvd.
Tigard, Oregon 97223

Dear Mayor John Cook and Tigard City Council,

The Tigard Downtown Alliance (TDA) is responding to the Tigard Planning Commission's recommendation to include SW Main Street in its available locations for marijuana facilities within the city limits of Tigard. We represent many business owners, property owners and concerned citizens in Downtown Tigard and our organization is concerned that we were not given the opportunity to study and address this recommendation in a timely manner. Our preference would be to schedule a Downtown Dialog to discuss the issue with our members, but because of the tight deadline the City Council placed on written testimony in this matter, we are responding with this letter of concern.

Many groups, including the TDA, the City of Tigard and other interested individuals have been working to improve Downtown Tigard, bringing in new housing and enhancing public spaces:

- Significant improvements have already been accomplished on Burnham and Main Streets to improve Downtown's walkability, one of the goals of Tigard's strategic visioning.
- Business owners and managers are working with the City of Tigard to improve their facades.
- The Tigard Downtown Alliance was awarded Washington County Visitors Association funding for Main Street improvements, including additional benches, banners, glass hanging art, and bicycle racks. This project will be complete by the end of April 2015.
- The City has secured the use of the railroad land bordering Symposium Coffee on Main Street for a future bicycle trail and park, and is embarking on a market rate housing development in the current Public Works "yard" space.

Much planning is being done to increase the residential housing and park space within our downtown area and we are concerned that the Planning Commission's recommendations will not be compatible with this increased residential and visitor traffic.

This year, for instance, we are planning an Art Walk in May that we anticipate will be twice as successful as our inaugural event in 2014; an exciting Street Fair in September; our very successful Trick or Treat on Main Street in October and our Tree Lighting ceremony in December; all of which will bring families into Downtown Tigard.

All of this is being done to bring the Tigard families back to Downtown Tigard.

Therefore, we urge the City Council to amend the Tigard Planning Commission's recommendation to exclude Main Street as an acceptable location for marijuana facilities at this time. This will give the TDA time to gain Downtown Tigard stakeholder input and give all parties time to understand the impact and implications of implementation in the 99W corridor. It is easier to expand a zoning change than contract it.

Sincerely,

Tigard Downtown Alliance
Board of Directors

Michael Stevens

Thomas J Murphy

Steve DeAngelo - president

John Floyd

From: Connie Ramaekers <no_reply@fwtf.ccsend.com> on behalf of Connie Ramaekers <cramaekers@ttsd.k12.or.us>
Sent: Thursday, March 26, 2015 11:46 AM
To: John Floyd
Subject: FW: Another tragedy just occurred

Dear John Floyd,

Subscribe Me!

Connie Ramaekers has forwarded this email to you with the following message: I am concerned about the number of facilities that will be allowed to open in Tigard. Please consider 1000 feet from parks, pre-schools and day cares and industrial zones only. The Colorado Springs Gazette has a 4-part editorial detailing the problems with marijuana legalization. Please copy and paste link and read the article. http://gazette.com/clearingthehaze. Let's learn from them.

Please Note: You have **NOT** been added to any email lists. If you no longer wish to receive these messages, please contact cramaekers@ttsd.k12.or.us.

Like

SAM Smart Approaches to Marijuana

preventing another big tobacco

Sadly, we think it has happened again. Another tragedy - this time the suicide of 23-year-old Luke Goodman in Keystone, Colorado, a young man with no history of mental illness - after consuming marijuana edibles.

This doesn't have to happen. It shouldn't ever happen. We all need to do a better job getting out the word about how harmful today's edibles are.

Thankfully, the *Colorado Springs Gazette* has an incredibly courageous, 4-part editorial feature detailing the problems with marijuana legalization. Their coverage spans workplace problems (like these two dueling construction companies who agree on one thing: how marijuana is a growing problem for them and how they have to look outside of Colorado to find employees who can pass a drug test; or like this teen who says voters were duped).

And now we need your help to say thank you to them.

Please email ClearingtheHaze@gazette.com and tell them how appreciative you are for their coverage. Urge them to continue their work uncovering Big Marijuana and

exposing what is really happening in Colorado.

Thanks everyone,

SAM Team

Email Marketing by

Forward this email

This email was forwarded to johnfl@tigard-or.gov, by Connie Ramaekers.
Privacy Policy.

John Floyd

From: Linda Cook <lgctlc@gmail.com>
Sent: Sunday, March 29, 2015 2:51 PM
To: John Floyd
Subject: 3-24 Town Hall Meeting (Marijuana Dispensary Location)
Attachments: Marijuana Dispensary Location.doc; Town Hall Meeting.doc

John, thank you for returning my call. I am attaching my concerns and my wife's. If for some reason you cannot open these two attachments, please respond back.

Tom Cook

Tigard Town Hall Meeting, March 24, 2015

Re: Marijuana Dispensary Location

My name is Linda Cook, and I reside at 13835 SW Hillshire Drive in Tigard, Oregon 97223. I am a retired middle and high school teacher who has dealt with many issues outside the realm of academics. Exposing our youth to drug traffic of various types in proximity to areas they frequent should be a community concern. My personal concern with the proposed dispensary site is its location near after-school activities where youth classes in kung fu and dance are held. The proposed dispensary center near the Lost Park Society Kung Fu and the Tigard Ballroom Dance Company where youth are coming and going is not in the best interest of these young people, nor of our downtown Tigard. I am not opposed to dispensing marijuana. I know people have the right to choose and have the freedom for access, but I hope the council will consider not using Main Street as a location for the dispensary. Tigard should want to encourage and enhance a feeling our downtown is a family-friendly area. I do not believe that a clustered combination of liquor store, smoke shop, and marijuana dispensary along Main Street is what the community should project as its image. I hope the council will consider my concerns as input parameters as you decide the rules and regulations for our community.

Sincerely,
Linda G. Cook

Marijuana Dispensary Location
Tigard Town Hall, 24 March 2015

My name is Tom Cook. I live at 13835 SW Hillshire Drive in Tigard, Oregon. I think I'm here to ask questions. Specifically, I have not found state-mandated or perhaps more importantly, Tigard-adopted, standoff distances for separating dispensaries from scheduled youth activities. I believe standoff in Oregon is accepted as 1000 feet, dispensary-to-school. I believe "school" is defined in Oregon as elementary through high school, public or private. Distances and definitions vary across the nation so we have to work with some inconsistencies as laws and guidelines develop. In Massachusetts, for example, a "school" is any structure with scheduled youth activities. In my opinion, Massachusetts protects youth in after-school programs (dance, martial arts, etc.) better than Oregon. Without having done exhaustive research, I submit that Tigard has opted to take a hands-off approach to imprinting, or not imprinting, municipal influence on state mandates. By doing so, I believe we are opening our community to potentially serious unintended collateral consequences.

Tigard's failure to engage marijuana dispensary business developers in a manner that places the safety of our youth as the foremost consideration invites tragedy. If as our elected officials, you do not find a way to prevent a dispensary's being sited very near the Tigard Transit Center, you do in effect give the greater Portland metroplex easy access to to Tigard-dispensed drugs. This in-place transportation network will change Tigard demographics. The TTC, which our youth use to access after-school classes (e.g., the Ballroom Dance Company, the Kung Fu Academy of Tigard, ...), will now be shared by desirable and undesirable elements alike. I judge with confidence that there is a real possibility that Tigard's alleys and streets will reflect an altered demographic.

The Tigard Marijuana Dispensary should be sited elsewhere, not on or near Tigard Main Street in proximity to active youth programs and the TTC.

Respectfully,
Thomas L. Cook, PhD

March 30, 2015

Tigard City Council
City of Tigard
13125 SW Hall Blvd.
Tigard, Oregon 97223

Dear Mayor John Cook and Tigard City Council,

As a business owner and property owner within the area identified to be included in the possible marijuana facility location area I'm concerned that Main Street has been included within the Planning Commission's recommendations.

Main Street has been identified for revitalization with the addition of future park space, additional apartments and additional condominiums included for future development. Much city money has been spent revitalizing Main Street, with additional funds being allocated for future work as well. Is this the area that should be identified as a suitable location for a marijuana facility? Wouldn't it be more prudent to not include Main Street at this time until further studies have been done to confirm the suitability of the area for inclusion? I recommend modifying the Planning Commission's recommendations to exclude Main Street at this time.

Sincerely,

Mike Stevenson

Mike Stevenson
Owner
B&B Print Source
9040 SW Burnham St.
Tigard, Oregon 97223

TIGARD CLEANERS

12519 SW Main • Tigard, Oregon 97223 • 503.639.2000

March 30 2015

Dear Tigard City Council

My Name is Darbie Mayberry, as a Business owner and property owner on Main Street. I am writing with a deep concern that Tigard is considering a Marijuana Dispensary on Main Street. I thought ONE main reason we rebuilt Main Street was to make it a more vibrant place where familys, children, shoppers would want to come down and Enjoy wide sidewalks, landscaping, shopping, Art work, eating, coffee etc. "A PLACE TO GATHER". I feel a marijuana Dispensary would do Nothing to improve that Main Street feeling. I know I would Not walk my Grand-children by one. We at Main Street are trying to bring down more family events to Main Street to show the citizens of Tigard what a Nice safe, friendly, family place to come.

I personally am seeing more and more Business owners on Main Street getting more involved and excited about our street improvements I would love to keep the positivity keep on moving in a forward motion. I do Not believe a Marijuana Dispensary would be positive for any Business Along Main Street, that does Not belong where children' familys stroll by. Alot of money was spent and "lost by business" on this street to improve it, can we Now just improve it in a more positive way. Thank you

55 years on Main Street. Darbie Mayberry

To Mayor John Cook and the Tigard City Council,

My name is Shannon Spahan. I am the business owner of the Lost Park Society Kung Fu Academy located at 12215 SW Main Street Tigard, OR 97223. I am writing you today to follow up on my statement March 24th, 2015 to Mayor John Cook and the Tigard City Council regarding a proposed Marijuana Dispensary to be located on Main Street. It was brought to my attention that my landlords, Woo and Song Choi, are planning on leasing to a Marijuana Dispensary in the same building that houses the Lost Park Society Kung Fu Academy.

Lost Park Society Kung Fu Academy provides classes for ages 4 and up with the goal of providing a safe place for today's families and youth. By instilling the Martial Arts virtues of respect, compassion, discipline, integrity, leadership, and honor in our students, we will help prevent drugs, crime, and violence in our community. Lost Park Society Kung Fu Academy provides a safe, structured environment for Martial Arts training. While teaching realistic self-defense skills, we strive to instill the virtues cited above.

A Marijuana Dispensary will create an unsavory environment for other local businesses and the city's family activities located on Main Street; i.e., the Street Fair, Trick or Treating, and the Christmas Tree Lighting, to name a few. I feel like Main Street is not the right choice and recommend that Tigard zoning not allow for Marijuana Dispensaries to be located on Main Street or near established youth programs, such as martial arts studios, dance studios, gymnastics, childcare, etc.....

Another concern is the traffic it would bring to an already congested area. It would create more parking issues, more traffic through our public transportation system, and more cost to the city for road improvements and traffic control. The public transportation system issue of concern is for the safety of families and youth coming through Tigard's main street transit station.

Thank you for your time and concern regarding this matter.

Sincerely,

Shannon Spahan

Lost Park Society Kung Fu Academy

12215 SW Main Street Tigard, OR 97223 503-954-4387

John Floyd

From: Shawn Keren <shawn_keren@yahoo.com>
Sent: Monday, March 30, 2015 12:35 PM
To: Councilmail Councilmail; John Floyd
Subject: Marijuana Dispensaries In Tigard

Thanks for hearing us on March 24, 2015 at the Town Hall Meeting. Attached are the comments made by Shawn Keren.

My name is Shawn Keren and I reside at 14150 SW Barrows Rd. #4 Tigard, OR 97223

We all know that the legalization of recreational marijuana is a done deal. The people spoke and this is now reality.

As for dispensaries and retail outlets in Tigard, I think some careful thought needs to go into the locations of these businesses.
Looking at this from a purely economic point of view I feel that allowing these businesses on Main Street is a bad idea.
The recent upgrade to the downtown area saw a large amount of funds spent to beautify this area. Is this type of business anywhere on Main Street the right thing to do.

If the council is to truly be good stewards of the taxpayers contributions for this project then you will opt to keep these businesses off of our Main Street.

Regards,

Shawn Keren

LUKE·DORF
A HEALING COMMUNITY

March 30, 2015

Mr. John Floyd
City of Tigard
13125 SW Hall Blvd.,
Tigard, OR 97223

Dear Mr. Floyd:

This letter is to express our grave concerns about the Planning Commission's proposed recommendation for retail marijuana facilities in Tigard. As a community mental health provider, we strongly urge the Commission to restrict options for retail to an appropriate distance from existing mental health and addiction treatment facilities.

Luke-Dorf is located on the corner of Greenburg and Center, and serves over 300 people in Washington County. A drug and alcohol treatment facility is located directly across Greenburg Road. Luke-Dorf works closely with many community partners including the Tigard PD to stabilize the mental health and contain the behaviors of many Tigard citizens struggling with symptoms of mental illness.

It is well known and documented by a significant body of research that using marijuana worsens the symptoms of schizophrenia. Indeed, after discontinuation of medications, marijuana use is the most common reason for relapse, treatment non-adherence, and worsening psychosis leading to hospitalization (Zammit, Moore and Lingford-Hughes, 2008). Many case and longitudinal studies (some of them going back decades) link marijuana use to mania and acute psychotic symptoms such as hallucinations, paranoia, and anxiety. Over 80% of individuals with antisocial personality disorder and chronic criminal thinking have co-morbid drug misuse, and the risk they pose to the community is exponentially heightened by cannabis use (Regier, Farmer, and Rae). Cannabis can induce bipolar disorder with psychotic features (Khan & Akella in 2009).

Ready availability of marijuana in an area with long-established high traffic of persons with mental health conditions will come at an enormous cost to the community, including increased Emergency Medical services, police intervention, and behavioral incidents that detract from the business climate. The transit line on Highway 99 already attracts numerous non-residents, whose numbers and diversity will significantly increase under the current proposal. It is inevitable that mentally fragile persons will be victimized or financially exploited by persons drawn to the area by retail marijuana. It is equally inevitable that some psychiatric patients will succumb to the temptation of ready access and start on a path that counteracts their health and recovery.

The City's sitting decisions will have a direct role in the risk of exposing those with disabilities to predatory behaviors and unnecessary risk factors, with a predictable effect on the public perception of the Tigard community. We urge you to consider additional restrictions or alternate locations which place dispensaries at a distance of at least five miles from mental health and addictions treatment facilities,

8915 SW CENTER ST. TIGARD, OR 97223 | TEL 503.726.3690 | FAX 503.726.3691 | LUKE-DORF.ORG

giving these social service programs the same protections the community affords to other vulnerable populations.

We appreciate your request for feedback and appreciate your taking very seriously the issue of a City decision that would increase risk factors for very vulnerable citizens and predictably add a huge cost to their care.

Sincerely,

John Trinh, CEO
Luke-Dorf, Inc.
jtrinh@luke-dorf.org

John Floyd

From: Mark Johnson <markjohnsonjr@gmail.com>
Sent: Monday, March 30, 2015 7:47 PM
To: John Floyd
Subject: Written Comment - Marijuana Policy

John,

Thank you for the opportunity to submit comment. I have hopes of opening a retail location in Tigard. I have attempted to secure locations in Portland and it has been challenging to say the least. I believe I will have a location and license secured in Tigard soon.

My request would be to open the retail location eligibility to any property within the Planning Commission Recommendation for Non-Retail locations. The property I have secured does not have frontage on 99 or Main St., however it is within the guidelines for Non-Retail locations. I believe many other people will find themselves in a similar situation. By only allowing properties on these 2 streets I believe competition will be unnecessarily stifled and the city may end up underserved.

Certainly pacific hwy. and main st. will not see a shortage of marijuana retail outlets, but the best operators and providers of marijuana related services are not always the ones who can secure prime real estate in a unusually competitive market.

With almost 200 retail locations in the city of Portland alone, it serves as a great example with almost no outcry regarding negatives associated with retail locations. It is my opinion that the planning commissions recommendation for non-retail locations provides a more than comfortable buffer for the community, above and beyond what other municipalities have found success with in regards to retail sales.

Thank you very much for your consideration,

Mark Johnson

March 31, 2015

Dear Mayor Cook, City Council Members and Planning Commission,

First of all, I want to thank you for all the time and effort you have dedicated in regards to Marijuana Facility Regulations for our community of Tigard. You have done an excellent job and thank you for the process you have adopted in allowing the community to give input.

With that said, I would like to voice my concerns and ask for consideration for the following:

1. Retailers and wholesalers selling directly to the public shall be restricted to parcels with frontage on Pacific Highway only and shall not be located not within **1,000 feet** of another retail or wholesale marijuana facility; and not within **1,000 feet** of a Public Library or Parks and Recreation Zone **including day cares and pre-schools.**

2. Non-retail uses and wholesalers not selling to the public shall not be located within **1000 feet** of a parcel or tract within the City of Tigard containing one or more of the following:
a. Residential Zone
b. Parks and Recreation Zone
c. Public Library
d. Pre-schools
e. Day Cares

I am also concerned with the number of facilities that will be allowed to open in Tigard. I feel that having 8 to 10 marijuana businesses in our city should be limited to a smaller number. Less access will protect our youth.

Also, I would like you to consider restricting operating hours to Monday through Saturday from 10 am to 7 pm and closed on Sundays.

Thank You,
Connie Ramaekers
9655 SW Murdock St.
Tigard, OR 97224

March 31, 2015

Tigard City Counsel and John Floyd

13125 SW Hall Blvd.

Tigard, OR 97223

Dear Counsel Members and Mr. Floyd

I am writing to you as I understand this is the final day to make written comments with respect to your final vote on zoning recommendations for Medical Marijuana Dispensaries in the City of Tigard. I am the General Manager of a Dispensary in the Woodstock Neighborhood of Portland and we have been here since June 29th of 2014. Recently we entered into a five year lease on a property on Main Street in Tigard with the hopes of opening a dispensary in the neighborhood. I have followed the public meetings and written comments and wanted a final opportunity to have a voice prior to the counsel making its final vote. First of all I am a husband and father of two boys ages 7 and 10. I graduated with a degree in Finance from the University of Oregon in 1991. When we moved into the neighborhood in Woodstock, of course there were plenty of opinions. We are across the street from Our Lady of Sorrow Catholic church and a private pre-school. (I am actually a devout catholic, and have shared some emails back and forth with the priest across the street.) The Church has been great, as has the pre-school. I believe there are some misperceptions about this business. If there wasn't a Green Cross in the Window, you would not know we were here as a MMJ Dispensary. People come and go just like any other business and there has never been a problem to speak of. Interestingly, when I got into this business I was really looking ahead to retail operations and trying to position accordingly simply as a business opportunity. Having worked 70 hours a week since we opened refining things and visiting now on average 100 patients a day, I have gained a level of respect for Marijuana as medicine that I never understood/believed to be the case. We have product that does not have the psychoactive effects of the plant that is good for things like pain, inflammation, epilepsy, etc... We have three patients with Rheumatoid Arthritis that have completely replaced their arthritis medicine with the CBD Capsules (that is name of the non- psychoactive part of the plant that helps with pain and inflammation). I have watched them resume normal activities they otherwise were having trouble with. Even their doctors are amazed and using the term remission. Also, I can think of a fifteen year old boy whose mother has told me has severe depression/schizophrenia and has been taking the CBD Capsules and can now sleep through the night without nightmares and night sweats. His mother and I have had some wonderful conversations and so far has had a dramatic impact on the young man's life. Also, folks with chronic

Kaleafa Medical Marijuana Dispensary
5232 SE Woodstock Blvd, Portland, OR 97206
(971)-407-3208 Kaleafa.com

pain that have been cut off opiates by their doctors that are using Cannabis as a healthier alternative to assist with various ailments. The list goes on and on.

The point I'm trying to make (not to be repetitive) is that I believe there is a misunderstanding about what this business is all about. People come and go like any other business and we make a positive contribution to our local community and if allowed will do the same thing in Tigard being highly responsible citizens. The preliminary zoning has allowed for businesses fronting Hwy 99/Pacific Hwy and Main Street. Based on this we have signed a five year lease at a building on Main Street. I hope you will see your way to approving the Planning Department's recommendations. We look forward to doing business in Tigard.

Sincerely

Bill Widmer

G.M. Kaleafa

Kaleafa Medical Marijuana Dispensary
5232 SE Woodstock Blvd, Portland, OR 97206
(971)-407-3208 Kaleafa.com

John Floyd

From: Sunnie <sunniepage@gmail.com>
Sent: Tuesday, March 31, 2015 11:46 PM
To: John Floyd
Subject: Possible marijuana dispensary locating on Main Street

Dear Mr.Floyd,
I was surprised to learn from one of our students that a marijuana dispensary may soon open on Main Street. This location will damage my business, not contribute to Tigard's current positive trend towards urban renewal, will decrease property values, and will deter other posh businesses from opening on Main Street. Attached is a letter a emailed to the City Council.
Best Wishes
□Sunnie Page
Owner, The Ballroom Dance Company

Dear Council Members,

My name is Sunnie Page. I own The Ballroom Dance Company, located at 8900 SW Commercial Street in Tigard. We opened nearly eight years ago and are the largest ballroom dance studio in the country.

I'm writing to express my desire that the cannabis dispensary opening in Tigard be located farther from my studio.

1) We run the largest childrens ballroom dance program in the state, teaching kids ages 3-18 years old seven days a week. Many of these kids take public transportation. A marijuana dispensary increases the chances of kids being exposed to drugs (potentially re-sold to them next door at the transit center they use, or passive exposure/advertisement through having to drive by it every time they drive to our ballroom). A marijuana dispensary increases the chances of drivers under the influence driving on our street.

2) We opened our ballroom in Tigard, excited to learn of the old town gentrification and aesthetic upgrade plans. We have parlayed this into elegant event rentals, with three full size ballrooms with luxurious upholstery covered walls, chandeliers, special effects LED lighting, full service kitchen, etc, A marijuana dispensary in plain sight within walking distance from the front doors of our ballroom will hurt our ability to rent to clean-cut, black tie events. Posh weddings, childrens birthday parties, elegant corporate galas, etc will not host their parties at a ballroom where you "drive past the weed dispensary and turn left."

3) We already have challenges being located next to the Transit Center. Riders smoke, drink and urinate behind our ballroom. We do not want to add policing pot smokers to the list of inconveniences being located here.

4) Many types of businesses attract clientele which are mutually beneficial to our business. Our staff and hundreds of students patronize many businesses in Main Street. Our staff and students are athletes, children, and recreational social dancers who do not drink or smoke, let alone use marijuana. Likewise, a marijuana

dispensary will not attract clientele who will patronize or benefit my business in any way. In fact for the above mentioned reasons, this dispensary will damage my business.

5) My understanding is we have an alternative high school on our street for troubled kids, as well as an addiction treatment center the next street over. I hope these people have been notified of this potential 'new addition' to our neighborhood, as it certainly stands to be detrimental for their clientele.

6) And on a personal note, as the parent of a 4 year old daughter who I care for full-time who comes to the ballroom with me daily -- I do not want to be forced to expose my own family to that business, any more than I would like to have a strip club on our corner.

I beg the council to reconsider allowing a marijuana dispensary to open at the currently proposed location. It is within walking distance from our front door & in the direct path of hundreds of clients who patronize our ballroom weekly. Our clients having to walk and drive by a pot dispensary every time they patronize our ballroom will cost us the affluent, wholesome, fitness & family-focused clientele we have worked hard to cultivate.

Just because a marijuana dispensary is legal does not make it an esteemed and helpful addition to our neighborhood. In fact it is the opposite.

Thank you for your consideration in this sensitive matter. Feel free to contact me if you have any questions.

Best Wishes
□Sunnie Page
Owner, The Ballroom Dance Company
www.theballroomdancecompany.com
(503)639-4862 (ballroom)
(503)784-7984 (cell)
□Sunnie@theballroomdancecompany.com

Sent from my iPhone

John Floyd

From: Joanne Bengtson
Sent: Wednesday, April 01, 2015 2:28 PM
To: John Floyd
Cc: Carol Krager; Norma Alley
Subject: FW: Letter to council regarding retail marijuana locations

Fyi
-Joanne

-----Original Message-----
From: Steve DeAngelo [mailto:steve@cateringbydeangelos.com]
Sent: Wednesday, April 01, 2015 1:58 PM
To: 'John'; John Cook; Councilmail Councilmail; Marty Wine
Cc: Sean Farrelly; Lloyd Purdy
Subject: Letter to council regarding retail marijuana locations

Dear Mayor Cook and members of Tigard city council,

I am writing today to express concerns over the planning commission recommendation of the placement of retail marijuana dispensaries within the limits of the city.

Allowance of dispensaries on Main Street seems Disingenuous to the city's goals of creating a vibrant district for the stakeholders of our community and beyond.
As you are aware, many including myself have committed countless hours towards assisting the city with achievement of the plans recommended for the transformation of downtown. It is a known fact that housing, public gathering spaces and community events are all inclusions of our transformation district which all include children.

Creating limited options that include Main Street seems like an attractor to these specific types of businesses. When I asked staff about the allowance of this type of business that might be otherwise restricted based on plans to improve the Tigard street trail, staff indicated the business would be protected under non conforming use status of the code. My knowledge of the non conforming codes which I appreciate protects business and property owners such as myself to further continued business operations in blighted or underused areas of transformation. Allowing a restricted business within the zone with knowledge that a proposed public gathering space which is in the city plan and then allow that continuation under non conforming use status seems counterproductive.

I am further disturbed that the city did not send out notifications via US mail regarding the proposed change. The only communication the city had to property, business owners or citizens was Cityscape. Unfortunately, Since that publication is no longer mailed, it's effectiveness as a communication means has fallen off my radar to monitor city information. The TDA nor CCAC was invited to comment in a reasonable amount of time either. The Times has been a better information source although the reporter based on space certainly cannot publish all the data that needs consideration for decision making by any stakeholder.

Looking at staff recommendations to have a residential setback of 500' would solve many of the concerns the city has in regards to restrictions and maybe should be reconsidered as well. Allowing establishments of this nature citywide could be another consideration, although I understand the action of moving into this un chartered territory careful with future additions to zones rather than trying to restrict after the fact.

I sincerely hope council weighs in all options before making their final decision.

Respectively submitted,

Steve DeAngelo
TDA President, proud citizen, commercial property owner, resident, and business owner within the city of Tigard

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I am using the free version of SPAMfighter.
SPAMfighter has removed 184086 of my spam emails to date.
Get the free SPAMfighter here: http://www.spamfighter.com/len

Do you have a slow PC? Try a Free scan
http://www.spamfighter.com/SLOW-PCfighter?cid=sigen

DISCLAIMER: E-mails sent or received by City of Tigard employees are subject to public record laws. If requested, e-mail may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law. E-mails are retained by the City of Tigard in compliance with the Oregon Administrative Rules "City General Records Retention Schedule."

AIS-2190 **8.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	5 Minutes		
Agenda Title:	Council Consideration of Amendment #2 to the City Center Urban Renewal Plan		
Prepared For:	Sean Farrelly, Community Development		
Submitted By:	Carol Krager, City Management		
Item Type:	Resolution	**Meeting Type:**	Council Business Meeting - Main
Public Hearing:	No	**Publication Date:**	

Information

ISSUE

The City Council is requested to consider a resolution to amend the City Center Urban Renewal Plan to add the acquisition and disposition of three contiguous parcels in the vicinity of Burnham Street and Ash Avenue to the list of urban renewal projects.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that the City Council approve the resolution.

KEY FACTS AND INFORMATION SUMMARY

On January 27, 2015 the Tigard City Council approved the transfer of three contiguous properties in the Tigard Urban Renewal Area from the city to the City Center Development Agency. These three properties are in the vicinity of Burnham Street and Ash Avenue (Taxlots 2S102AD02800, 2S102AD02900, and 2S102AD03000). When the City Center Development Agency acquires or disposes of property, the Center Urban Renewal Plan needs to be amended.

This is the second proposed amendment to the Plan since it was approved by voters in 2006. Section XII of the City Center Urban Renewal Plan establishes the procedures to amend the Plan. The proposed amendment is considered a Council-Approved Amendment. Council-Approved amendments require both the approval of the Agency and the City Council by separate resolutions.

Section V of the Plan authorizes Real Property Acquisition and Real Property Disposition as projects. Under Project H, real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as

provided in Section VIII, paragraph A. This includes acquisition of real property to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

Under Project I, real property may be disposed of as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph B. This includes real property disposition to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

These three properties are the subject of a proposed Disposition and Development Agreement that will result in a major mixed use residential development on the site. The properties will not be disposed of until the requirements of the Disposition and Development Agreement are fulfilled.

The proposed amendment would amend the plan by adding these three properties to the list of acquired properties under Project H: Real Property Acquisition and the list of properties to be disposed of under Project I: Real Property Disposition.

OTHER ALTERNATIVES

The City Council could choose not to adopt the resolution to amend the plan and not acquire or dispose of the properties.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Tigard City Council 2015-17 Goals and Milestones
Goal #2. Make Downtown Tigard a Place Where People Want to Be

- Support residential and mixed use development in walkable and transit-supported areas by completing the Ash Avenue/Burnham Street Redevelopment project.

City Center Urban Renewal Plan

Tigard Comprehensive Plan
Economic Development
Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy
Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

Housing
Goal 10.1 Provide opportunities for a variety of housing types to meet the diverse housing needs of current and future City residents.

Special Planning Areas- Downtown
Goal 15.2 Facilitate the development of an urban village.

DATES OF PREVIOUS COUNCIL CONSIDERATION

January 27, 2015- Transfer three city-owned properties to the City Center Development Agency

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Attachments

Resolution

Exhibit A

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 15-

A RESOLUTION AMENDING THE CITY CENTER URBAN RENEWAL PLAN BY ADDING THE ACQUISITION AND DISPOSITION OF THREE PROPERTIES IN THE VICINITY OF SW BURNHAM STREET AND SW ASH AVENUE (TAXLOT IDS 2S102AD02800, 2S102AD02900, AND 2S102AD03000) AS PROJECTS

WHEREAS, ORS 457. 170 authorizes the City Center Development Agency (CCDA) to acquire and/or dispose of real property pursuant to its approved urban renewal plan; and

WHEREAS, the City Center Urban Renewal Plan authorizes the acquisition and/or disposition of real property within the Urban Renewal Area as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraphs A and B; and

WHEREAS, on January 27, 2015 the City of Tigard transferred ownership of three properties in the vicinity of SW Burnham Street and SW Ash Avenue (Tax lot IDs 2S102AD02800, 2S102AD02900, and 2S102AD03000) to the City Center Development Agency; and

WHEREAS, the City Center Urban Renewal Plan must be amended to add the acquisition of these properties to the list of urban renewal projects; and

WHEREAS, the City Center Urban Renewal Plan must be amended to add the disposition of these properties to the list of urban renewal projects; and

WHEREAS, adding projects that add a cost in 2005 dollars of more than $500,000 and are materially different from projects previously authorized in the plan may be approved through a Council-approved amendment; and

WHEREAS, the Board of the City Center Development Agency will also consider approval of the amendment by resolution.

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

SECTION 1: The City Center Urban Renewal Plan is hereby amended with the text found in Exhibit A.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2015.

_____
Mayor - City of Tigard

ATTEST:

_____
City Recorder - City of Tigard

EXHIBIT A

Proposed new text is shown in double-underline.

V. URBAN RENEWAL PROJECTS

Urban renewal projects authorized under the Plan, which may be undertaken by the Agency, are described below and shown in Figures 2 to 7. To preserve and enhance the Area's natural resources, projects will be designed and implemented with consideration for ecologically sensitive areas and to minimize the impacts of development on the environment. Property acquisition may be required for these projects. Further, some of the projects described herein will require participation of other public agencies. In addition, real property acquisition and disposition are Projects under the plan as described in Section V, paragraphs H and I.

A. Street Improvements

Street Improvements projects are designed to improve multimodal circulation and connectivity within downtown Tigard. The projects will also facilitate access between downtown and adjacent residential, commercial and employment areas. To create a pedestrian environment that encourages active uses such as shopping, entertainment and commercial business activity, utilities may be under-grounded concurrent with street improvements.

1. Ash Avenue Extension, Scoffins to Burnham, Including RR Crossing

The extension of Ash Avenue from Burnham Street to Commercial Street is a project under the Plan. A new railroad crossing will be developed as part of the project.

2. Scoffins Street/Hall Boulevard/Hunziker Re-Alignment

The re-alignment of the Scoffins Street/Hall Boulevard/Hunziker Road intersection is a project under the Plan. Currently, Scoffins Street and Hunziker are poorly aligned, which increases congestion and slows traffic at this three-way intersection.

3. Hall Blvd/Highway 99W Intersection Improvements

Improvements to the intersection of Hall Boulevard/Highway 99W are a project under the Plan. The project will improve multimodal circulation and safety and reduce congestion at this major intersection, which serves as an important gateway to downtown.

4. Greenburg Road/Highway 99W Intersection Improvements

The City has recently commissioned a study that will determine what improvements will be needed to reduce congestion and increase multimodal circulation at the intersection of Greenburg Road and Highway 99W. Tax increment revenues may be used to finance recommended intersection improvements.

5. Burnham Street Improvements

The reconstruction and widening of Burnham Street is a project under the Plan.

6. Center Street Improvements

Upgrades and improvements to Center Street are a project under the Plan.

B. Streetscape Improvements

The Tigard Downtown Improvement Plan identifies landscaping features, street trees and street furniture as improvements that will enhance the physical appearance of downtown and attract a broader range of users, including shoppers, tourists and commercial employers. Streetscape improvements on the following streets in the downtown area are a Project under the Plan:

1. Main Street

2. Burnham Street
3. Commercial Street
4. Ash Avenue
5. Scoffins Road
6. Center Street

C. Bike/Pedestrian Facilities

Bike/Pedestrian Facilities are designed to facilitate safe and convenient multimodal access throughout the Urban Renewal Area.

1. Commuter Rail Access

The provision of pedestrian access to the proposed downtown Tigard commuter rail station from Burnham Street is a project under the Plan.

2. Hall Blvd.

This project will increase pedestrian access and safety by eliminating gaps in the sidewalk on the east side of Hall Boulevard and repairing sidewalks and curbs on both sides of Hall Boulevard as needed.

3. Scoffins Street

The installation of bicycle lanes and sidewalks on Scoffins Street, which currently lacks pedestrian and bicycle facilities, is a project under the Plan.

4. Tigard Street

This project will provide a new bike lane on the south side of Tigard Street and upgrade the existing bike lane on the north side to standard.

5. Highway 99W

The installation of contiguous sidewalks on both sides of Highway 99W and a grade-separated bicycle/pedestrian crossing at Greenburg Road to increase pedestrian and bicycle safety is a project under the Plan.

6. Center Street

The provision of sidewalks and bicycle lanes on Center Street is a project under the Plan.

7. Enhanced Pedestrian Bridge over Fanno Creek Connecting to Ash Avenue

The design and construction of an enhanced pedestrian bridge over Fanno Creek, connecting to Ash Avenue, is a project under the Plan. This project will facilitate access between residential neighborhoods west of Fanno Creek and downtown and will be designed to minimize impacts to sensitive areas and preserve wetlands buffers.

8. Conversion of Existing North Rail Corridor into a Multi-use Pedestrian Trail

The conversion of the existing north rail corridor into a multi-use pedestrian trail is a project under the Plan. This project will increase pedestrian access and provide new recreational opportunities for residents, workers and visitors to downtown. Key components of the project may include bio-swales, native vegetation, pervious pavement and low impact stormwater conveyance/treatment features that will distinguish downtown Tigard from other communities by promoting sustainable development.

9. Tigard Street/Grant Bicycle/Pedestrian Crossing

The design and construction of a new at-grade bicycle/pedestrian crossing that will extend from the intersection of Tigard Street and Grant Street (south of the railroad) to the north side of the railroad tracks is a project under the Plan. The crossing will facilitate circulation and access to downtown by non-motorized vehicles. Automobiles and other motorized vehicles will be prohibited.

D. Parks

1. Fanno Creek Park Improvements

Upgrades and improvements to Fanno Creek Park, as well as the preservation and restoration of environmentally sensitive areas, is a project under the Plan.

2. Skateboard Park

The construction of a new skateboard park is a project under the Plan. The proposed location of the skateboard park is the City Hall parking lot.

E. Public Spaces

1. Green Corridor/Urban Creek

The development of a green corridor/urban creek that will extend from the intersection of Highway 99W and Hall Boulevard through downtown and to Fanno Creek in a project under the Plan. Key components of the project may include bio-swales, native vegetation, pervious pavement and other low impact stormwater conveyance/treatment features.

2. Plazas

The design and construction of public plazas that will serve as public gathering spaces is a project under the Plan. This project will encourage a broader range of active and passive recreational uses in downtown and attract more residents and visitors to the area.

3. Urban Green Spaces

The development of high quality urban green spaces suitable for a range of recreational uses is a project under the Plan. Similar to the plazas project, this project will increase the overall livability and attraction of the downtown area. The urban green space will be designed to promote the preservation and restoration of environmentally sensitive areas.

4. Public Market

The design and development of a public market in the proposed public use area near Fanno Creek is a project under the Plan.

F. Public Facilities

The Plan includes the following public facilities. Prior to the expenditure of tax increment revenues for any of these projects, the Agency will be required to adopt a Minor Amendment to the Plan (as provided in Section XII) explaining how the facility serves or benefits the Area, and further stating the proportion of the benefits of these facilities that will accrue to the Area and finding that the amount of the expenditure is proportional to the amount of benefit to the Area. Design and development will be a part of all proposed public facilities projects identified in the Plan.

1. Performing Arts Center

The design and construction of a performing arts center in downtown Tigard is a project under the Plan. This project, which is recommended in the Tigard Downtown Improvement Plan, will provide new entertainment and recreation opportunities that will attract residents and out-of-town visitors to downtown.

2. Public Parking Facilities

The design and construction of new public parking facilities is a project under the Plan. As new shopping, recreational and entertainment uses, including the proposed performing arts center and public market, are established in the downtown area, new public parking facilities will be needed to accommodate the anticipated increase in parking demand.

3. Post Office Relocation

The relocation of the existing downtown post office is a project under the Plan.

4. Public Market Area

The development of a public market area in the proposed public use area near Fanno Creek is a project under the Plan.

5. Public Restrooms

The provision of public restrooms in public gathering spaces is a project under the Plan.

G. Planning and Development Assistance

Offering the following types of planning and development assistance to support the development, redevelopment and rehabilitation of private property in the Area is a project under the Plan. Detailed rules and regulations for the administration of financial and technical assistance programs will be established by the Agency after adoption of the Plan in order to ensure that urban renewal funds are used in compliance with the Plan and for the agreed upon Plan purposes. The adoption and amendment of such programs, rules and regulations would not be considered changes to the Plan.

1. Rehabilitation/Redevelopment Grant/Loan Program

The Urban Renewal Plan authorizes loans and/or grants for property rehabilitation and redevelopment. Property to be improved may be residential or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties.

2. New Development Grant/Loan Program

In addition to providing rehabilitation and redevelopment assistance, the Urban Renewal Plan authorizes loans and/or grants for new development. Property to be improved may be residential or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties.

3. Technical Assistance Program

The Urban Renewal Plan authorizes technical assistance in the form of site studies, market studies, feasibility analyses, engineering and design and other activities directly related to development of property in the urban renewal area. Examples of such technical assistance may include structural analysis of downtown building to promote rehabilitation of underutilized buildings and relocation strategies for existing downtown businesses seeking to move to an alternative site within the urban renewal area.

4. Commercial Façade Improvement Loans

To create a distinct identity for downtown Tigard that is visually appealing and unified, the Urban Renewal Plan authorizes façade improvement loans for commercial development. Improvements will be used to enhance the architectural integrity and character of historic commercial buildings and storefronts in need of a “face lift.”

H. Real Property Acquisition.

In addition to acquisition of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes acquisition of real property from willing sellers to support development or redevelopment of retail, office, housing and mixed use project within the Area.

1. Burnham Street Property, Taxlot ID 2S12AC-00202 will be acquired.

2. Burnham and Ash Street Properties, Taxlots 2S102AD-02800, 2S102AD-02900, and 2S102AD-03000 will be acquired.

EXHIBIT A

I. Real Property Disposition.

In addition to disposal of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be disposed of as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes real property disposition to support development or redevelopment of retail, office, housing and mixed use project within the Area.

Properties to be disposed of:

1. Burnham and Ash Street Properties, Taxlots 2S102AD-02800, 2S102AD-02900, and 2S102AD-03000.

AIS-2185 **9.**

Business Meeting

Meeting Date:	04/14/2015		
Length (in minutes):	10 Minutes		
Agenda Title:	CCDA Board Consideration of Amendment #2 to the City Center Urban Renewal Plan		
Submitted By:	Sean Farrelly, Community Development		
Item Type:	Resolution	**Meeting Type:**	City Center Development Agency
Public Hearing:	No	**Publication Date:**	

Information

ISSUE

The Board of the City Center Development Agency is requested to consider a resolution to amend the City Center Urban Renewal Plan to add the acquisition and disposition of three contiguous parcels in the vicinity of Burnham Street and Ash Avenue to the list of urban renewal projects.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that the Board of the CCDA approve the resolution.

KEY FACTS AND INFORMATION SUMMARY

On January 27, 2015 the Tigard City Council approved the transfer of three contiguous properties in the Tigard Urban Renewal Area from the city to the City Center Development Agency. These three properties are in the vicinity of Burnham Street and Ash Avenue (Taxlots 2S102AD02800, 2S102AD02900, and 2S102AD03000). When the City Center Development Agency acquires or disposes of property, the Center Urban Renewal Plan needs to be amended.

This is the second proposed amendment to the Plan since it was approved by voters in 2006. Section XII of the City Center Urban Renewal Plan establishes the procedures to amend the Plan. The proposed amendment is considered a Council-Approved Amendment. Council-Approved amendments require both the approval of the Agency and the City Council by separate resolutions.

Section V of the Plan authorizes Real Property Acquisition and Real Property Disposition as projects. Under Project H, real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as

provided in Section VIII, paragraph A. This includes acquisition of real property to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

Under Project I, real property may be disposed of as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph B. This includes real property disposition to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

These three properties are the subject of a proposed Disposition and Development Agreement that will result in a major mixed use residential development on the site. The properties will not be disposed of until the requirements of the Disposition and Development Agreement are fulfilled.

The proposed amendment would add these three properties to the list of acquired properties under Project H: Real Property Acquisition and the list of properties to be disposed of under Project I: Real Property Disposition.

OTHER ALTERNATIVES

The CCDA Board could choose not to adopt the resolution to amend the plan.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Tigard City Council 2015-17 Goals and Milestones
Goal #2. Make Downtown Tigard a Place Where People Want to Be

- Support residential and mixed use development in walkable and transit-supported areas by completing the Ash Avenue/Burnham Street Redevelopment project.

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Housing
Goal 10.1 Provide opportunities for a variety of housing types to meet the diverse housing needs of current and future City residents.

Special Planning Areas- Downtown
Goal 15.2 Facilitate the development of an urban village.

DATES OF PREVIOUS COUNCIL CONSIDERATION

January 27, 2015- Transfer three city-owned properties to the City Center Development Agency

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Attachments

Resolution

Exhibit A

CITY OF TIGARD, OREGON
CITY CENTER DEVELOPMENT AGENCY
RESOLUTION NO. 15-____

A RESOLUTION AMENDING THE CITY CENTER URBAN RENEWAL PLAN BY ADDING THE ACQUISITION AND DISPOSITION OF THREE PROPERTIES IN THE VICINITY OF SW BURNHAM STREET AND SW ASH AVENUE (TAXLOT IDS 2S102AD02800, 2S102AD02900, AND 2S102AD03000) AS PROJECTS

WHEREAS, ORS 457. 170 authorizes the City Center Development Agency (CCDA) to acquire and/or dispose of real property pursuant to its approved urban renewal plan; *and*

WHEREAS, the City Center Urban Renewal Plan authorizes the acquisition and/or disposition of real property within the Urban Renewal Area as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraphs A and B; *and*

WHEREAS, on January 27, 2015 the City of Tigard transferred ownership of three properties in the vicinity of SW Burnham Street and SW Ash Avenue (Taxlot IDs 2S102AD02800, 2S102AD02900, and 2S102AD03000) to the City Center Development Agency; *and*

WHEREAS, the City Center Urban Renewal Plan must be amended to add the acquisition of these properties to the list of urban renewal projects; *and*

WHEREAS, the City Center Urban Renewal Plan must be amended to add the disposition of these properties to the list of urban renewal projects; *and*

WHEREAS, adding projects that add a cost in 2005 dollars of more than $500,000 and are materially different from projects previously authorized in the plan may be approved through a Council-approved amendment; *and*

WHEREAS, the Tigard City Council will also consider approval of the amendment by resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Board of the Tigard City Center Development Agency that:

SECTION 1: The City Center Urban Renewal Plan is hereby amended with the language found in Exhibit A.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____, 2015.

_____
Chair – City of Tigard
City Center Development Agency

ATTEST:

_____
Recorder – City of Tigard City Center Development Agency

EXHIBIT A

Proposed new text is shown in double-underline.

V. URBAN RENEWAL PROJECTS

Urban renewal projects authorized under the Plan, which may be undertaken by the Agency, are described below and shown in Figures 2 to 7. To preserve and enhance the Area's natural resources, projects will be designed and implemented with consideration for ecologically sensitive areas and to minimize the impacts of development on the environment. Property acquisition may be required for these projects. Further, some of the projects described herein will require participation of other public agencies. In addition, real property acquisition and disposition are Projects under the plan as described in Section V, paragraphs H and I.

A. Street Improvements

Street Improvements projects are designed to improve multimodal circulation and connectivity within downtown Tigard. The projects will also facilitate access between downtown and adjacent residential, commercial and employment areas. To create a pedestrian environment that encourages active uses such as shopping, entertainment and commercial business activity, utilities may be under-grounded concurrent with street improvements.

1. Ash Avenue Extension, Scoffins to Burnham, Including RR Crossing

The extension of Ash Avenue from Burnham Street to Commercial Street is a project under the Plan. A new railroad crossing will be developed as part of the project.

2. Scoffins Street/Hall Boulevard/Hunziker Re-Alignment

The re-alignment of the Scoffins Street/Hall Boulevard/Hunziker Road intersection is a project under the Plan. Currently, Scoffins Street and Hunziker are poorly aligned, which increases congestion and slows traffic at this three-way intersection.

3. Hall Blvd/Highway 99W Intersection Improvements

Improvements to the intersection of Hall Boulevard/Highway 99W are a project under the Plan. The project will improve multimodal circulation and safety and reduce congestion at this major intersection, which serves as an important gateway to downtown.

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This project will increase pedestrian access and safety by eliminating gaps in the sidewalk on the east side of Hall Boulevard and repairing sidewalks and curbs on both sides of Hall Boulevard as needed.

3. Scoffins Street

The installation of bicycle lanes and sidewalks on Scoffins Street, which currently lacks pedestrian and bicycle facilities, is a project under the Plan.

4. Tigard Street

This project will provide a new bike lane on the south side of Tigard Street and upgrade the existing bike lane on the north side to standard.

5. Highway 99W

The installation of contiguous sidewalks on both sides of Highway 99W and a grade-separated bicycle/pedestrian crossing at Greenburg Road to increase pedestrian and bicycle safety is a project under the Plan.

6. Center Street

The provision of sidewalks and bicycle lanes on Center Street is a project under the Plan.

7. Enhanced Pedestrian Bridge over Fanno Creek Connecting to Ash Avenue

The design and construction of an enhanced pedestrian bridge over Fanno Creek, connecting to Ash Avenue, is a project under the Plan. This project will facilitate access between residential neighborhoods west of Fanno Creek and downtown and will be designed to minimize impacts to sensitive areas and preserve wetlands buffers.

8. Conversion of Existing North Rail Corridor into a Multi-use Pedestrian Trail

The conversion of the existing north rail corridor into a multi-use pedestrian trail is a project under the Plan. This project will increase pedestrian access and provide new recreational opportunities for residents, workers and visitors to downtown. Key components of the project may include bio-swales, native vegetation, pervious pavement and low impact stormwater conveyance/treatment features that will distinguish downtown Tigard from other communities by promoting sustainable development.

9. Tigard Street/Grant Bicycle/Pedestrian Crossing

The design and construction of a new at-grade bicycle/pedestrian crossing that will extend from the intersection of Tigard Street and Grant Street (south of the railroad) to the north side of the railroad tracks is a project under the Plan. The crossing will facilitate circulation and access to downtown by non-motorized vehicles. Automobiles and other motorized vehicles will be prohibited.

D. Parks

1. Fanno Creek Park Improvements

Upgrades and improvements to Fanno Creek Park, as well as the preservation and restoration of environmentally sensitive areas, is a project under the Plan.

2. Skateboard Park

The construction of a new skateboard park is a project under the Plan. The proposed location of the skateboard park is the City Hall parking lot.

E. Public Spaces

1. Green Corridor/Urban Creek

The development of a green corridor/urban creek that will extend from the intersection of Highway 99W and Hall Boulevard through downtown and to Fanno Creek in a project under the Plan. Key components of the project may include bio-swales, native vegetation, pervious pavement and other low impact stormwater conveyance/treatment features.

2. Plazas

The design and construction of public plazas that will serve as public gathering spaces is a project under the Plan. This project will encourage a broader range of active and passive recreational uses in downtown and attract more residents and visitors to the area.

3. Urban Green Spaces

The development of high quality urban green spaces suitable for a range of recreational uses is a project under the Plan. Similar to the plazas project, this project will increase the overall livability and attraction of the downtown area. The urban green space will be designed to promote the preservation and restoration of environmentally sensitive areas.

4. Public Market

The design and development of a public market in the proposed public use area near Fanno Creek is a project under the Plan.

F. Public Facilities

The Plan includes the following public facilities. Prior to the expenditure of tax increment revenues for any of these projects, the Agency will be required to adopt a Minor Amendment to the Plan (as provided in Section XII) explaining how the facility serves or benefits the Area, and further stating the proportion of the benefits of these facilities that will accrue to the Area and finding that the amount of the expenditure is proportional to the amount of benefit to the Area. Design and development will be a part of all proposed public facilities projects identified in the Plan.

1. Performing Arts Center

The design and construction of a performing arts center in downtown Tigard is a project under the Plan. This project, which is recommended in the Tigard Downtown Improvement Plan, will provide new entertainment and recreation opportunities that will attract residents and out-of-town visitors to downtown.

2. Public Parking Facilities

The design and construction of new public parking facilities is a project under the Plan. As new shopping, recreational and entertainment uses, including the proposed performing arts center and public market, are established in the downtown area, new public parking facilities will be needed to accommodate the anticipated increase in parking demand.

3. Post Office Relocation

The relocation of the existing downtown post office is a project under the Plan.

4. Public Market Area

The development of a public market area in the proposed public use area near Fanno Creek is a project under the Plan.

5. Public Restrooms

The provision of public restrooms in public gathering spaces is a project under the Plan.

G. Planning and Development Assistance

Offering the following types of planning and development assistance to support the development, redevelopment and rehabilitation of private property in the Area is a project under the Plan. Detailed rules and regulations for the administration of financial and technical assistance programs will be established by the Agency after adoption of the Plan in order to ensure that urban renewal funds are used in compliance with the Plan and for the agreed upon Plan purposes. The adoption and amendment of such programs, rules and regulations would not be considered changes to the Plan.

1. Rehabilitation/Redevelopment Grant/Loan Program

The Urban Renewal Plan authorizes loans and/or grants for property rehabilitation and redevelopment. Property to be improved may be residential or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties.

2. New Development Grant/Loan Program

In addition to providing rehabilitation and redevelopment assistance, the Urban Renewal Plan authorizes loans and/or grants for new development. Property to be improved may be residential or commercial. Loans may be at or below market rates, and assistance can include direct loans or guarantees of loans made by third parties.

3. Technical Assistance Program

The Urban Renewal Plan authorizes technical assistance in the form of site studies, market studies, feasibility analyses, engineering and design and other activities directly related to development of property in the urban renewal area. Examples of such technical assistance may include structural analysis of downtown building to promote rehabilitation of underutilized buildings and relocation strategies for existing downtown businesses seeking to move to an alternative site within the urban renewal area.

4. Commercial Façade Improvement Loans

To create a distinct identity for downtown Tigard that is visually appealing and unified, the Urban Renewal Plan authorizes façade improvement loans for commercial development. Improvements will be used to enhance the architectural integrity and character of historic commercial buildings and storefronts in need of a “face lift.”

H. Real Property Acquisition.

In addition to acquisition of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes acquisition of real property from willing sellers to support development or redevelopment of retail, office, housing and mixed use project within the Area.

1. Burnham Street Property, Taxlot ID 2S12AC-00202 will be acquired.

2. Burnham and Ash Street Properties, Taxlots 2S102AD-02800, 2S102AD-02900, and 2S102AD-03000 will be acquired.

EXHIBIT A

I. Real Property Disposition.

In addition to disposal of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be disposed of as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes real property disposition to support development or redevelopment of retail, office, housing and mixed use project within the Area.

Properties to be disposed of:

1. Burnham and Ash Street Properties, Taxlots 2S102AD-02800, 2S102AD-02900, and 2S102AD-03000.

AIS-2154			**10.**
Business Meeting			
Meeting Date:	04/14/2015		
Length (in minutes):	15 Minutes		
Agenda Title:	CCDA Property Development Agreement		
Submitted By:	Sean Farrelly, Community Development		
Item Type:	Resolution	**Meeting Type:**	City Center Development Agency
Public Hearing Newspaper Legal Ad Required?:	No		
Public Hearing Publication Date in Newspaper:			

Information

ISSUE

Consider a resolution authorizing the CCDA Executive Director to execute a Development and Disposition Agreement to develop a mixed use project on City Center Development Agency owned property at the corner of SW Ash Avenue and SW Burnham Street.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the CCDA Board authorize the CCDA Executive Director to execute the Disposition and Development Agreement.

KEY FACTS AND INFORMATION SUMMARY

CCDA Property Development Agreement: The Board of the CCDA will consider authorizing the Executive Director of the City Center Development Agency to sign a Disposition and Development Agreement (DDA) with developers DIG Tigard LLC and Capstone Greenlight LLC. The DDA will lead to the construction of 157 units of market rate housing and 2,000 square feet of commercial development in two buildings on three contiguous properties currently owned by the City Center Development Agency (currently the sites of the Ash Avenue Public Works Yard and Ash Avenue Dog Park). The construction of this $26 million, 171,309 square foot development will be an important milestone in the Downtown revitalization efforts that have been underway since 2005.

The project that will result from the execution of the DDA will implement Tigard City Council's 2015-2017 Goal #2. "Make Downtown Tigard a Place Where People Want to Be;" specifically the milestone "support residential and mixed use development in walkable and

transit-supported areas by completing the Ash Avenue/ Burnham Street Redevelopment project." Encouraging new housing and mixed use development in the Downtown is also supported by several City plans and implementing documents including:

The Tigard Downtown Improvement Plan included Downtown Housing Development as one of the "catalyst projects" that has the ability to "substantively alter the development environment" in the downtown.

City Center Urban Renewal Plan specifically authorizes the disposition of property to support the development of housing and mixed use projects in the Urban Renewal Area. In addition, planning and development assistance, including grants or loans to support new development, are authorized. The proposed project is consistent with the Plan.

The creation of 157 market rate housing units on a site adjacent to the Fanno Creek Trail and within walking distance to Main Street shops and services and the Tigard Transit Center/ WES Station is also consistent with the Tigard Comprehensive Plan Goals 9 (Economic Development), 10 (Housing), and 15 (Special Planning Areas-Downtown).

The project will help to implement Goal 2 of the Tigard Strategic Plan, "Ensure development advances the vision." The project that will result from the DDA advances walkability by creating new housing in a location highly conducive to people walking, biking, and using public transit.

Staff and its development partners have worked on the redevelopment project for approximately 18 months, starting with the awarding of a $100,000 Metro Community Planning and Development Grant. The grant, together with city matching funds, funded crucial pre-development work including a market study, architectural concept drawings, pro forma review, property surveys, appraisals, and environmental assessments.

The Disposition and Development Agreement spells out the responsibilities for the development team and the Agency in this public private partnership. It details the conditions must be met before the Agency will convey the property to the developers. The details of the DDA are summarized in two attached memos, including an DDA executive summary.

OTHER ALTERNATIVES

The CCDA Board could elect not to authorize signature of the Disposition and Development Agreement which would indefinitely delay the redevelopment of the properties.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Tigard City Council 2015-17 Goals and Milestones
Goal #2. Make Downtown Tigard a Place Where People Want to Be
Support residential and mixed use development in walkable and transit-supported areas by completing the Ash Avenue/Burnham Street Redevelopment project.

City Center Urban Renewal Plan

Tigard Downtown Improvement Plan

Tigard Strategic Plan
Goal 2: Ensure development advances the vision

Tigard Comprehensive Plan
Economic Development
Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy
Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

Housing
Goal 10.1 Provide opportunities for a variety of housing types to meet the diverse housing needs of current and future City residents.

Special Planning Areas- Downtown
Goal 15.2 Facilitate the development of an urban village

DATES OF PREVIOUS CONSIDERATION

The Board of the CCDA had several executive sessions involving real property negotiations including:

March 24, 2015
March 3, 2015
February 3, 2015
January 12, 2015
December 2, 2014
October 28, 2014

Fiscal Impact

Cost: see below
Budgeted (yes or no): yes
Where Budgeted (department/program): CCDA and general fund

Additional Fiscal Notes:

The remaining Agency responsibilities from the DDA will incur an estimated $254,000 in costs. Additionally, the relocation of Public Works may incur costs of up to $176,400 over the next four years in lease payments.

The project is expected to generate $7.8 million in property taxes over 20 years (before deducting the VHDZ 10-year partial tax abatement). Currently, as a publicly owned site, the property is assessed no property tax.

Attachments

Resolution

Exhibit A - Agreement

Staff Report

DDA Executive Summary

CITY OF TIGARD, OREGON
CITY CENTER DEVELOPMENT AGENCY
RESOLUTION NO. 15-____

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF THE CITY CENTER DEVELOPMENT AGENCY TO EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT WITH DIG TIGARD LLC AND CAPSTONE GREEN LIGHT PARTNERS LLC TO REDEVELOP THE ASH/BURNHAM PROPERTIES AT 12780 AND 12800 SW ASH AVENUE

WHEREAS, Goal 5 of the City Center Urban Renewal Plan is to "promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments;" *and*

WHEREAS, Section VIII, paragraph B of the City Center Urban Renewal Plan authorizes the City Center Development Agency (CCDA) to dispose of property to support development or redevelopment of retail, office, housing and mixed use project within the Urban Renewal Area; *and*

WHEREAS, the CCDA is the owner of three contiguous properties on the southwest corner of Ash Avenue and Burnham Street ("the Ash/Burnham properties"); *and*

WHEREAS, the CCDA and the developers DIG Tigard LLC and CAPSTONE GREEN LIGHT PARTNERS LLC have jointly funded pre-development, due diligence, and development feasibility work to develop approximately 157 market rate housing units in a mixed use development on the Ash/Burnham properties; *and*

WHEREAS, the CCDA and DIG Tigard LLC and CAPSTONE GREEN LIGHT PARTNERS LLC have negotiated in good faith a Disposition and Development Agreement (DDA) attached hereto as Exhibit A; *and*

WHEREAS, the DDA commits the CCDA to prepare the site for development by relocating the existing dog park and public works facilities, demolishing the structures, and obtaining a No Further Action letter from the Oregon Department of Environmental Quality to deliver the site in a shovel-ready state; *and*

WHEREAS, the DDA commits DIG Tigard LLC and CAPSTONE GREEN LIGHT PARTNERS LLC to commence construction within thirty days of closing and substantially complete the project 18 months after closing.

NOW, THEREFORE, BE IT RESOLVED, by the Tigard City Center Development Agency that:

SECTION 1: The Executive Director of the City Center Development Agency is authorized to execute the Ash/Burnham Disposition and Development Agreement attached as Exhibit 'A', subject to final legal review.

SECTION 2: The Executive Director of the City Center Development Agency may approve editing or similar changes to Exhibit 'A' that do not materially alter the rights or responsibilities of the parties.

SECTION 3: The Executive Director is authorized to take such steps as reasonably are necessary to administer the Disposition and Development Agreement pending further action by this Board as provided for in the Agreement.

SECTION 4. This resolution is effective immediately upon passage.

PASSED: This _____ day of _____, 2015.

_____
Chair – City of Tigard
City Center Development Agency

ATTEST:

_____
Recorder – City of Tigard City Center Development Agency

Exhibit 'A'

AMONG: City Center Development Agency of the City of Tigard, Oregon (CCDA)

AND: DIG Tigard LLC, an Oregon limited liability company ("Diamond") and CAPSTONE GREEN LIGHT PARTNERS LLC, an Oregon limited liability corporation. ("Capstone" and sometimes hereinafter Capstone and Diamond are collectively referred to as "Developer")

AGREEMENT

RECITALS

A. Pursuant to the Charter of the City of the City of Tigard, Tigard Municipal Code 2-64 and ORS Chapter 457, the City adopted the City Center Urban Renewal Plan on November 22, 2005, by Ordinance No. 05-17 (including all amendments thereto, the "UR Plan"). The UR Plan establishes an urban renewal area ("UR Area") within which the CCDA will focus efforts to encourage private development, cure blight, and enhance economic development opportunities.

B. On April 24, 2007, by Ordinance No. 07-07, the City Council adopted the Downtown chapter as a Special Planning Area of the Tigard Comprehensive Plan. CCDA is responsible for coordinating and guiding development of the Downtown Special Planning Area on behalf of the City in accordance with the vision and goals of the City Center Urban Renewal Plan.

C. The property that is the subject of this Agreement lies within the UR Area and is described in the attached Exhibit "A" (the "Property").

D. On or about April, 2013, the City, in coordination with Diamond, applied for and was awarded a CET Grant from Metro to conduct various pre-development activities for two sites in Downtown Tigard.

E. Consistent with the grant IGA, the CCDA and Diamond have undertaken environmental investigations; obtained appraisals and land surveys; conducted market studies for 2 sites; prepared conceptual designs and cost estimates; and evaluated development feasibility.

F. Diamond has participated in the pre-development activities specified in the Memorandum of Understanding dated November 11, 2013 and revised December 9, 2013 between Diamond and the City/CCDA. The City has established a Vertical Housing Development Zone, which the Property is within.

G. The Parties have engaged in planning for the development of the Property and in good faith negotiations over the terms of this Agreement. Developer has made substantial investments and expenditures in pre-development work for the Property, in reliance on the good faith negotiations among the Parties, and with the expectation that agreement could be achieved on the terms of this Agreement. Similarly, the City and CCDA have made substantial investments and expenditures, staff costs and other costs, in pre-development work for the Property, in reliance on the good faith negotiations among the Parties and with the expectation that agreement could be achieved on the terms of this Agreement.

H. The Parties contemplate that the development conducted pursuant to this Agreement

will transform the Property into a vibrant, sustainable mixed-use residential areas. The development provided for in this Agreement is consistent with Goal 5 of the UR Plan and shall "promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments."

I. ORS 457.170 authorizes CCDA to convey real property in accordance with the City Center Urban Renewal Plan where such real property is not needed for public use and when the public interest will be served.

J. The purpose of this Agreement is to memorialize the Parties' understanding of their respective roles and commitments in the development of the Property, including a strategy for assuring that private development projects achieve financial feasibility.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

AGREEMENT

SECTION 1. DEFINED TERMS

Words that are capitalized, and which are not the first word of a sentence, are defined terms. A defined term has the meaning given it when it is first defined in this Agreement. Defined terms may be used together and the combined defined term has the meaning of the combined defined terms. A defined term that is a noun may be used in its verb or adjective form and vice-versa. Defined terms may be used in the singular or the plural.

"Developer" means DIG Tigard, LLC and Capstone Green Light Partners, LLC, each of whom is jointly and severally liable and responsible for compliance with the obligations of Developer under the terms of this Agreement, subject to Developer's right to assign its interest in this Agreement pursuant to Section 12.25.

SECTION 2. DESCRIPTION OF THE PROJECT

The "Project" is a mixed use multi-family residential and commercial development that will include open space for residents' use and active ground floor commercial uses. The CCDA has entered into this Agreement with the expectation that the Project will achieve all of the public goals desired for the Property, act as a catalyst for development in the UR Area, and fully capitalize the public investments.

The Project shall be designed and constructed so as to qualify as a Vertical Housing Development Project pursuant to ORS 285C.450 to 285C.480 and applicable administrative rules. It is contemplated that Building 2 will include approximately 2,000 square feet of space on the ground floor at the Ash/Burnham corner for commercial use. The materials used, fit, finish and overall construction quality of the buildings shall be substantially comparable in quality to that used in the "Cannery Row" apartments developed by Capstone in Sherwood, Oregon.

The on-site parking ratio is to be a minimum of one parking stall per unit and is to be located on a surface lot adjacent to Building 1 as well as "tuck under" stalls along the eastern wing and on a portion of the ground floor of Building 2.

A Conceptual Design dated March 4, 2015 for the Project that meets these requirements and is attached as Exhibit "B"

shall only be a guide for the proposed development, but is not binding on the Parties.

SECTION 3. CONVEYANCE

3.1 Deed.

Upon satisfaction of the Conditions Precedent to Closing set forth in Section 3.6, and payment of the amount set forth in Section 3.2, CCDA agrees to convey the Property to Developer by statutory warranty deed, free and clear of all encumbrances except Final Permitted Exceptions as described in Section 3.4.

3.2 Consideration and Earnest Money.

The consideration for the conveyance of the Property by CCDA to Developer shall: (a) be the greater of (the "Purchase Price"): (i) $1,609,000 or (ii) the fair market value of the Property as determined by an appraisal to be obtained by CCDA, and shall be payable by Developer at Closing, and (b) further includes completion of the Project in accordance with this Agreement. The parties agree that the purchase price is the fair market value of the Property.

Within five (5) days after the Effective Date of this Agreement, Developer shall deposit with Escrow Agent (as defined below) earnest money in the amount of $25,000 (the "Earnest Money").

3.3 Closing.

Subject to the terms, covenants, and conditions of this Agreement, the conveyance of the Property to Developer shall occur in an escrow Closing at the office of Chicago Title Company of Oregon, 1211 SW Fifth Ave., Suite 2130, Portland, OR 97204, Attention: Kelly Norton (503) 973-7402 (the "Escrow Agent") not later than September 1, 2016 but no sooner than July 1, 2015, unless extended by mutual agreement of the parties, which shall not unreasonably be withheld.

3.4 Title Review.

3.4.1 Within twenty (20) days after the Effective Date, CCDA will cause the Escrow Agent to deliver to Developer a preliminary title report on the Property and copies of all exception documents (the "Title Report"). Developer will have twenty (20) days after receiving the Title Report to notify CCDA in writing if Developer objects to any item in the Title Report. Those items to which Developer does not object are the "Permitted Exceptions". If Developer objects to any item, then CCDA shall have twenty (20) days after receiving Developer's written objection to notify Developer in writing of its intention to remove or not remove the objected to exceptions to title prior to Closing. If CCDA does not give its response to Developer's objections within the twenty (20) day time period or if CCDA refuses to remove any such objected to exceptions, Developer shall have twenty (20) days to terminate this Agreement by written notice to CCDA. If this Agreement is not terminated in accordance with the preceding sentence, the Permitted Exceptions together with the exceptions, if any, that Developer originally objected to and that CCDA refused to remove or failed to respond to will be deemed the "Final Permitted Exceptions". CCDA shall not cause any additional exceptions to be recorded against the Property without the written consent of Developer, which consent may be

withheld in its sole discretion. CCDA promptly shall notify Developer of any third party exceptions recorded against the Property.

3.4.2 Developer may obtain an update to the Title Report at any time prior to the Closing. Developer shall promptly give to CCDA a copy of any updated Title Report. Developer shall give CCDA notice, in writing, of any objections to the exceptions (that are not Permitted Exceptions) to title that appear on the updated Title Report. Within ten (10) days of Developer's written notice to CCDA described in the preceding sentence, CCDA shall notify Developer in writing of its intention to remove or not remove the objected to exceptions to title prior to Closing; provided, however, CCDA must remove any additional exception not consented to by Developer that is caused by CCDA. If CCDA refuses to remove any such objected to exceptions, Developer may terminate this Agreement, by written notice to CCDA, or Close subject to same. Any additional exceptions that Developer accepts at Closing, together with the previous Permitted Exceptions, are the "Final Permitted Exceptions".

3.5 Title Insurance, Survey, Property Taxes and Closing Costs.

3.5.1 CCDA, at its expense, shall provide Developer with a standard coverage Owner's Policy of Title Insurance, issued by Escrow Agent, and covering the Property when conveyed, and insuring Developer in the amount of the Purchase Price free and clear of encumbrances, except Final Permitted Exceptions. Developer, at its option and its expense, may elect to obtain extended coverage under such policy of title insurance and CCDA agrees to execute any affidavits or other documents reasonably required by the Escrow Agent to enable Developer to obtain such coverage. Developer may also elect to obtain a survey at its own expense.

3.5.2 The costs for recording the Deed and any other documents required by Developer to be recorded will be paid by Developer. Each Party shall pay one-half (1/2) of any escrow fees charged by Escrow Agent. CCDA shall pay any Washington County Transfer Tax. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Washington County. CCDA shall pay only the annual payments due through the Closing for any special assessments that have been paid in annual installments. Developer shall assume liability for payment of any annual payments due after the Closing for any special assessments that have been paid in annual installments. CCDA shall pay any property taxes accruing to the Property as a result of the transfer of the Property from public ownership, and therefore the change of the Property's status from tax exempt to taxable. Developer shall pay property taxes levied on the Property from and after the Closing.

3.6 Conditions precedent to Closing.

Developer and CCDA are not obligated to close the Conveyance unless the following conditions are satisfied to their reasonable satisfaction. The party benefited by a particular condition shall not unreasonably withhold, condition, or delay acknowledgment that the condition has been satisfied and such party may waive the condition in its sole discretion, provided such waiver shall be in writing to the other party to be effective. The parties shall act diligently and in good faith to satisfy conditions over which they have control or influence.

3.6.1 To the satisfaction of both CCDA and Developer

(a) Developer has prepared and submitted to CCDA Project plans with sufficient detail to demonstrate compliance with the City Center Urban Renewal Plan and this Agreement. The plans shall demonstrate that structures will be built with quality design and materials, with particular focus on ground floor, pedestrian areas and attractive useable open space. CCDA staff will review and will provide tentative approval within ten (10) days after receiving Project plans with sufficient detail to demonstrate compliance with the City Center Urban Renewal Plan and this Agreement. CCDA shall, within 30 days of tentative approval of the submittals, conduct a public open house, with the attendance and cooperation of Developer. After the open house, the parties shall consider and incorporate public comments into any revisions reasonably determined to be appropriate. Upon completing any revisions, the parties shall provide the revisions to CCDA staff, which will then review the revisions and provide the submittals with staff recommendations to the CCDA Board for its review within 14 days of receiving the revisions from the parties. The CCDA Board shall then review and either accept or provide final comments on the Project plans within 45 days after receiving the revised site plan. Failure to respond within that timeframe shall constitute acceptance. CCDA staff shall not unreasonably withhold a recommendation that the Board approve the design. Approval shall be submitted for Dispute Resolution if the parties are unable to agree.

(b) City/CCDA has consolidated the three (3) lots described in Exhibit "A" into one (1) lot. CCDA shall make reasonable and good faith efforts to obtain consolidation and the failure of the satisfaction of this condition may be asserted by CCDA only if, despite CCDA's best efforts, consolidation is not obtained due to circumstances beyond CCDA's reasonable control.

(c) Developer has submitted the approved project plans and obtained site design approval pursuant to TMC 18.610 and all land use approvals and permits for the Project required by the Code of the City of Tigard have been secured, no appeal of any required approval or permit has been filed and the time for any such appeal has expired. If an appeal is filed, this condition shall be satisfied on final resolution of the appeal, except that final resolution shall not be required if the issue(s) involved in the appeal is such that customary bonding or indemnification represents a reasonable basis for proceeding with the Project.

(d) The final construction plans and specifications for the Project have been approved by all required governmental entities and agencies and the City of Tigard is ready to issue building permits that are required to construct the Project, subject only to Developer's ownership of the Property.

(f) The Parties have agreed to the final form of the Deed and any other conveyancing documents necessary to close the Conveyance.

(g) No litigation is pending that presents a substantial risk that CCDA or Developer will be precluded from performing their respective obligations under this Agreement.

3.6.2 To Developer's satisfaction:

(a) Developer is satisfied that CCDA has title to the Property subject only to the Final Permitted Exceptions.

(b) Escrow Agent has issued to Developer a binding commitment, satisfactory to Developer, to issue to Developer a standard coverage Owner's Policy of Title Insurance Policy

covering the Property in an amount not less than the Market Valuation, subject only to the Final Permitted Exceptions.

(c) CCDA's representations and warranties set forth in this Agreement are true and correct as of the Closing.

(d) CCDA is not in default under this Agreement.

(e) CCDA has removed existing structures on the Property, including the "dog park".

(f) Developer is satisfied with the condition of the Property including environmental and geotechnical conditions.

(g) No material adverse change in the physical or legal condition of the Property has occurred.

(h) All commitments between Developer and other parties contemplated for Project financing are in effect.

(i) Receipt of a waiver or other form of written confirmation from the Oregon Bureau of Labor and Industries in form and substance as Developer reasonably requires that confirms, among other things, that there is no obligation for Developer to pay prevailing wages in connection with the development of the Project.

(j) Receipt of a "no further action" letter (the "NFA") from the Oregon Department of Environmental Quality ("ODEQ") in form and substance as Developer reasonably requires (including the terms of any conditions thereto) with respect to the environmental condition of the Property.

(k) Receipt of an environmental insurance policy (payment of the premium for which shall be a Developer obligation) in form and substance as Developer reasonably requires with respect to the environmental condition of the Property. CCDA shall make reasonable good faith efforts to cause ODEQ to issue the NFA.

(l) Receipt of such financial adjustment agreement from CCDA in such form and substance as Developer reasonably requires with respect to the financial adjustment or adjustments as described in Section 4.2.

(m) Land Use Approvals from the City of Tigard have enabled the Project described in Section 2 to be legally constructed under the Tigard Community Development Code. For purposes of this Section 3.6.2 (m), "Final Land Use Approval(s)" shall mean that no appeal has been filed and the time for any such appeal has expired. If an appeal is filed on either approval, this condition shall be satisfied on final resolution of the appeal, except that final resolution shall not be required if the issue(s) involved in the appeal is such that customary bonding or indemnification represents a reasonable basis for proceeding with the Project.

(n) Developer is satisfied that it has had adequate access to the Property to conduct its

due diligence and is fully satisfied with its knowledge, information and understanding of the Property conditions and suitability.

3.6.3 To CCDA's satisfaction:

(a) Developer has provided to CCDA reasonable proof that the entity that Developer will assign its interest in this agreement to take title to the Property is a limited liability company (the "Developer Purchasing Entity") existing in the state of Oregon and in which the principals of Capstone Green Light LLC and DIG Tigard LLC each hold an ownership and management interest, (b) the Developer Purchasing Entity has full power and authority to enter into and perform its obligations under the conveyance documents to be executed by it in connection with this Agreement and (c) the conveyancing documents to be executed by the Developer Purchasing Entity in connection with this Agreement has been executed and delivered, for and on behalf of the Developer Purchasing Entity, by an authorized individual.

(b) Developer's representations and warranties set forth in this Section are true and correct as of the Closing.

(c) Developer is not in default under this Agreement.

(d) Developer has selected an architect for the Project reasonably satisfactory to CCDA. Developer shall provide CCDA with copies of architect CV's. CCDA shall review and comment on such submittal within 14 days and may, at its option, attend architect interviews. If requested by Developer, CCDA shall confirm in writing approval of the selected Project architect.

(e) Developer has demonstrated financial feasibility for the Project to the reasonable satisfaction of CCDA by providing to CCDA: (a) copies of binding commitment letters from private lenders for the construction financing for the Project, (b) written evidence of necessary equity commitments, (c) commitments from public funding sources, including the approval by the CCDA, if necessary, subject to standard underwriting practices, for the construction of the Project, and (d) such other documentation or assurances as may be reasonably required by CCDA.

3.7 Elections upon Non-Occurrence of Conditions.

Except as provided below, if any condition in this Section 3 is not fulfilled to the reasonable satisfaction of the benefited party or parties on the date scheduled for Closing as set forth in the Project Schedule, then such benefited party or parties may elect to:

3.7.1 Terminate this Agreement by written notice to the other Party, which termination shall become effective fifteen (15) days after the notice of termination is sent ("Termination Date") unless, before the fifteen (15) day period ends, such condition is fulfilled to the satisfaction of the benefited Party or Parties;

3.7.2 Waive in writing the benefit of that condition precedent to Closing and proceed in accordance with the terms hereof; or

3.7.3 Designate in writing a later date for Closing, to allow additional time for the

condition to be fulfilled, if the condition can be fulfilled and the other party agrees in writing to the later date.

3.8 Effect of Termination for Failure of Conditions Precedent.

If this Agreement is terminated for failure of fulfillment of the conditions precedent to Closing and neither party is in default under this Agreement, then all rights and obligations of the parties under this Agreement shall terminate other than the obligation to cooperate in preparing, executing and recording such documents as may be necessary or desirable to reflect the termination of this Agreement in the real property records of Washington County. Within 10 days of such termination, CCDA shall instruct the Escrow Agent to return the Earnest Money. If a party is in default under this Agreement on the termination date, then the rights and remedies accruing to the other party under this Agreement as a result of such default shall survive termination of this Agreement.

3.9 **PROPERTY SOLD AS-IS**.

Except for the representations expressly made by CCDA in this Agreement and in the conveyancing documents executed by CCDA at the Closing: (i) the Property shall be conveyed to Developer **"AS IS WITH ALL FAULTS" and CCDA makes no warranties or representations as to the suitability of the Property for any particular use or for soil or environmental conditions or any other conditions of the Property or structures thereon for any improvements to be constructed by Developer, (ii) Developer warrants that it has not relied on any representations or warranties outside the express terms of this Agreement, made by CCDA as to the environmental condition of the Property, the suitability of the soil conditions or any of the conditions of the Property and (iii) Developer expressly waives and releases CCDA, and CCDA will not be liable for any loss, cost or damage which may be caused or incurred by Developer by reason of any such soil, environmental or physical conditions of the Property**. CCDA has allowed Developer free access to CCDA's records with respect to the condition of the Property, including the No Further Action letter issued by DEQ, and Environmental Reports, and has allowed Developer access to the Property for inspection and testing by Developer, to its complete satisfaction. CCDA makes no representations or warranties whatsoever regarding the completeness, accuracy or reliability of such records. CCDA will assist in obtaining the cooperation of other public and private agencies having such information upon request by Developer. This Section 3.9 shall survive Closing.

3.10 **Systems Development Charges**.

CCDA shall pay to the City of Tigard the first systems development charges payable with respect to the Project in an amount equal to the Purchase Price. The parties shall cooperate to provide CCDA with notice of impending permit applications, credit details and other matters to ensure prompt payment. The obligations contained in this Section 3.10 shall survive Closing.

SECTION 4. POST-CLOSING OBLIGATIONS

4.1 Development.

Except as otherwise provided for in this Agreement, Developer will, at its own cost, design, construct and complete the Project without additional public funding participation, except for tax abatement programs generally available to similar projects within Downtown Tigard. Developer will use

commercially reasonable efforts to begin and to complete development of the Project as set forth in the Project Schedule as described in Section 6, subject to the terms of this Agreement.

CCDA is not the developer of the Project. This Agreement is not intended to be a contract providing for construction by CCDA either directly or through a contractor. Developer is solely responsible for selecting a construction contractor and the rights and responsibilities of Developer, the general construction contractor and any construction subcontractors, shall be provided for in a construction contract to which CCDA is not a party.

4.2 Financial Adjustment.

The parties accept the pro forma financial statement attached as Exhibit "C" hereto, as a reasonable and appropriate estimate of anticipated project costs and return. The parties further agree that 6.89% is a reasonable and appropriate return on cost for a Project of this nature.

Developer shall make reasonable good faith efforts to obtain a Vertical Housing partial tax exemption for the Project. It is understood, however, that the State of Oregon will not issue a final decision granting or denying the Vertical Housing partial tax exemption assumed in the pro forma until Project construction is complete, or the State of Oregon may grant a partial exemption less than the amount assumed.

Accordingly, within 45 days of the Effective Date, the parties shall in good faith agree to a form of agreement (the "Financial Adjustment Agreement") whereby CCDA shall provide to Developer a financial adjustment in the form of an annual reimbursement of a portion of annual property taxes paid by Developer (the "Financial Adjustment") should the State deny or reduce the partial tax exemption for reasons beyond Developer's reasonable control despite Developer's reasonable and good faith efforts to obtain the partial tax exemption for the Project. The Financial Adjustment shall be limited to that amount necessary to provide the 6.89% return on cost based on actual project performance as of the date that is the later of: (i) Developer's receipt of the Washington County property tax statement based on "full assessment" of the completed Project, and (ii) one year from initial occupancy by a residential tenant (the "Anniversary Date"); provided, however, in no event shall the amount of the Financial Adjustment be more than the sum of an amount equal to a: (a) 60% discount on taxes calculated by the county assessor for the residential improvements comprised of Building 2 and (b) 80% discount on the taxes calculated by the county assessor for the residential improvements comprised of Building 1. Annual payments shall be made within 30 days of receipt of the tax statement by CCDA. In no event shall the Financial Adjustment exceed the amount anticipated as the partial tax exemption in the pro forma financial statement but not granted by the State of Oregon. Within 30 days of the Anniversary Date, Developer shall provide CCDA with a revised pro forma and such reasonable documentation as CCDA reasonably requires. If the parties are unable to agree on the amount of the Financial Adjustment within 30 days of receipt of the pro forma and documentation by CCDA, the matter shall be submitted to Dispute Resolution as provided in Section 11.

Except to the extent of the Financial Adjustment provided for in this Section, nothing in this Agreement shall be construed as a guarantee of any rate of return.

4.3. Compliance with Approvals.

All development will conform in all material respects to the Plans approved by CCDA (subject to such modifications as are approved by CCDA) and City development approvals. Staff approval or recommendation to the CCDA for approval of the Plans or modifications shall not be unreasonably withheld, conditioned or delayed. In the event that CCDA and Developer are unable to resolve a dispute regarding whether construction is in compliance in all material respects with the approval by CCDA, including the quality of construction and materials, it shall be submitted to Dispute Resolution. The parties recognize that any such dispute must be resolved expeditiously.

4.4 Resources.

Each party will commit resources as it determines in its business judgment is commercially reasonable to meet the deadlines in the Schedule set forth in Section 6, as amended.

4.5 Street.

It is understood that Developer may be required as a condition of development approval to dedicate right of way and construct local public street improvements. The parties agree that if fulfillment of such conditions of approval would significantly impede or preclude Developer from obtaining the Vertical Housing Tax Credit, CCDA and Developer will work together to obtain approval from City to permit Developer to provide access and through travel by the public via use of a private street built to public street standards or other acceptable mechanism.

4.6 Liens

From and after the date Developer acquires title to the Property until the date the construction of the Project is substantially completed (the "Construction Period"), Developer shall keep the property free clear of liens and encumbrances other than those related to financing and construction of the Project as determined in Developer's reasonable exercise of commercial judgment. In no event shall Developer use the Property during the Construction Period as collateral for, or cause or permit it to be encumbered by, any obligation or potential obligation of Developer unrelated to the Project and Developer shall promptly inform CCDA if any such lien or encumbrance is placed on the Property.

4.7 Survival.

The provisions of this Section 4 shall survive Closing.

SECTION 5. PROPERTY INSPECTION AND ACCESS

5.1 Before Conveyance of Property.

Before conveying the Property to Developer, CCDA shall allow Developer to enter upon the Property, at all reasonable times whenever and to the extent necessary to conduct reasonable inspections and testing and to carry out the purposes of this Agreement. Developer shall save, hold harmless and indemnify City, its officer's employees and agents against any claims arising from such access except to the extent such claims arise out of the gross negligence or willful misconduct of City; provided, further, that in no event shall Developer be required to indemnify CCDA with respect to any pre-existing conditions of the Property.

5.2 After Conveyance of Property.

After conveying the Property and until a temporary or final Certificate of Occupancy is issued, CCDA shall upon reasonable notice, be permitted access to evaluate conformance with the terms of this Agreement. CCDA agrees not to interfere with the work occurring on the Property. CCDA employees shall enter the Property at their own risk and shall comply with all construction site rules established by Developer and Developer's contractor. In addition, CCDA shall not be entitled to indemnification for any losses, liability or injury arising in connection with entry to the Property pursuant to this Section, except to the extent the same arises out of the gross negligence or willful misconduct of Developer or its contractor. This provision shall survive Closing.

SECTION 6. PROJECT SCHEDULE

6.1 Commencement of Construction.

Developer shall Commence Construction of the Project no later than 30 days after Closing. For purposes of this section, "Commence Construction", shall mean that Developer has entered into a binding contract providing for construction to start on or before the Commence Construction date and the contractor has mobilized equipment and labor on site or at an appropriate staging area and has commenced significant physical alteration of the site such as excavation or grading.

6.2 Substantial Completion.

Subject to force majeure events, Developer shall achieve Substantial Completion of the Project on or before the date that is fifteen (15) months from the Commence Construction date. For purposes of this section, "Substantial Completion" shall mean that the Project is sufficiently complete that the Developer obtains a temporary certificate of occupancy or certificate of occupancy, whichever first occurs.

6.3 Schedule changes.

Developer may request from CCDA an extension of either date specified in this Section, which shall not be unreasonably withheld. The dates specified in this Section 6 are subject to and shall be extended as provided in Section 12.26, Force Majeure.

6.4 Survival.

This Section 6 shall survive Closing.

SECTION 7. REPRESENTATIONS AND WARRANTIES

7.1 CCDA REPRESENTATIONS.

CCDA's representations and warranties under this Agreement are limited to the following, each of which shall be deemed made as of the Effective Date, shall be deemed remade and effective as of Closing and shall survive Closing. CCDA represents that:

(a) To CCDA's knowledge except as has been disclosed to Developer in the

Environmental Reports delivered by CCDA to Developer as identified below, there has been no generation, manufacture, refinement, transportation, treatment, storage, handling, disposal, transfer, release or production of Hazardous Substances on the Property, or underground storage tanks existing on the Property, except in compliance with Environmental Laws currently in effect, and CCDA has not received notice of the Release of any Hazardous Substances on the Property. The Environmental Reports delivered by CCDA to Developer prior to Closing are:

(i) Phase I Environmental Site Assessment issued by AMEC dated May 8, 2012;

(ii) Phase II Environmental Site Assessment issued by AMEC dated September 17, 2012;

(iii) Phase III Environmental Site Assessment issued by AMEC dated February 10, 2014;

(iv) Pre-Demolition Regulated Building Materials Survey issued by AMEC dated February 10, 2014; and

(v) Site Characterization Report issued by AMEC dated January 20, 2015

CCDA represents that the Environmental Reports are as received by CCDA. CCDA makes no further representation or warranty regarding the Environmental Reports, including but not limited to their accuracy, completeness or suitability for use. Receipt of the Environmental Reports listed in this subparagraph (a) is acknowledged by Developer.

(b) CCDA has full power and authority to enter into and perform this Agreement in accordance with its terms, and all requisite action has been taken by CCDA to authorize the execution of this Agreement and the transactions contemplated hereby.

(c) CCDA is not a "foreign person" within the meaning of Section 1445(f) (3) of the Internal Revenue Code of 1986, as amended.

(d) To CCDA’s knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Property, CCDA’s ability to perform its obligations under this Agreement, or Developer's ability to develop the Project.

(e) To CCDA’s knowledge and except as disclosed in writing to Developer, the Property is in compliance with all applicable laws, rules, regulations, ordinances and other governmental requirements.

(f) To CCDA’s knowledge, CCDA has not received or given any notice stating that the Property is in violation of any applicable laws, rules, regulations, ordinances or other governmental requirements.

(g) To CCDA’s knowledge, no representation, warranty or statement of CCDA in this Agreement or any of the exhibits attached hereto contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.

(h) As of the Effective Date, CCDA is not in default under this Agreement and no event has occurred that, with the passage of time or the giving of notice or both, would constitute a default of CCDA under this Agreement.

(i) CCDA is the legal and beneficial fee simple titleholder to the Property and, to CCDA's knowledge, the Property is free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, judgments or other matters, except as disclosed by the Title Report.

(j) There are no current leases or services contracts affecting the Property and at the time the Property is conveyed to Developer, the Property will be free and clear of any leases or services contracts.

(k) CCDA has not entered into any legally binding purchase and sale agreement (whether contingent or not) for the Property.

For purposes of this Section 7.1, "CCDA's s knowledge" means the actual knowledge of a management employee of CCDA currently engaged in and responsible for acquisition, management or disposition of the Property for the CCDA, without duty of investigation or inquiry.

7.2 DEVELOPER REPRESENTATIONS.

7.2.1 Developer's representations and warranties under this Agreement are limited to the following, each of which shall be deemed made as of the Effective Date, shall be deemed remade and effective as of Closing and shall survive Closing: Developer represents that:

(a) Developer has full power and authority to enter into and perform this Agreement in accordance with its terms and all requisite action has been taken by Developer to authorize the execution of this Agreement and the transactions contemplated hereby. Developer's execution and delivery of this Agreement and the performance of its obligations hereunder do not require the consent of any third party that has not been obtained.

(b) No representation, warranty or statement of Developer in this Agreement or any of the exhibits attached contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.

(c) As of the Effective Date, Developer is not in default under this Agreement and no event has occurred that, with the passage of time or the giving of notice or both, would constitute a default of Developer under this Agreement.

(d) Developer enters into this Agreement without reliance on any oral or written representations by CCDA, its employees, agents or consultants, regarding any aspect of the Property, the Project or its feasibility or financing, or compliance with any governmental regulation except as expressly stated in this Agreement or documents referenced herein.

SECTION 8. TERM AND TERMINATION.

8.1 Effective Date.

This Agreement is effective when all parties have executed the Agreement, and this Agreement shall have an effective date which is the Effective Date first set forth above. The execution will be subject to entity authorization, which in CCDA's case will include CCDA Board approval.

8.2 Termination.

This Agreement shall terminate on the earlier of:

8.2.1 Developer provides notice of termination pursuant to Section 3.4;

8.2.2 Either party provides notice to the other that a Condition Precedent to Closing has not been fulfilled at Closing and the time to cure has elapsed as provided in Section 3.7.

8.2.3 By either party on 10 days written notice if Closing has not occurred within 15 days after the Closing Date, or any extension,

8.2.4 At any time upon mutual written agreement of the parties.

8.2.5 Either party terminates for breach as provided in Section 10.

SECTION 9. DEFAULT. CURE.

9.1 Default by Developer.

9.1.1. Any breach of the provisions of this Agreement, by Developer which occurs prior to the Closing and that is not remedied within sixty (60) days after CCDA has given notice to Developer specifying the breach, provided, however, that if the CCDA determines that it is more likely than not that the breach was not willful and cannot with due diligence be cured within a period of sixty (60) days, Developer shall have a reasonable period of time to cure such breach. In making its determination, CCDA shall act reasonably and in good faith, and shall consider the nature of the breach, whether Developer has proposed a reasonable course of action is or will diligently effect such cure and whether the cure may be accomplished within a reasonable period of time. CCDA may require that Developer periodically provide CCDA with a written assessment of the cure describing: the curative actions taken since the last written report, the estimated date by which the cure will be completed, the remaining impediments to completing the cure, and the planned curative acts for the next month.

9.1.2 Any assignment by Developer for the benefit of creditors, or adjudication as a bankrupt, or appointment of a receiver, trustee or creditor's committee over any of such Parties. There shall be no cure for a breach under this Section.

9.2 Default by Developer After Closing

Any breach of a provision of this Agreement that survives Closing after the date of Closing, including, but not limited to, failure to construct the Project in conformance with the approved Project plans, which continues and is not remedied within sixty (60) days after CCDA has given notice to Developer specifying the breach; provided, however, that if such breach cannot with due diligence be

cured within a period of sixty (60) days, Developer shall have a reasonable period of time to cure such breach.

9.3 Default by CCDA.

Any breach of the provisions of this Agreement, including, without limitation, providing the Financial Adjustment, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after Developer has given CCDA notice specifying the breach; provided, however, that if Developer determines that it is more likely than not that the breach was not willful and cannot with due diligence be cured within a period of sixty (60) days, CCDA shall have a reasonable period of time to cure such breach. In making its determination, Developer shall act reasonably and in good faith, and shall consider the nature of the breach, whether CCDA has proposed a reasonable course of action, is or will diligently proceed to effect such cure and whether the cure may be accomplished within a reasonable period of time. Developer may require that CCDA periodically provide Developer with a written assessment of the cure every month describing: the curative actions taken since the last written report, the estimated date by which the cure will be completed, the remaining impediments to completing the cure, and the planned curative acts for the next month.

SECTION 10. REMEDIES.

10.1 Pre-closing.

If Developer defaults prior to Closing such that the consummation of the transaction herein contemplated does not occur as herein provided by reason of any default of Developer, and Developer fails to complete the purchase of the Property, CCDA may terminate this Agreement by written notice to CCDA. Developer and CCDA agree that it would be impractical and extremely difficult to estimate the damages suffered by CCDA as a result of Developer's failure to complete the purchase of the Property pursuant to this Agreement, and that under the circumstances existing as of the date of this Agreement, the liquidated damages provided for in this Section represent a reasonable estimate of the damages which CCDA will incur as a result of such failure. **THEREFORE, DEVELOPER AND CCDA HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE TOTAL DAMAGES THAT CCDA WOULD SUFFER IN THE EVENT THAT DEVELOPER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY IS $40,000, AGAINST WHICH THE EARNEST MONEY SHALL BE CREDITED.**

SUCH AMOUNT WILL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY DEVELOPER, AND AFTER PAYMENT THEREOF TO CCDA, NEITHER PARTY SHALL HAVE ANY FURTHER OBLIGATION TO OR RIGHTS AGAINST THE OTHER.

If CCDA defaults under this Agreement prior to Closing, Developer will be entitled in addition to all other remedies available at law or in equity, (a) to seek specific performance of CCDA's obligation to Close under this Agreement; or (b) to terminate this Agreement by written notice to CCDA and Escrow Agent and CCDA shall pay $40,000. If Developer terminates this Agreement pursuant to this Section, the escrow will be terminated, the Earnest Money Note or Earnest Money (as applicable) shall immediately be returned to Developer, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this

Agreement, except as otherwise provided in this Agreement.

10.2 Post-Closing Remedies of CCDA for Developer Default Other Than For Failure to Timely Commence or Complete Construction.

If Developer defaults under this Agreement after Closing (other than timely commencement or completing construction of the Project), CCDA may seek specific performance or other remedy provided by law.

10. 3 Post-Closing Repurchase Right of CCDA for Developer Failure to Timely Commence or Complete Construction.

Subject to force majeure delays, if Developer fails to commence construction within one (1) year of the date provided for in Section 6.1, or fails to complete the Project by the date that is three (3) years after the date Developer commences construction of the Project, CCDA shall have the right to repurchase the Property by written notice exercising such repurchase right no later than (60) days after the date such repurchase right accrues (and if not timely exercised, such repurchase right shall automatically be deemed waived) on the following terms and conditions:

(a) Payment of the purchase price for the Property to Developer together with 50% of the total amount of all hard costs of construction plus soft costs, including design, permitting and other directly related costs as of the date of re-conveyance;

(b) Reduced by: the amount of any assessments, liens or other charges against the property that Developer has not paid as of the date of re-conveyance, payment or assumption of any mortgage including any payment or assumption costs; the cost of an ALTA title insurance policy in the amount of the purchase price insuring CCDA as owner and any other closing costs.

(c) If there are unasserted, contingent or disputed claims that CCDA reasonably determines may result in liens against the property or otherwise reduce the value thereof; CCDA may deposit a reasonable estimate of such claims into escrow to be released to Developer only upon resolution of such claims.

(d) Upon receipt of notice that CCDA has elected to repurchase, Developer shall promptly provide CCDA with accurate, current statements itemizing all costs and amounts owed and claims asserted or likely as described above. After review the statements, CCDA may rescind the purchase or elect to proceed by providing written notice to Developer.

(e) Upon receipt of notice that the CCDA will proceed with the purchase Developer will thereafter take all action, including the payment of all debts and the execution of all documents necessary to re-convey marketable title to the Property to the City, free and clear of all liens and encumbrances other than the lien of any Mortgages and the Final Permitted Exceptions. In addition, CCDA may accept other title exceptions or obligations that are the result of Developer's pursuit of the development of the Project, Developer shall re-convey the Property by statutory warranty deed to CCDA in escrow through the offices of the Escrow Agent.

(f) At closing of the re-conveyance, Developer will provide CCDA with a copy of

and the right, without any representation and warranty, to use any work product produced by any third parties for Developer to the extent Developer has obtained an appropriate reliance letter, including copies of all Property market research, design documents, engineering documents, and which Developer is authorized to release; and design and construction contracts which CCDA may use in any manner that it deems appropriate with respect solely to the Property with the consent of any party having approval rights thereunder.

SECTION 11. DISPUTE RESOLUTION

With respect to any provision of this Agreement where Dispute Resolution is referenced as a means to resolve disagreements among the parties, then the provisions of this Section shall apply. When a disagreement exists, the parties shall first use good faith efforts to resolve such disagreement. If such disagreement is not resolved within fifteen (15) days after written notice seeking a meeting to resolve such disagreement in good faith, then any party whose agreement, consent or approval is required may initiate this dispute resolution process by written notice to the other party whose agreement, consent or approval is required. The affected parties shall select a person (a "Dispute Resolver") to resolve the dispute; provided, that if the parties cannot agree on the Dispute Resolver, such Dispute Resolver shall be selected in accordance with the rules of the Arbitration Service of Portland, using mediation first, and if mediation does not resolve such dispute, arbitration. The Dispute Resolver shall set the timing, procedures and rules for resolving the dispute. The Dispute Resolver shall be independent of the parties and shall not have had a business relationship with any party within the last five (5) years. The Dispute Resolver shall be a person who (a) is a resident of the Portland metropolitan area, and (b) has substantial experience in resolving complex business issues in a public or private context. If after ten (10) days the affected parties cannot agree on the person who will be the Dispute Resolver, then the affected parties shall meet and each shall submit two (2) qualified candidates' names, the resulting names will be placed in a vessel, and the first name drawn will be the Dispute Resolver. The Dispute Resolver's fees shall be paid equally by the affected parties.

SECTION 12. MISCELLANEOUS PROVISIONS

12. 1 Good Faith and Fair Dealing.

The parties shall have imputed to all of their duties, obligations, and acts performed under this Agreement, a standard of conduct of good faith and fair dealing**.**

12.2 Inspection of Records; Confidentiality.

12.2.1 Each Party agrees that, upon the reasonable prior notice from another requesting Party, it will make available to the requesting Party its records, reports and information pertaining to the Project for review, but not copying (unless agreed upon by the non-requesting Party), so as to inform the requesting Party and to enable the requesting Party to determine the other Party's compliance with the terms of this Agreement. Nothing herein requires disclosure of any information protected by the attorney-client or other privilege.

12.2.2 Each party agrees to keep as confidential any document or information marked by the other party as confidential, including the reason the document is considered confidential. This shall not preclude a party from sharing such information with any partner, lender, consultant, employee or agent when reasonably necessary in the normal course of carrying out the obligations of the party

under this Agreement. In the event that CCDA is served with a request for the production information marked confidential by Developer or deemed so by the CCDA, the CCDA shall inform Developer and provide Developer at least five (5) days to contest disclosure prior to disclosure. However, the parties acknowledge that, as a public entity, CCDA must and will comply with ORS 192.410, *et. seq.*

12.3 Discrimination.

Developer agrees that in performing its obligations under this Agreement, it will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.

12.4 Governing Law; Venue; Jurisdiction.

This Agreement shall be governed and construed according to the laws of the State of Oregon, without regard to its choice of law provisions. Any action or suit to enforce or construe any provision of this Agreement by either party shall be brought in the Circuit Court of the State of Oregon for Washington County.

12.5 Third parties.

CCDA and Developer are the only parties to this Agreement and are the only parties entitled to enforce its terms. There are no third-party beneficiaries of this Agreement.

12.6 Notices.

All notices given under this Agreement shall be in writing and may be delivered by electronic mail, personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

CCDA:	City Center Development Agency City of Tigard 13125 SW Hall Blvd. Tigard, OR 972232 Attn: Marty Wine, Exec. Director Email: marty@tigard-or.gov
With a copy to:	Jordan Ramis Two Centerpointe Drive, 6th Floor Lake Oswego, OR 97035 Attn : Tim Ramis Email: tim.ramis@jordanramis.com
Developer:	Capstone Green Light Partners 1015 NW 11th Ave., Suite 243 Portland, OR 97209 Attn: Jeff Sackett email: jsackett@capstone-partners.com

With a copy to: Ball Janik LLP
101 SW Main Street, Suite 1100
Portland, OR 97204
Attn: Brad Miller
email: bmiller@bjllp.com

Notices shall be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

12.7 Time is of the Essence.

Time is of the essence in the performance of and adherence to each and every provision of this Agreement.

12.8 No Partnership.

Nothing contained in this Agreement or any acts of the parties hereby shall be deemed or construed by the parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between CCDA and Diamond or Capstone Partners.

12.9 Non-waiver.

Waiver by any party of strict performance of any provision of this Agreement shall not be deemed a waiver of or prejudice a party's right to require strict performance of the same or any other provision in the future. A claimed waiver must be in writing and signed by the party granting a waiver. A waiver of one provision of this Agreement shall be a waiver of only that provision. A waiver of a provision in one instance shall be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

12.10 Non-waiver of Government Rights.

Subject to the terms and conditions of this Agreement, by making this Agreement, CCDA is specifically not obligating itself, the City of Tigard, or any other agency with respect to any police power or regulatory actions relating to development or operation of the Project and other improvements to be constructed in the Project, including, but not limited to, rezoning, variances, environmental clearances or any other governmental approvals which are or may be required.

12.11 Survival.

Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, shall survive the expiration or earlier termination of this Agreement and shall remain fully enforceable thereafter.

12.12 Partial Invalidity.

If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. If a material provision of this Agreement is held invalid or unenforceable such that a party does not receive the benefit of its bargain, then the other parties shall renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the parties' agreement herein.

12.13 Calculation of Time.

Unless referred to as Business Days, all periods of time shall include Saturdays, Sundays, and Legal Holidays. However, if the last day of any period falls on a Saturday, Sunday, or legal holiday, then the period shall be extended to include the next day which is not a Saturday, Sunday, or Legal Holiday. "Business Days" shall mean Monday through Friday, and "Legal Holiday" shall mean any holiday observed by the State of Oregon.

12.14 Headings, Table of Contents.

The section headings and Table of Contents are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

12.15 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

12.16 Legal Purpose.

CCDA and Developer each agree that it shall use its interest in the Project solely for lawful purposes.

12.17 Amendments.

This Agreement may be modified only by a writing signed by the parties.

12.18 Approvals.

12.18.1 Where this Agreement requires the approval(s) of CCDA, CCDA will approve or disapprove within fourteen (14) days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided in this Agreement, and except where the approval requires action by the Urban Renewal Agency Board or CCDA Board, and in that case, the approval period shall be forty-five (45) days. Failure by CCDA to approve or disapprove within the applicable period of time shall be deemed approval. Any disapproval shall state in writing the reasons for such disapproval. Staff approvals will not be unreasonably withheld or conditioned, except where rights of approval are expressly reserved to CCDA's sole discretion in this Agreement.

12.18.2 Where this Agreement requires the consent or approval of Developer, Developer will approve or disapprove within fourteen (14) days after receipt of the material to be approved, except when a longer period of time is specifically provided in this Agreement. Failure by Developer to

approve or disapprove within such period of time shall be deemed approval. Any disapproval shall state the reasons for such disapproval. Approvals will not be unreasonably withheld or conditioned, except where rights of approval are expressly reserved to Developer's sole discretion.

12.19 Attorneys' Fees.

If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover its attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

12.20 Entire Agreement.

This Agreement constitutes the entire agreement between the parties as to the subject matter covered by this Agreement.

12.21 Interpretation of Agreement; Status of Parties.

This Agreement is the result of arm's-length negotiations between the parties and shall not be construed against any party by reason of its preparation of this Agreement. Nothing contained in this Agreement shall be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the parties.

12.22 Future Assurances.

Each of the parties shall promptly execute and deliver such additional documents and shall do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

12.23 Mutual Representations.

The parties each warrant and represent to the other that this Agreement constitutes a legal, valid, and binding obligation of that party. Without limiting the generality of the foregoing, each Party represents that its governing authority and, in the case of CCDA, its Board, has authorized the execution, delivery, and performance of this Agreement by it. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting. Each party represents to the other that neither the execution and delivery of the Agreement, nor the consummation of the transactions contemplated hereby will: violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, government agency, or court to which it is subject or any provision of its charter or bylaws; or conflict with, result in a breach of, or constitute a default under any other agreement to which it is a party or by which it is bound. No Party needs to give any notice to, make any filing with, or obtain the consent of any other entity or person to consummate the transaction contemplated by this Agreement.

12.24 Exhibits.

The following Exhibits attached to this Agreement are an integral part of this Agreement and are fully incorporated into this Agreement where they are referenced in the text of this Agreement:

Exhibit A – Description of Property
Exhibit B – Conceptual Design
Exhibit C – Pro Forma Financial Statement

12.25 Assignment.

CCDA has entered into this Agreement based on the reputation and qualifications of Developer. Developer shall not assign or otherwise transfer any interest in this Agreement without the prior written approval of CCDA which may be granted in CCDA's sole discretion. "Assignment or transfer" shall not include any mortgage or other normal and customary financing obtained by Developer nor shall it include assignment to a partnership, joint venture or similar entity of which Developer is a member provided that such assignment shall not be a novation or in any way excuse or diminish Developer's obligations and responsibilities to CCDA provided for herein.

This Agreement shall bind each party's respective successors and assigns.

12.26 Force Majeure.

Neither party shall have liability to the other on account of the following acts (each of which is an "Excused Delay" and jointly all of which are "Excused Delays")" which shall include: (a) the inability to fulfill, or delay in fulfilling, any obligations under this Lease by reason of strike, lockout, other labor trouble, dispute or disturbance; (b) governmental regulation, moratorium, action, preemption or priorities or other controls; (c) shortages of fuel, supplies or labor; or (d) for any other reason, whether similar or dissimilar to the above, or for act of God beyond a party's reasonable control. If this Agreement specifies a time period for performance of an obligation of a party (including, without limitation, the Project Schedule), that time period shall be extended by the period of any delay in the party's performance caused by any of the events of Excused Delay described herein.

12.27 Statutory Disclaimer.

"THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY

ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year first set forth above.

CCDA: CCDA OF TIGARD

By: _____
Printed Name:_____
Its: _____

Approved as to form: CCDA Attorney

By: _____
Printed Name:_____
Its: _____

Developer: DIG Tigard an Oregon limited liability company

By: _____
Printed Name:_____
Its: _____

CAPSTONE GREEN LIGHT LLC, an Oregon limited liability company

By: Sapient Advisory Corporation, an Oregon corporation, Member

By: _____
Christopher J. Nelson, President

By: Triangle Development Company, an Oregon corporation, Member

By: _____
Jeffrey M. Sackett, President

EXHIBIT A

Description of Property

Three (3) parcels in the City of Tigard, Washington County, Oregon

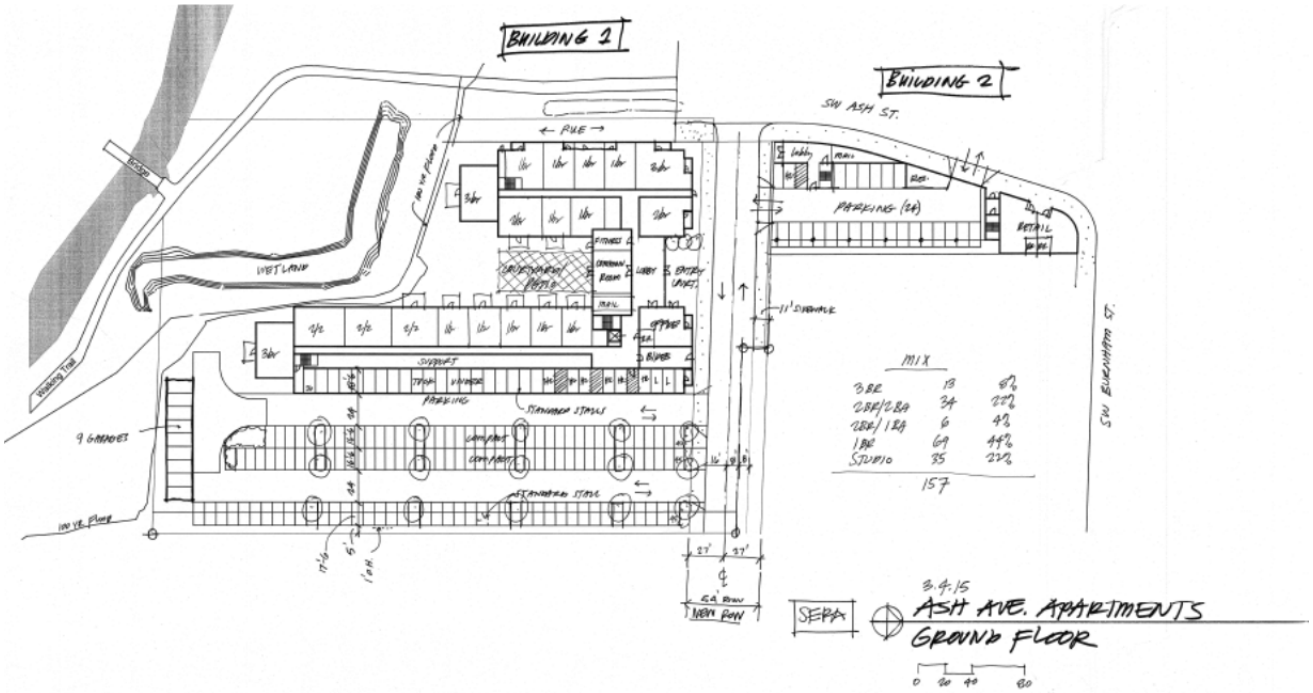
2S102AD02800, consisting of .16 acres (m/l) at 9020 SW Burnham Street

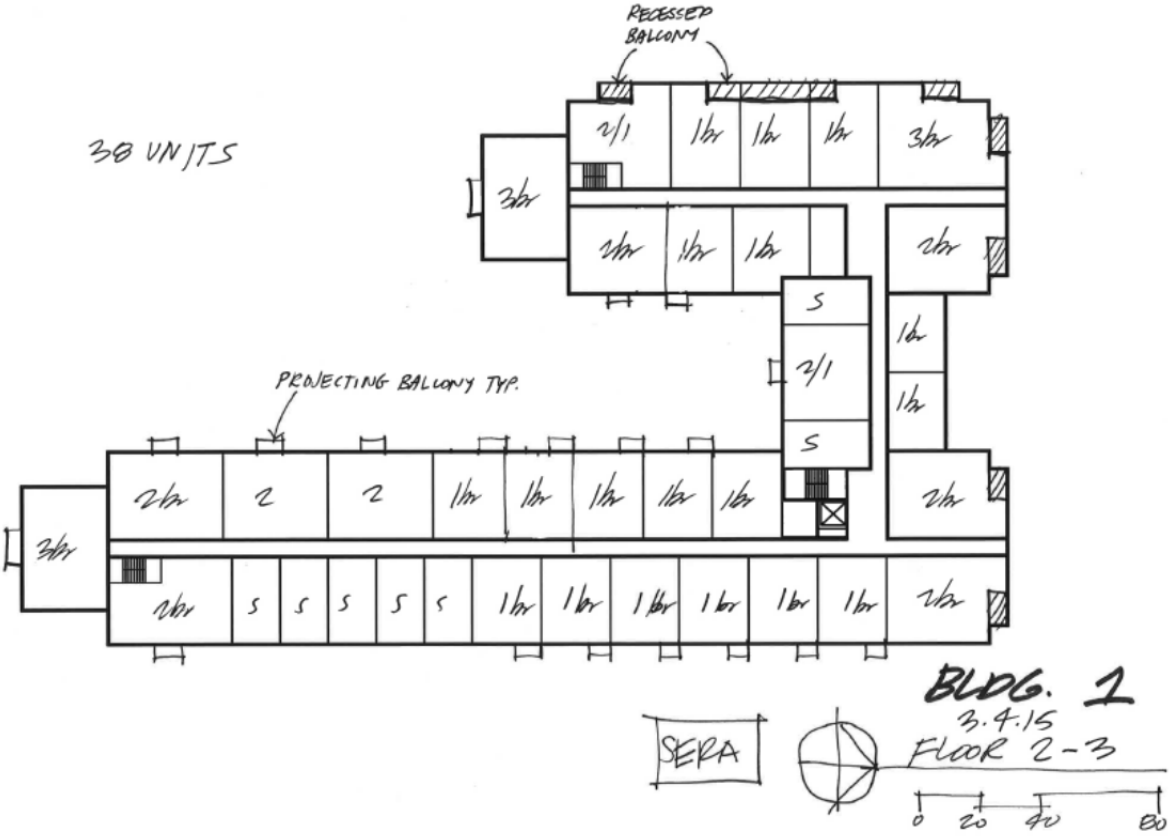
2S102AD02900, consisting of .19 acre (m/l) at 1227 SW Ash Ave.

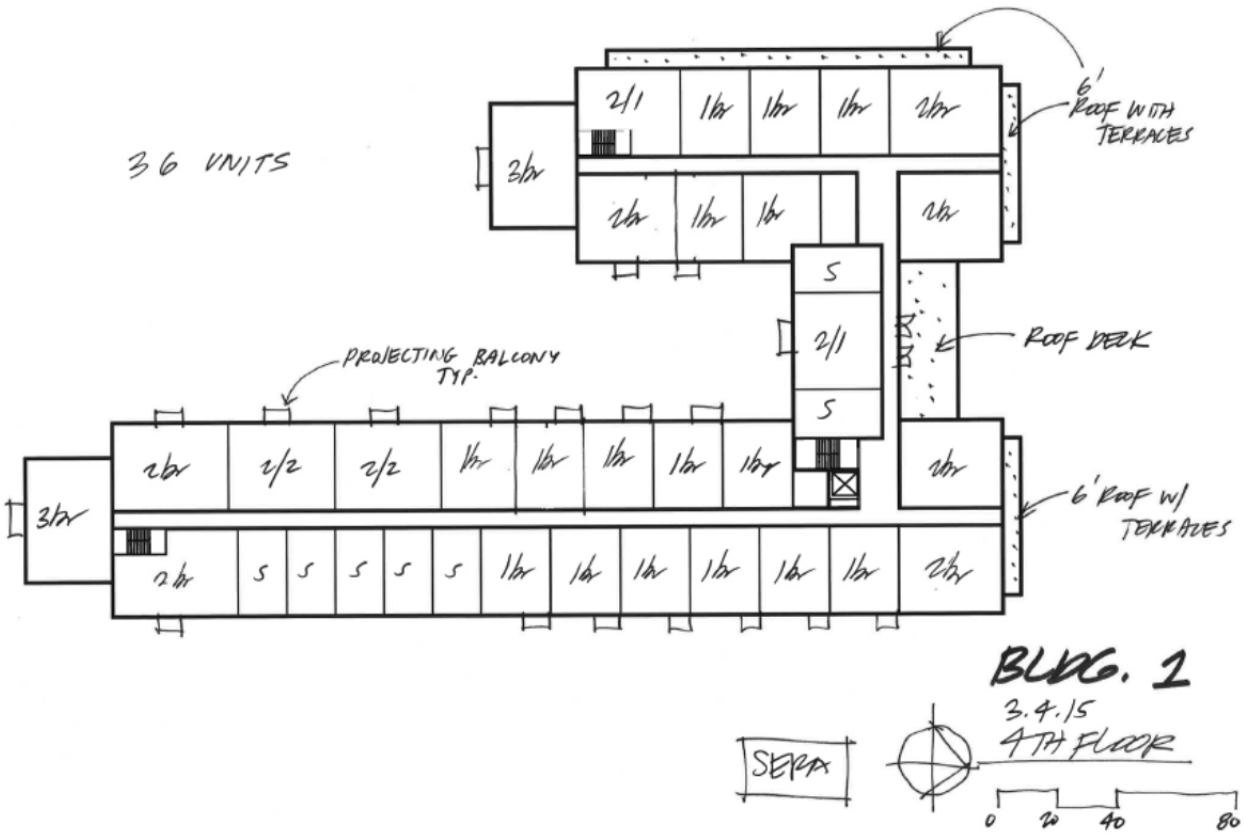
2S102AD03000, consisting of 3.26 acres (m/l) at 12800 SW Ash Ave.

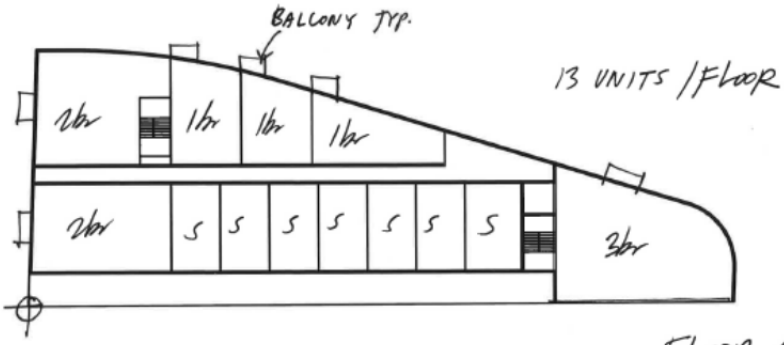
EXHIBIT B

Conceptual Design

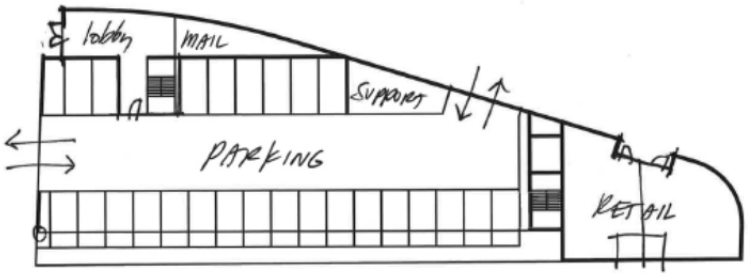





36 UNITS
6' ROOF WITH TERRACES
ROOF DECK
PROJECTING BALCONY TYP.
6' ROOF W/ TERRACES
BLDG. 1
3.4.15
4TH FLOOR
SERPX
0 20 40 80



FLOOR 2-3



GROUND FLOOR

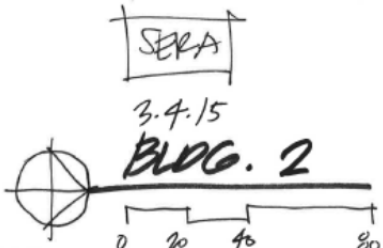


EXHIBIT C

Pro Forma Financial Statement

Mixed Use Multi-family Apartment & Retail Project
SW Ash Ave. & Burnham St.
Tigard, OR

March 22, 2015

Project Costs			
Land	$1,609,000	to be adjusted by appraisal	
Construction	18,270,743		
Soft Costs	6,778,357		
SDC Reimbursement by CCDA	-1,609,000	to be adjusted to match land value.	
Contingencies	1,202,019		
Operating Capital Surplus to Break-Even	-55,305		
Total Project Cost			**$26,195,814**
Initial Stabilized Income			
Rents & Other Income	2,635,064		
Less:			
Vacancy & Credit Loss	-131,753		
Operating Expenses (gross)	-811,700		
VHTA Tax Abatement	146,286		
Reserves	-31,900		
Net Operating Income			**$1,805,997**
Initial Stabilized Pre-tax Return			**6.89%**

Tigard City Center Development Agency

The City of Tigard's Urban Renewal Agency

CCDA

M E M O R A N D U M

TO: Chair Cook and the Directors of the City Center Development Agency Board

FROM: Sean Farrelly, Redevelopment Project Manager

RE: Burnham/Ash Redevelopment Disposition and Development Agreement

DATE: March 30, 2015

On April 14, 2015 the Board of the CCDA will consider authorizing the Executive Director of the City Center Development Agency to sign a Disposition and Development Agreement (DDA) with developers DIG Tigard LLC and Capstone Greenlight LLC. The DDA will lead to the construction of 157 units of market rate housing and 2,000 square feet of commercial development in two buildings on three contiguous properties currently owned by the City Center Development Agency (currently the sites of the Ash Avenue Public Works Yard and Ash Avenue Dog Park). The construction of this $26 million, 171,309 square foot development will be an important milestone in the Downtown revitalization efforts that have been underway since 2005.

Plans and Documents That Support New Downtown Housing Development

Encouraging new housing and mixed use development in the Downtown is supported by several City plans and implementing documents:

1. The Tigard Downtown Improvement Plan (TDIP) provides the blueprint for current downtown revitalization efforts. The goal of the plan is for Downtown Tigard "to serve the community's stated future needs for an active, mixed use 'urban village.'"

Downtown Housing Development was listed as one of the "catalyst projects" that has the ability to "substantively alter the development environment" in the downtown. As detailed in page 29 of the TDIP:

> *"The Plan anticipates creating more housing of various types in several locations in Downtown. The intent is to bring more people into Downtown as residents. This will activate the Downtown throughout the day and into the evening. Housing development in the downtown will provide a number of benefits, including increased support for local services such as retail. In addition, residential development can provide a greater number of "eyes on the street", increasing the perception of security in the district. Residential development in the area is also supportive of transit, and can capitalize on the planned commuter rail line."*

The proposed project at Ash and Burnham would support all of the listed aims of the TDIP Housing catalyst project.

2. The City Center Urban Renewal Plan contains the goals, objects and projects for the revitalization of the urban renewal area. The purpose of this plan is to "use the tools provide by urban renewal to attract private investment and facilitate the Area's redevelopment." Goal 5 of the plan is to "Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments."

The plan specifically authorizes the disposition of property to support the development of housing and mixed use projects in the Area. In addition, planning and development assistance, including grants or loans to support new development, are authorized by the plan. The proposed project is consistent with the City Center Urban Renewal Plan.

3. The proposed project will help implement the Downtown Connectivity Plan. A condition of approval for the project will be the partial construction of a street required by Downtown Connectivity Plan. This street will help reduce block sizes in downtown to encourage pedestrian activity. When completed as neighboring properties redevelop, the street will provide a new multi-modal connection to Hall Blvd.

4. Development Strategy for Downtown Tigard (aka the "Leland Report") identified the Public Works Yard as a prime spot for housing and recommended making it available for redevelopment.

In addition to these downtown planning and implementation documents, the development of housing on this site also meets the following Tigard Comprehensive Plan Goals:

<u>Economic Development</u>
<u>Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy</u>
<u>Goal 9.3 Make Tigard a prosperous and desirable place to live and do business</u>

The addition of 157 new households will provide additional potential customers for downtown businesses. The residents activate the area during the day and evenings, helping to create an 18-hour activity area in the Downtown.

<u>Housing</u>
<u>Goal 10.1 Provide opportunities for a variety of housing types to meet the diverse housing needs of current and future City residents.</u>

This goal is supported by the project, as it will provide new apartment units, for which there is a growing demand regionally and locally. The proposed development will include a range of unit sizes, from studios to three-bedroom/two-bathroom units which will provide opportunities for, among others, young people just entering the job market; families; and retirees who wish to "downsize."

The project's proximity to the Tigard Transit Center and WES station and the Fanno Creek Trail will be attractive for residents looking for non-automotive transportation options.

Special Planning Areas- Downtown
Goal 15.2 Facilitate the development of an urban village.

The development of an urban village is furthered by this project, which creates high quality new residential and commercial space. New residents will be new potential customers for downtown businesses. This development will likely catalyze new investment in Downtown.

The Tigard Strategic Plan adopted by City Council in 2014 sets forth the vision of Tigard becoming "the most walkable community in the Pacific Northwest where people of all ages and abilities enjoy healthy and interconnected lives."
Goal 2: Ensure development advances the vision includes Objective 1 which is to "make best use of underdeveloped land to increase the value of the city and advance the vision." The project that will result from the DDA will convert the property from low-intensity municipal uses into high- quality housing adjacent to the Fanno Creek Trail and within walking distance to shopping, businesses, and transit in Tigard's town center.

In addition, the Tigard City Council's 2015-17 Goals and Milestones includes Goal #2. "Make Downtown Tigard a Place Where People Want to Be" with the milestone "support residential and mixed use development in walkable and transit-supported areas by completing the Ash Avenue/ Burnham Street Redevelopment project."

Project Components

Metro Community Planning and Development Grant
In September 2013, Tigard was awarded a $100,000 Community Planning and Development Grant from Metro to fund pre-development work on two sites in the Downtown urban renewal district. The goal of the work was to deliver the first significant new market-rate residential units in downtown. The Development Agency partnered with a local developer, George Diamond Properties, to study two sites in the Downtown for potential redevelopment- the city's Ash Avenue Public Work Yard and Ash Ave Dog Park and a second site on Commercial Street.

The grant funds together with city matching funds paid for a market study, architectural concept drawings, pro forma review, property surveys, appraisals, and environmental studies on the two sites. Development on Site 2 was found not to be currently feasible, while development on Site 1 was found to be promising. An open house with Tigard stakeholders was held in August 2014 to get input on preliminary architectural concepts for the Ash Burnham site.

In October 2014 George Diamond Properties suggested Capstone Partners as a partner in this project. Capstone Partners is an experienced real estate development company who have built significant apartment and mixed use projects such as Cannery Row in Sherwood and Grant Park Village in Portland. The principals of the firm met with the Board of the CCDA on January 13, 2015.

City Center Advisory Commission

The CET grant IGA includes a milestone for the City Center Advisory Commission to recommend criteria for the City Center Development Agency (CCDA) Board/City Council to make decisions regarding the redevelopment of the Public Works Yard. The CCAC recommended the following criteria for a redevelopment project:

1. Is consistent with urban renewal plan
2. Has ultimately positive effect on tax base
3. Maximizes leverage from private and other public sources
4. Promotes high quality, pedestrian friendly urban design and architecture
5. Contributes to placemaking and local identity
6. Promotes transit usage and accessibility
7. Provides increased housing density
8. Provides public amenities, for example, community meeting room, bike and pedestrian connections
9. Accommodates on-site parking
10. Includes a variety of price points and unit sizes
11. Integrates nature into project
12. Promotes sustainability

1-3 were considered mandatory and 4-12 highly desirable.

The CCAC was briefed on the progress of the Ash/Burnham project at several meetings. At their April 8 meeting, the CCAC will receive an update on the project plans including the details of the DDA. They will review the project criteria and consider a formal recommendation of support to the CCDA for their April 14 consideration of the DDA.

Development and Disposition Agreement (DDA)

The DDA spells out the responsibilities for the development team and the Agency in this public private partnership. It details the conditions that must be met before the Agency will convey the property to the developers.

Pro Forma

The project pro forma has been refined by the developer after receiving detailed cost estimates from contractors based on updated architectural drawings. The agency's development advisor, Shiels Obletz Johnsen (SOJ), reviewed the project pro forma assumptions and found them to be reasonably constructed and within the market for interest rates, fees, and returns. The pro forma shows an estimated gap of $2.5 million, meaning the costs of building the project exceed the amount needed to achieve the developers return on cost of 6.89%.

CCDA Partnership

The CCDA is actively partnering in this project by investing urban renewal funds. The provision of funds will bridge the gap to make the project financial viable. The Agency is authorized by the City

Center Urban Renewal Plan to incentivize new development under Project G.2. "Development Grant/Loan Program." The CCDA will contribute to the project in the following ways:

- SDC Contribution
  The Agency will provide a partial payment of the estimated $2.8 million in System Development Charges (SDC) fees the project will incur. The source of these SDC payments will be the proceeds from the sale of the property. The SDC contribution will be sized based on the value of the property at sale. An updated appraisal is scheduled to be completed on April 2, 2015.

- Vertical Housing Development Zone
  The Ash/ Burnham project will also apply for a partial 10-year property tax abatement as authorized by the Vertical Housing Development Zone (established by the city of Tigard in 2014). In the event the VHDZ is denied or reduced by the state agency that administers the program, the DDA includes a financial adjustment that would have the CCDA rebate a portion of the property taxes generated by the project, subject to CCDA review of the project's financial performance. If the project results in a return on cost higher than 7%, the payments will be reduced by a commensurate amount.

  The project is expected to generate $7.8 million in property taxes over 20 years (before deducting the VHDZ 10-year partial tax abatement). Currently, as a publically owned site, the property is assessed no property tax.

- No Further Action Letter
  The city is in the process of obtaining a No Further Action (NFA) letter from the Department of Environmental Quality (DEQ) for the site. This is a condition of the DDA. The developers will purchase an environmental insurance policy.

- Ash Avenue Dog Park Relocation
  The Ash Avenue Dog Park will be relocated to a city-owned site on the opposite corner of Burnham and Ash. The equipment at the present dog park will be re-used for the new park. The park is schedule to open in June 2015 prior to the old park closure.

- Public Works Relocation and Building Demolition
  The Public Works division has been transferring their personnel and equipment to other city facilities and to a new leased site. The CCDA will have the buildings demolished and site cleared in early July.

<u>Public Open House</u>
As called for in the DDA an open house will be held inviting the public to review and provide comments on the current project design and site plans. This workshop will be held on April 22.

<u>Requirement s to Close</u>

The following conditions must be met, or waived by the appropriate party, in order to move to closing.

Additional contingencies to be met beyond the standard ones (such as property inspection and clear title) include:
a. CCDA has removed existing structures on the site.
b. Developer has received final construction plan approvals and building permits are ready to be issued.
c. Developer has demonstrated financial feasibility of Project by submitting binding financing commitments and other documentation reasonably demanded by CCDA.
d. Receipt of no further action letter from DEQ and developer purchase of environmental insurance.
e. Receipt of BOLI determination concluding that this is not a prevailing wage project.

Closing
When all requirements of the DDA are met, the property will be sold to the developer. The current schedule estimates this happening in mid-September. The DDA commits the developers to commence construction within 30 days of closing.

Schedule
The developers plan on a one year construction period, with leasing to start in fall of 2016.

cc: Marty Wine, CCDA Executive Director
Kenny Asher, Community Development Director
Toby LaFrance, Finance Director
Brian Rager, Public Works Director

Tigard City Center Development Agency

The City of Tigard's Urban Renewal Agency

M E M O R A N D U M

TO: Chair Cook and the Directors of the City Center Development Agency Board

FROM: Sean Farrelly, Redevelopment Project Manager

RE: Burnham/Ash Redevelopment Disposition and Development Agreement Executive Summary

DATE: March 31, 2015

This memo outlines the key provisions of the development and disposition agreement (DDA) for the sale and redevelopment of the former public works yard and dog park sites.

1. Consideration. Capstone/Diamond will pay the updated appraised fair market value for the site. The consideration also includes development of the site as provided in the agreement. Earnest money is $25,000. Section 3.2.

a. CCDA will pay the SDC's for the developer up to the market value of the land at sale. Payment of SDC's does not trigger prevailing wage. Section 3.10

b. Consideration is based on the assumption that the project will fully qualify for the 10 year vertical housing partial property tax exemption. Although we will have a preliminary indication from the state prior to closing, the final decision cannot be issued until after the project is complete. Accordingly, Section 4.2 provides that if the tax exemption is denied or partially denied for reasons beyond the developer's reasonable control, CCDA will make annual reimbursement payments for ten years to developer to for property taxes paid up to the *lesser* of:

i. the amount of the lost or reduced exemption; or

ii. the amount necessary to achieve a 6.89% return on cost after one year of occupancy.

2. Project Description. The agreement commits the developer to build approximately 157 housing units and 2,000 square feet of commercial space in two buildings. The DDA describes the project in general terms to provide flexibility. As a condition precedent to closing, the City will have opportunities to review and approve design details at:

a. CCDA staff review and public open house on detailed plans. CCDA Board then reviews and approves plans or provides comment. If the parties are unable to agree, the design issue is submitted for dispute resolution. Section 3.6.1 a.

b. Land use approval. This is a staff approval with opportunity for appeal to a hearings officer. Any appeal could delay the project. Section 3.6.1 c.

3. Contingencies. Additional contingencies beyond the standard ones (such as property inspection and clear title) include:

a. CCDA has cleared removed the existing structures on the site. Section 3.6.2 e.

b. Developer has received final construction plan approvals and building permits are ready to be issued. Section 3.6.1 d

c. Developer has demonstrated financial feasibility of Project by submitting binding financing commitments and other documentation reasonably demanded by CCDA. Section 3.6.3 e.

d. Receipt of no further action letter from DEQ and purchase of environmental insurance. Section 3.6.2 j. k.

e. Receipt of BOLI determination concluding that this is not a prevailing wage project. Section 3.6.2 i.

4. *Property sold as is.* Developer waives and releases City and CCDA from environmental or other claims relating to condition of property. Section 3.9

5. *Schedule:*

a. Closing no sooner than July 1, 2015 but no later than July 1, 2016. Section 3.3

b. Developer to commence construction 30 days from closing. Section 6.

c. Substantial completion 15 months from closing. Section 6.

d. Schedule changes must be approved by CCDA; approval shall not unreasonably be withheld. Section 6.

6. *Remedies:*

a. Pre-closing default by Developer: payment of $40,000 liquidated damages to CCDA. Section 10.1.

b. Pre-closing default by CCDA: payment of $40,000 liquidated damages to developer or developer may sue for specific performance. Section 10.1

c. Post-closing default by Developer. For most defaults, city has all remedies available by law. In addition, if Developer fails to commence construction within 1 year of the due date, or fails to complete within 3 years of commencement, city may repurchase the property and all improvements for 50% of developer's actual costs less any liens or assessments against the property. Section 10.3

d. Post-closing default by CCDA: Developer has remedies available by law. Section 10.1.

7. Miscellaneous.

a. CCDA must approve any assignment or transfer to a third party except normal financing and except to a company formed by Capstone and Diamond to develop the site. Section 12.25.

b. CCDA has reasonable access to site during construction to monitor conformance with design and construction specifications. Section 5.2.

AIS-2060			**11.**
Business Meeting			
Meeting Date:	04/14/2015		
Length (in minutes):	20 Minutes		
Agenda Title:	Update on Willamette Water Supply Pipeline Project - by Other Agencies		
Prepared For:	John Goodrich, Public Works	**Submitted By:**	John Goodrich, Public Works
Item Type:	Update, Discussion, Direct Staff	**Meeting Type:**	Council Business Meeting - Main
Public Hearing:	No	**Publication Date:**	

Information

ISSUE

Council to be provided with updated information regarding the Willamette Water Supply Program by staff representing Tualatin Valley Water District, City of Hillsboro, and other joinder program agencies.

STAFF RECOMMENDATION / ACTION REQUEST

This briefing requires no action or staff recommendations.

KEY FACTS AND INFORMATION SUMMARY

The staff from the Willamette Water Supply Program will brief and update council on the preliminary design phase of the program. The Willamette Water Supply Program was developed by Tualatin Valley Water District (TVWD) and City of Hillsboro to provide additional capacity from the Wilsonville Water Treatment Plant and construct a major pipeline through Washington County to provide this additional water to both communities' customers by 2026.

The preliminary design phase has been focusing on identifying a preferred pipeline alignment from the Willamette River Water Treatment Plant in Wilsonville to reservoirs located on Cooper Mountain then extending to a connection point near Highway 26 (western extension) and a connection point near Walker Road (eastern extension). Staff will provide an overview of the preferred pipeline alignment and share with council the criteria and process used to develop it. Staff will also provide other analysis and work that is being conducted as part of the preliminary design phase.

The cities of Tigard and Beaverton are also participating in the preliminary design and water treatment plant master planning. Tigard is participating to ensure its utility customer interests—in developing the Willamette River as a future water source—are represented during this expansion planning phase to bring additional water supply to the county.

This is a briefing and discussion presentation only. Tigard charter requires citywide voter approval to use Willamette River water supply as a drinking water source. The council is not restricted regarding briefings or updates on Willamette River water use within the region.

OTHER ALTERNATIVES

Not applicable

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

None

DATES OF PREVIOUS COUNCIL CONSIDERATION

The council has considered other matters related to the Willamette River Water Supply Program during the last year:

- On April 8, 2014, the council authorized a joinder agreement formalizing the city's participation in the preliminary design of the TVWD/Hillsboro Water Supply Program and limited Tigard's financial contribution to $100,000.
- On October 28, 2014, council approved signing an agreement to participate in the Willamette River Water Treatment Plant master plan update and limited Tigard's financial contribution to $50,000.
- On February 28, 2015, council approved signing an agreement with other agencies and Willamette River Water Supply Program participants to facilitate future governance agreements regarding the program with no financial impact.

Attachments

PowerPoint Presentation on Willamette Water Supply Program Update

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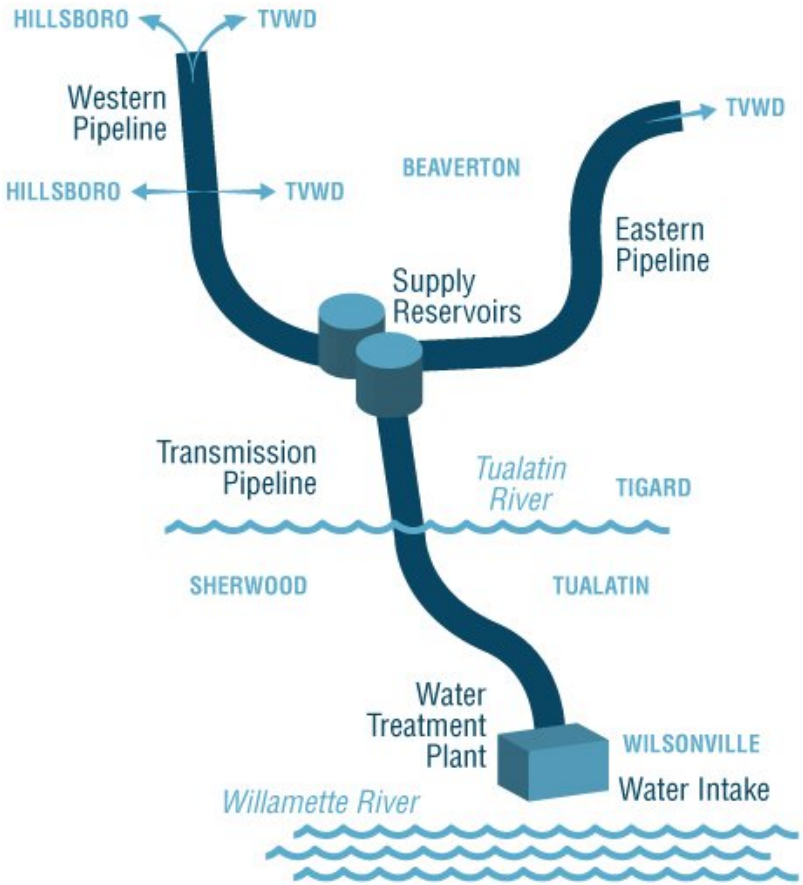
Willamette Water Supply
Our Reliable Water

Preferred Pipeline Route

City of Tigard

April 14, 2015

The Willamette Water Supply system will provide water to our communities.



Demand for water will go up.

*Water provider**s need to prepare** for more than 400,000 new jobs and businesses and 1 million people by 2030.**

*Based on Metro projections

These risks threaten our water supply:

Earthquakes
Drought
Pollution
More severe storms

Early planning leads to success

Evaluate pipeline routes & reservoir sites	2014—Winter 2015
Preferred pipeline route(s) selected	March 2015
Preliminary design & additional study	2015-2017
Public outreach	Ongoing

More than 30 miles of pipeline will connect communities to a reliable source of drinking water.

Preferred pipeline route selected through in-depth analysis

Started with 117 route options.

Received feedback from policymakers, staff, community, and technical advisory committee.

Questions answered:

- ✓ Is the route acceptable & constructable?
- ✓ Will the pipeline route be resilient?
- ✓ Are there cost-saving opportunities to coordinate with road or utility projects?
- ✓ How can we manage costs for ratepayers?

Roy Rogers Road at Al's Garden Center

Route selection criteria guide decisions

30+ Criteria / 8 Categories

1. Social/Community Impacts
2. Opportunities/Benefits
3. Environmental Impacts/Permitting
4. System Compatibility
5. System Resiliency
6. Constructability
7. Operation and Maintenance (O&M)
8. Cost

HDR | ONE COMPANY Many Solutions

Table 1 – Alignment Selection Criteria

Criteria/Risk	Definition	Factors
Social/Community Impacts		
Congestion/Community Impacts	Number of driveways, traffic volume, major intersections + = greenfield construction 0 = driveways that can be worked around with reasonable care during construction and provide multiple means of access to property and businesses - = numerous driveways with impacts to businesses and extensive restoration.	Numerous driveway crossings are a negative, high traffic areas are a negative If community safety is an issue downgrade rating.
Impact Critical Facilities	Hospitals, fire stations, emergency services + = no impact to critical services 0 = critical services within impacted traffic area - = critical services directly on pipeline alignment	Need to maintain access, no disruption to utility service for critical facilities. It will be a negative to impact emergency vehicle flow.
Community Facilities	Schools, churches, community centers, parks, large employers + = no impact to community facilities 0 = community facilities within impacted traffic area - = community facilities directly on pipeline alignment	Potential safety issues. Periodic high traffic periods. Potential construction work hour limitations.
Opportunity for Community Enhancement	Add value or benefit to the community + = adds value or benefit 0 = neither adds nor detracts - = detracts from the community and significantly diminishes existing facilities	Incorporate trails, improve roadways, landscaping/community beautification opportunities, improve rural fire protection
"No-cut" areas	Sensitive community areas that should not be impacted. + = alignment does not impact any sensitive community areas, typical surface restoration required 0 = NA - = alignment is within a "no-cut" area	Are there recently paved roads that have "no-cut" restrictions? Are there community enhancement areas that should be avoided that could prevent alignment approval? Have recent projects already impacted a community that could be avoided so the community is not impacted again?
Opportunities/Benefits		
Proposed Road Projects	"Piggy back"/joint project opportunities	Are there road projects identified within the project window that allow for joint project, cost sharing, or right-of-way corridor allocation.
Available Property	Properties currently for sale that provide key sites for staging/tunneling shaft locations	Are there available strategic properties currently for sale that will facilitate construction of the project?
Proposed Development	"Piggy back"/joint project opportunities	Are there development projects identified within the project window that allow for joint project, cost sharing, or right-of-way corridor allocation.

Feedback from public open houses points to the need to coordinate

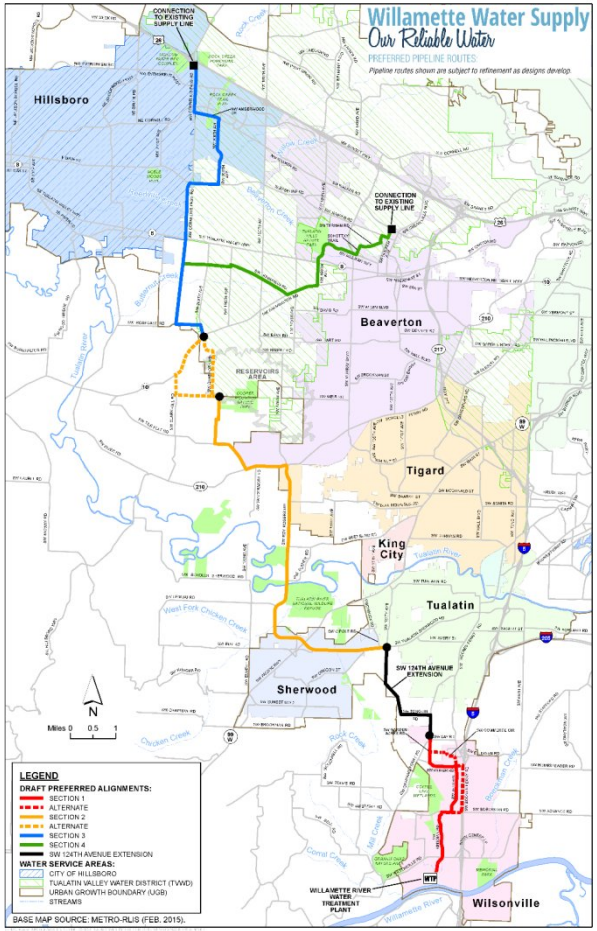
Benefit: Coordinating pipeline construction with other improvement projects

Questions:

- Construction impacts on traffic & neighborhoods
- Willamette River water quality

- 7 open houses plus one online
- Held across the project area
- More than 800 participants

Tualatin-Sherwood Road
124th Avenue Project
to Grahams Ferry Road

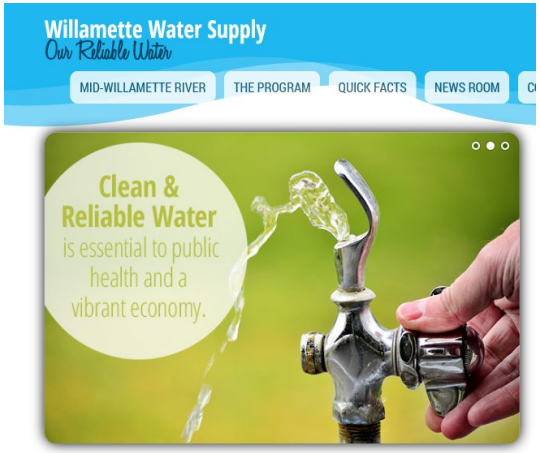


- The preferred pipeline route best meets the routing criteria and responds to feedback from staff and the public.
- Pipeline routes shown will be refined as designs proceeds.
- Meanwhile we are continuing to coordinate with agency staff on how to best preserve the pipeline alignment.
- Most pipeline construction won't occur until 2020-2025.
- Exceptions will be when there are opportunities to coordinate with transportation and other utility work.

- Team is working with Washington County on several opportunity projects in the area to support planned development.
- The reservoir sites are still being evaluated through a similar process as the pipeline routes.
- We have identified several sites that meet minimum engineering requirements (site elevation and size of property).
- This work is ongoing.

Outreach achieves broad public awareness

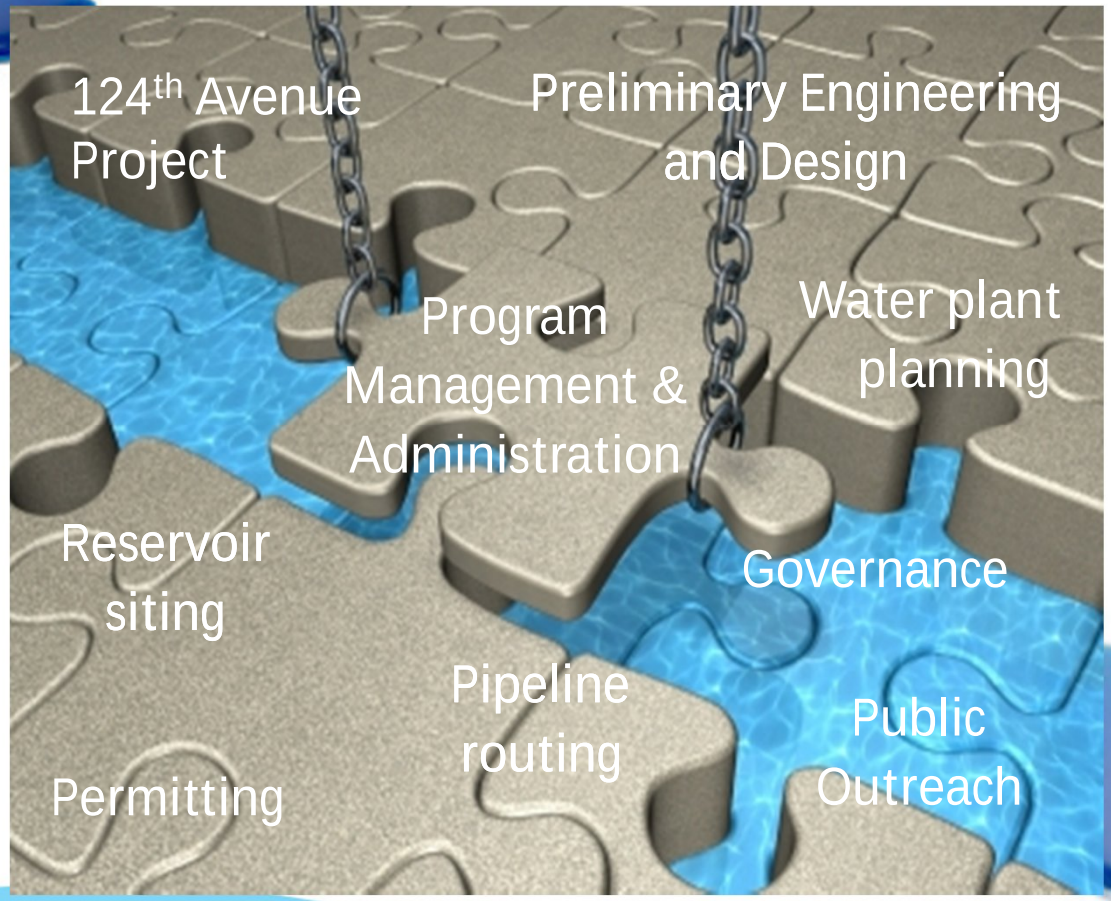
- ✓ Collaborate with each community to develop an outreach plan
- ✓ Provide information to all preferred pipeline route neighbors: route, timing, ways to stay informed / ask questions—encouraging them to sign up for email updates
- ✓ Get feedback from the public on community impacts and potential benefits
- ✓ Publish up-to-date information on the website
- ✓ Update policymakers and staff



Outreach Schedule

March-April	City Council briefings
May	Targeted mailings (route neighbors)
Summer 2015	Community briefings / feedback

Mailing information to every resident and business within 500 feet of the preferred route with the goal of getting people to sign up for our ongoing electronic updates.


124th Avenue Project
Preliminary Engineering and Design
Program Management & Administration
Water plant planning
Reservoir siting
Governance
Pipeline routing
Public Outreach
Permitting

Your questions?
Thank you!

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Willamette Water Supply
Our Reliable Water