



**TUALATIN CITY COUNCIL  
AND  
TUALATIN DEVELOPMENT COMMISSION**  
Monday, December 14, 2009

City Council Chambers  
18880 SW Martinazzi Avenue, Tualatin, Oregon

**WORK SESSION begins at 5:00 p.m.**

REGULAR MEETING begins at 7:00 p.m.

---

**Mayor Lou Ogden**

**Council President Chris Barhyte  
Councilor Monique Beikman  
Councilor Joelle Davis**

**Councilor Jay Harris  
Councilor Donna Maddux  
Councilor Ed Truax**

**WELCOME!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda – Item C, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the world wide web at [www.ci.tualatin.or.us](http://www.ci.tualatin.or.us), at the Library located at 18878 SW Martinazzi Avenue, and are also on file in the Office of the City Manager for public inspection. Any person who has any question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised "live" on the day of the meeting on Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org).

Your City government welcomes your interest and hopes you will attend the City of Tualatin City Council meetings often.

**- SEE ATTACHED AGENDA -**

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A “legislative” public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. The Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, deny, or “continue” the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A “quasi-judicial” public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. The Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report to the Council.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. The Council then asks questions of staff, the applicant or any member of the public who testified.
5. When the Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either approve, approve with conditions or deny the application, or “continue” the public hearing.

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 5 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *ORS 192.660(2)(a)* the employment of personnel; *ORS 192.660(2)(b)* the dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



**A. CALL TO ORDER**  
Pledge of Allegiance

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

Page No.

1. Holiday Music Presentation by the Tualatin Presbyterian Church “Ding-A-Lings” – *not present*
2. Tualatin Youth Advisory Council Update
3. Tualatin Tomorrow Presentation Key Focus Area – *Transportation, Traffic & Connectivity*
4. Introduction of New Employee – *Terrence Leahy, Operations*
5. Commuter Rail Update

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

**D. CONSENT AGENDA (Item Nos. 1 – 9)**

Page No.

*The Consent Agenda will be enacted with one vote. The Mayor will first ask the staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under “Items Removed from the Consent Agenda.” The entire Consent Agenda, with the exception of items removed to be discussed under “Items Removed from the Consent Agenda,” is then voted upon by roll call under one motion.*

1. Approval of the Work Sessions and Meeting Minutes of November 9 and.....  
November 23, 2009
2. Approval of a Change of Ownership Liquor License Application for Famous Dave’s BBQ .....
3. Approval of a New Liquor License Application for New York Ruben’s .....
4. Resolution No. 4943-09 To Approve an Amendment to an Intergovernmental.....  
Agreement to Collect and Remit a Construction Excise  
Tax Between the West Linn-Wilsonville School District  
and the City of Tualatin
5. Resolution No. 4944-09 To Approve an Amendment to an Intergovernmental.....  
Agreement to Collect and Remit a Construction Excise  
Tax Between the Sherwood School District and the  
City of Tualatin
6. Resolution No. 4945-09 To Approve an Amendment to an Intergovernmental.....  
Agreement to Collect and Remit a Construction Excise  
Tax Between the Tigard-Tualatin School District and the  
City of Tualatin

**D. CONSENT AGENDA** *(continued from previous page)*

**Page No.**

- 7. Resolution No. 4946-09 Accepting a Deed of Dedication and Easement Associated.....  
with the SW Leveton Drive Extension Project (3 – Grimm  
Brothers, LLC)
- 8. Resolution No. 4947-09 Authorizing Acquisition of Park lands Along the Tualatin River .....  
Using Local Share Funds from the 2006 Metro Natural Areas  
Bond Measure
- 9. Resolution No. 4948-09 Adopting the City of Tualatin Contingency and Reserve Policy.....

**E. PUBLIC HEARINGS – Legislative or Other**  
*None.*

**F. PUBLIC HEARINGS – Quasi-Judicial**

- 1. Public Hearing to Consider a Conditional Use Permit for Glass Doctor (Oregon City .....  
Glass, Inc.) Contractor’s Shop and Equipment Storage in the Light Manufacturing  
(ML) Planning District at 6510 SW Rosewood Street (Tax Map 2S113AD, Tax Lot  
100) (CUP-09-04)
- Resolution No. 4949-09 Conditional Use Permit for Glass Doctor (Oregon City  
Glass, Inc.) Contractor’s Shop and Equipment Storage  
in the Light Manufacturing (ML) Planning District at  
6510 SW Rosewood Street (Tax Map 2S113AD, Tax  
Lot 100) (CUP-09-04)

**G. GENERAL BUSINESS**  
*None.*

**H. ITEMS REMOVED FROM CONSENT AGENDA**  
*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**I. COMMUNICATIONS FROM COUNCILORS**

**J. EXECUTIVE SESSION**

**K. ADJOURNMENT**

Council Update December 14, 2009

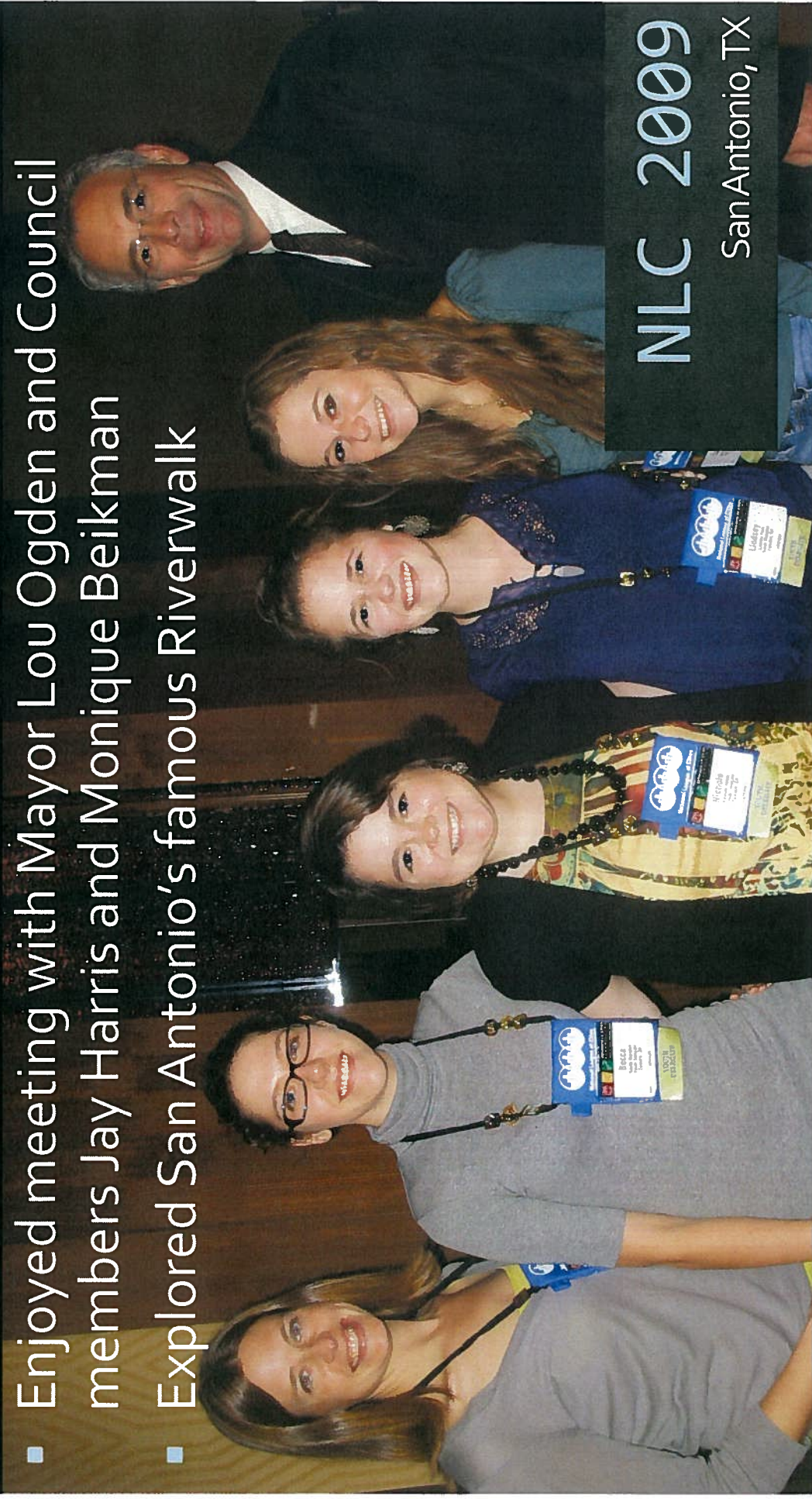
# TUALATIN YOUTH ADVISORY COUNCIL



# National League of Cities 2009

San Antonio, TX

- Attended almost twenty workshops and youth delegate sessions
- Networked with other YAC members from across the country
- Enjoyed meeting with Mayor Lou Ogden and Council members Jay Harris and Monique Beikman
- Explored San Antonio's famous Riverwalk



NLC 2009  
San Antonio, TX

# NLC Conference Workshops

- General workshops included:
  - Creating green jobs
  - Health care reform
  - Downtown revitalization
  - Local food initiatives
  - City/school district partnerships
  - Welcoming home veterans

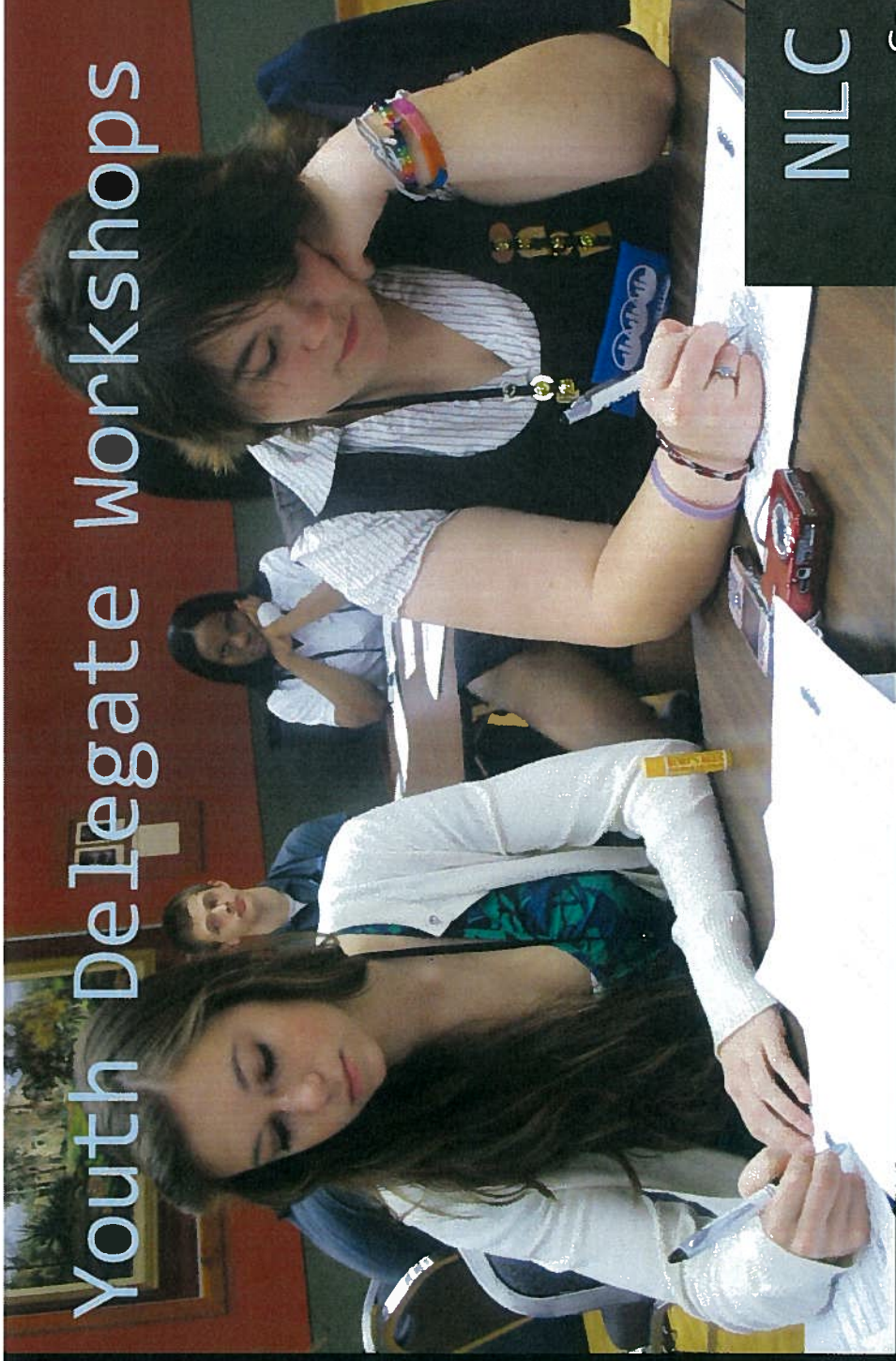


NLC 2009

San Antonio, TX



# Youth Delegate Workshops



NLC 2009

San Antonio, TX

- Met with other youth delegates
- Learned about innovative programs such as teen court and community youth mapping
- Brainstormed with other youth delegates and adult advocates
- Began developing plan for this year's Tualatin Youth Summit

## Other Activities

- Explored the Riverwalk by boat and by foot
- Enjoyed Texas BBQ with Councilors Jay Harris and Monique Beikman



NLC 2009

San Antonio, TX

# Ideas/Reflections



CONGRESS OF CITIES  
& EXPOSITION

NOVEMBER 10-14, 2009 • SAN ANTONIO, TEXAS

- Downtown revitalization/focus on the Tualatin River
- Farmers' Market/Community Garden
- "World Café" style youth summit
- Youth community mapping
- Address underage drinking
- Tualatin is a great place to live!

NLC 2009

San Antonio, TX

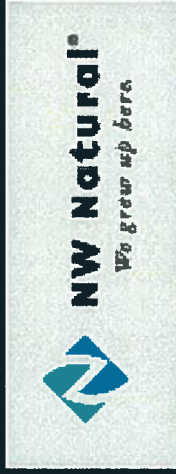


NLC 2009

San Antonio, TX

# Thank you!

- Our trip to the National League of Cities Congress of Cities would not have been possible without the support of Mayor Lou Ogden, the Tualatin City Council, and our corporate partners!



# Starry Nights, Holiday Lights

- Friday, December 4<sup>th</sup>
- Lots of people braved the cold to watch the tree lighting and see Santa!
- YAC did face painting, crafts, and provided general merriment



Starry  
Nights



Holiday  
Lights



## Next Month...

- New member introductions! (there are FIVE!)
- Project F.R.I.E.N.D.S
- And lots more!





*Tualatin Tomorrow:*  
Traffic, Transportation, and  
Connectivity (TTC) Focus Area

December 14, 2009 Update  
to City Council and Community

Bethany Wurtz, Area Lead

# Tualatin Tomorrow Vision Summary for TTC

“In Tualatin tomorrow, we envision a community that proudly maintains its small-town feel and distinct identity. While our city has grown as a vital part of the region and its economy, we have retained our sense of place, affordability and family-friendly atmosphere...

**TTC -- WE HAVE PROMOTED GREATER MOBILITY BY IMPROVING TRAFFIC FLOW, INCREASING TRANSIT CHOICES, AND PROVIDING FOR PEDESTRIAN- AND BICYCLE-FRIENDLY WALKWAYS AND STREETS.**

...Tualatin tomorrow is a complete community – a place where children thrive and people connect, neighbors know and care for one another, and community members are proud of their city and a quality of life that is second to none.”

# Metro's Regional Transportation Plan (RTP)

## Process – *Tualatin's Ongoing Work*

- Brief Summary
- Feedback from Tualatin residents regarding Project #10731 (formerly named the Northern Arterial)
- JPACT recommendation to Metro Council on 12/10/09
- 12/17/09 vote by Metro Council on RTP Draft
- Spring/Summer 2010 – Public Hearings on Final Draft, and Metro Council adoption of ordinance

## TTC's Current (and very important!) Partners

- City of Tualatin! Employees and Council working with surrounding cities and counties, as well as regional partners
- Tualatin's residents
- Tualatin's Chamber of Commerce
- Tri-Met

## TTC's Partner Plan

Establish stronger relationships with:

- An increasing number of involved residents (CPO, Neighborhood Assoc., Community Forum, etc.)
- Individual area businesses
- Representatives from Washington County, Metro, and State/ODOT
- Students (high school rep., PSU graduate program project, etc.)

## TTC: How We Get Around

“In the year 2030, Tualatin has a fully “multi-modal” transportation system that employs automobiles, buses, trains, walking and bicycles to serve the community’s mobility needs. Improved roadway connections help link all parts of the community, and public access to key public services has greatly improved through careful planning of new development, pedestrian amenities, parking, connections to bicycle routes, mass transit, and other measures.”

~ Tualatin Tomorrow’s 2009 Community Vision Update, pg. 10

[www.tualatintomorrow.org](http://www.tualatintomorrow.org)



# CITY COUNCIL SIGN-UP SHEET

DATE: December 14, 2009

PLEASE COMPLETE TO GIVE TESTIMONY

LIMIT TESTIMONY TO THREE MINUTES

	(PLEASE PRINT CLEARLY) Name	Address	E-mail	Representing	Agenda Item(s) or Citizen Comments
1.	JOE CIPSO MB	8720 SW ZUCATAN RD 97067		310 ANNUAL COMMUNITY HEALTH & SAFETY FAIR	CITIZEN
2.	STEVEN LUKON JOE CIPSO MB			PORT CLATER REPORT	
3.					
4.					
5.					
6.					
7.					
8.					



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** December 14, 2009

**SUBJECT:** APPROVAL OF THE MINUTES FOR THE WORK SESSION AND MEETINGS OF NOVEMBER 9, 2009 AND NOVEMBER 23, 2009

---

**ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes for the Work Sessions and Meetings of November 9, 2009 and November 23, 2009.

**RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

**FINANCIAL IMPLICATIONS:**

There are no financial impacts associated with this item.

**Attachments:** Minutes





TUALATIN CITY COUNCIL WORK SESSION MINUTES OF NOVEMBER 9, 2009

PRESENT: Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Don Hudson, Finance Director; Dan Boss, Operations Director; Paul Hennon, Community Services Director; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Maureen Smith, Recording Secretary

ABSENT: Mayor Lou Ogden\* [\*denotes excused]

**[Unless otherwise noted, MOTION CARRIED indicates all in favor.]**

**A. CALL TO ORDER**

Mayor Pro tem Barhyte called the work session to order at 5:09 p.m. and recessed the work session at 5:09 p.m. Mayor Pro tem Barhyte reopened the work session at 5:10 p.m.

*Council reviewed the "Consent Agenda" with no questions or changes.*

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

*1 PGE Franchise Discussion*

City Manager Sherilyn Lombos said the City's current franchise with Portland General Electric (PGE) expires soon and staff has been meeting with PGE representatives to renegotiate the franchise agreement.

Mark Fryberg, PGE Government Affairs representative was present and gave a brief background on the negotiations that have taken place. It is proposed to be a ten year agreement, with a ten year extension. A draft of the agreement was arrived at and presented to Council at this meeting. The franchise fee will remain at 3.5% gross revenues. Mr. Fryberg noted besides the City Manager, City Engineer Mike McKillip, City Attorney Brenda Braden, Operations Director Dan Boss, and Finance Director Don Hudson were involved in the negotiations and he believes it is a good agreement. Mr. Fryberg said their committee has endorsed this draft and added City staff was professional, knowledgeable, and easy to work with.

Council said the agreement reads well, and staff did a great job negotiating it. Councilor Harris noted on Page 2 of the agreement, rights granted do not include the right to build, etc. in the rights-of-way. He also asked what about substation or switches, and Mr. Fryberg said if referring to poles, wires, and conduit, it can be addressed. Also mentioned in Section B is whether it should address getting an easement in the City's parks. Operations Director Dan Boss said it had been included previously, and if one is needed it could be done, but is not guaranteed by this franchise agreement. Councilor Harris asked and Mr. Fryberg said he will provide clarification.

Mayor Pro tem Barhyte asked about at what point is the City able to tell other utilities to remove their equipment and Mr. Fryberg said he did not know and is not sure how it works. Mayor Pro tem Barhyte asked staff to check into.

City Manager Lombos said staff will bring a final ordinance for adoption at the November 23, 2009 Council meeting, and thanked Mr. Fryberg for attending the work session.

2. *Municipal Court Update / Peer Court Discussion*

Finance Director Don Hudson and Court Administrator Cortney Cox presented an update on municipal court. Mr. Hudson said the first court session was held in January 2009, and they are here tonight to update Council on how municipal court program is working to date.

Court Administrator Cortney Cox presented information on the court process. Court is held twice a month, with approximately 100 cases on each court docket, with 70-80 appearing. Recently there have been more "not guilty" pleas that before, which may be due to the economic times.. It was asked and answered how the process works when a person pleads "guilty". Court revenues were also explained by Finance Director Hudson, in response to a question from Council.

Court Administrator Cox presented information she has gathered from other jurisdictions that have a peer court. She explained how a first time offender could be referred to "Peer Court", with sanctions ranging from up to 40 hours community service, a written essay, and a written apology to the victim. After the offender completes court required service, they would serve as a "juror" at least one time. Staff time for administration of a peer court typically runs from 20-30 hours per week.

Council President Barhyte said Council had looked into having a peer court approximately six years ago, and what it would take to start a program. Discussion followed and it was explained by Court Administrator Cox how various cities administer their peer courts.

Discussion continued with Council discussing the viability of continuing to pursue a peer court program.

Mayor Pro tem Barhyte summarized the discussion noting that while Council is interested in the peer court program, it is not economically feasible at this time. City Manager Lombos said this can be brought up during budget discussions and will keep it in the loop.

3. *Stafford Basin Urbanization Discussion*

Community Development Director Rux introduced consultant Tom Coffee, who has been working with West Linn on the Stafford area position statement. After reading through the position statement four questions were raised by staff. Mr. Coffee has prepared amendments to help clarify and respond to the comments. Mr. Rux said an Intergovernmental Agreement (IGA) will need to be in place by the middle of December, to have it ready by January 2010.

Council reviewed the four specific comments and proposed amendments and had no changes with expanding the language in 1 and 2. Mr. Coffee reviewed the third comment and there was no issue by Council with 3. On comment #4, Mr. Coffee said he didn't have any amendments for this. Council briefly discussed and made no changes to staff's comments.

Discussion followed and it was mentioned that while opposing the urbanization of the Stafford triangle area, it seems odd to enter into discussions about which jurisdictions will take control of which areas. Mr. Coffee said that even though urbanization is opposed, if it ends up happening we should be ready.

Brief discussion followed. Mr. Coffee said he will make the changes and put in the format as presented and will get the latest version back to Tualatin. He will move on to Lake Oswego and hopes to have something by the November 23, 2009 Council meeting.

4. *Council Communications & Roundtable*

City Manager Lombos began with a discussion on Metro's "Making the Greatest Place." A matrix was presented on the various committees and timelines for the next few months, and Community Development Director Doug Rux said there are key dates in December, and Metro will be adopting by resolution the urban growth report that sets the stage for the issues at hand. Mr. Rux continued review of the timelines over the next few weeks. Brief discussion followed, and Mr. Rux concluded by noting staff will bring an updated version of the matrix to Council periodically for review.

City Manager Lombos said the next issue is a question regarding park rules, and Council's recent concern regarding smoking at a Commons "event." It was noted that Hillsboro has recently banned smoking in their parks, and is one of a growing list of cities to ban smoking in their parks. Discussion followed on how a smoking ban would work in some parks and not in others in Tualatin, and it was suggested it could be during public-sponsored events. City Manager Lombos said the appropriate venue would be to send this issue to the Parks Advisory Committee (TPARK). Council agreed and will wait for comments and review by TPARK on this issue.

City Manager Lombos gave an update on the proposed Aquatics District. Washington County has approved to move forward with the district, and the way is cleared to have a May election. Brief discussion followed on what might happen if the district doesn't pass and whether the Tigard-Tualatin School District has a backup plan to closure of the pools. The issue of a utility fee implementation was again discussed and how it could be accomplished.

Councilor Maddux asked if the funding to outside agencies has been sent and City Manager Lombos said it has been disbursed to the list of agencies. Councilor Maddux also mentioned a meeting she attended regarding "high speed rail."

**C. CITIZEN COMMENTS – N/A**

**D. CONSENT AGENDA**

Council reviewed the Consent Agenda at the beginning of the work session with no changes.

**E. PUBLIC HEARINGS – *Legislative or Other***  
N/A

**F. PUBLIC HEARINGS – *Quasi-Judicial***  
N/A

**G. GENERAL BUSINESS**

*None.*

**H. ITEMS REMOVED FROM CONSENT AGENDA – N/A**

**I. COMMUNICATIONS FROM COUNCILORS**

*None.*

**J. EXECUTIVE SESSION**

*None.*

**K. ADJOURNMENT**

The work session adjourned at 6:53 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

  
\_\_\_\_\_



TUALATIN CITY COUNCIL MEETING MINUTES OF NOVEMBER 9, 2009

PRESENT: Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Eric Underwood, Development Coordinator; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: Mayor Lou Ogden\* [*\* denotes excused*]

*[Unless otherwise noted, **MOTION CARRIED** indicates all in favor.]*

**A. CALL TO ORDER**

Mayor Pro tem Barhyte called the meeting to order at 7:01 p.m.

The Pledge of Allegiance was led by Scott Bushnell, brother of Brian Bushnell, Vietnam Veteran during the war .

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *VFW Presentation – Proclamation*

Councilor Davis read the proclamation proclaiming “Veterans’ Day November 11, 2009 as “Navy Airman Brian Bushnell in the City of Tualatin.”

Brian Bushnell was declared “Missing in Action” in 1970 during the Vietnam War. His last known address was Tualatin. The National League of POW/MIA families contacted the City of Tualatin to obtain information on Brian, and to complete their compilation of 1,777 missing in action/prisoners of war from the Vietnam War era.

Yvonne Addington, president of the Tualatin Historical Society, found that Brian was raised in Tualatin, and gave a brief background on her research and was able to find information on Brian. In doing so, she located the only remaining family member, brother Scott Bushnell who lives in Washington.

Scott Bushnell was present to accept a plaque honoring his brother Brian, and VFW representative Dale Potts, said it will proudly be displayed in perpetuity at the Tualatin VFW.

2. *Tualatin Youth Advisory Council Update*

Members of the Youth Advisory Council (YAC) were present and gave an update on recent activities and participation, such as their annual Haunted House, and the West Coast Giant Pumpkin Regatta. Four members will also be attending the NLC conference in San Antonio, and thanked Mayor Ogden for his efforts on raising funds for members to be able to attend.

3. *Presentation of Government Finance Officers Association (GFOA) Award*  
Finance Director Don Hudson introduced Bernice Bagnall, president of the Oregon Government Finance Officers Association chapter. Ms. Bagnall gave a brief presentation and background on how the award is given. Fewer than 20% are awarded, and of those only 30% are cities. Ms. Bagnall also wanted to thank Council and Finance Director Don Hudson and his staff. Finance Director Hudson said it is the dedication of his whole department and being good stewards of public money.
  
4. *Commuter Rail Update*  
City Manager Lombos gave a brief update on commuter rail issues. The Intergovernmental Agreement (IGA) has finished, and TriMet submitted a request to the Federal Railway Administration (FRA) and are close to making a decision on the waiver. Ms. Lombos noted the article in The Oregonian of Portland & Western opposing the waiver due to safety issues, but Tualatin does not believe it will affect our quiet zone. Currently out with a Request for Proposals (RFP) for safety measures along the rail, and hope to have someone onboard by the end of the year. Construction on safety measures should begin late spring or early summer, with quiet zone in place by December 2010.
  
5. *Presentation on "Flash Alert News"*  
Assistant to the City Manager Carina Christensen gave a brief presentation on "Flash Alert News" and what types of information can be given. Anyone can sign up for the service and can go to [www.flashalert.net](http://www.flashalert.net) for more information

#### **C. CITIZEN COMMENTS**

*Linda Moholt, Tualatin Chamber of Commerce*, gave a brief overview and update on what's happening in the community. She noted the 1<sup>st</sup> annual Regatta Run had 183 participants and are excited to establish a scholarship fund in memory of Tualatin resident Cpl. Matthew Lembke. The annual Chamber Luncheon and Auction is December 3, and all are invited. Also noted the Chamber's "Economic Development Task Force" has been meeting every few weeks as to what the Chamber's role could be when the recession is over.

#### **D. CONSENT CALENDAR**

MOTION by Councilor Harris, SECONDED by Councilor Maddux to adopt the Consent Agenda as read:

1. Approval of the Work Session and Meeting Minutes of October 12, 2009 and October 26, 2009
  
2. Approval of a New Liquor License Application for Blakeslee Vineyards Estate

MOTION CARRIED.

#### **E. PUBLIC HEARINGS – Legislative or Other**

*None.*

**F. PUBLIC HEARINGS – *Quasi-Judicial***

1. Continued Hearing – Appeal of the July 23, 2009 Interpretation Answering “What is the Status of the Nonconforming Use Rights of the Land and Structure Located at 8250 SW Tonka Street”? (Tax Map 2S124CB Tax Lot 1700) (INT-09-01)  
[CONTINUED from October 26, 2009]

Mayor Pro tem Barhyte reopened the public hearing and noted it was continued from October 26, 2009 (a public hearing was first held on September 28, 2009 and continued to October 26, 2009).

Councilor Maddux noted she was not present at the public hearing held on September 28, 2009, however she did view the video of the September 28, 2009 hearing in its entirety.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record, and noted what was done previously. The appellants agreed to bring additional evidence, particularly truck and auto leasing, found in the A-2 section of staff report and packet materials. Mr. Harper reviewed areas in the staff report and attachments explaining additional information, and referred to the Resolution No. 491-79, passed on October 22, 1979 (page 236). Also at the October 26, 2009 meeting the City Attorney offered to review case law (page 231), as it relates to nonconforming use and activity.

Staff summarized responses to material in the packet. Staff found that truck and auto rentals were no longer an allowed use prior to 1979 and since 1979. Also after January 10, 2008, United Oregon Rental no longer conducted business on site. Staff finds that there is no continuance of the nonconforming use. Staff presented information at the September 28, 2009 hearing, and asked Council to consider various attachments and provide direction to staff.

*Bill Campbell, PO Box 843, Manzanita, OR*, representing the appellant, was present and said at the last public hearing there were two questions asked, on providing documentation of the use, and any legal uses.

*Greg Jenks, GJ Solutions LLC, Milwaukie, Oregon*, representing the appellant, was present and gave an explanation of use, quoting from the Tualatin Development Code (TDC), Chapter 31.060 and said there is no dispute of fact, United Rental has maintained the site.

Mr. Campbell reviewed uses in Chapter 31.060, “business occupant”, and said there were two business activities on the property, one is United Rentals, and the other is the owner, Mr. Sposito, and the Sposito Family Trust. Mr. Sposito acquired the property in 1973, and has been managing the property since then, and will find since 1973, it has had activity on the site.

Mr. Jenks distributed an updated timeline matrix of activity on the site and said there is substantial evidence provided and he believes the property owner has provided a 30-year history of the site. He also read an affidavit signed by Stan Sposito and attorney Gary Bisaccio with their affirmation that the timeline/matrix submitted for the record is true and correct regarding the property.

Mr. Campbell said Exhibits 4 and 5 of the staff report are photo displays of the "Blank Barn", that indicate there was equipment and materials on site. Mr. Campbell gave a rundown of the occupants on the property over the years showing continuity on the site. He also referred to letters from former Planning Director Jim Jacks reviewing what would be allowed on the site and activities. Mr. Campbell also referred to the United Rental catalog on the exclusion of the large equipment. Mr. Campbell then quoted and reviewed some land use case law on nonconforming uses and said he would give the quoted case law to the City Attorney for review.

#### CONTINUANCE OF COUNCIL QUESTIONS

It was asked and staff affirmed they had an opportunity to review the matrix presented. He also questioned the differing conclusions from the appellant and staff, and Mr. Harper explained how staff arrived at their conclusions.

Councilor Maddux said there has been a lot of previous testimony and reviewed how we arrived to this point. Councilor Harris mentioned the one-year non activity on the site and the quote from the appellant about activity still happening on the site.

Mayor Pro tem Barhyte closed the public hearing.

#### COUNCIL DELIBERATIONS

Discussion on the appellant having met that activity has taken place prior to October 1979. Discussion followed. Councilor Maddux said Council is only dealing with the Interpretation at this hearing, and said it has been over a year, and even though they had the use before the use would have lapsed. Councilor Davis said one argument that appellant put forward is maintenance provides for use. It was asked if the Development Code read in the same fashion and City Attorney Braden said yes, but noted case law overrules what is in the Development Code. Councilor Truax noted on page 85 of 243 shows receipts, and Councilor Maddux said the last one is from January 2008.

Councilor Barhyte said there is a mechanism for the property owner to come back and request a continuance of the nonconforming use, and that #2 does not appear to be an activity on the site, and with case law.

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to adopt the staff report and attachments and affirm the Community Development Director's July 23, 2009 Interpretation INT-09-01.

#### Discussion on Motion

Councilor Maddux said she hoped the appellant would come back to apply to reestablish the use.

City Attorney Braden said because of additional findings, asked to bring the resolution back at the next meeting.

Councilor Truax said he is not in support of this and the City ought to look at the bigger picture. Councilor Barhyte said there is a mechanism in place to come back before Council and he doesn't want to set a precedence.

MOTION CARRIED. [Vote: 4-2-1; YES – Barhyte, Beikman, Harris, Maddux; NO – Davis, Truax; Ogden absent]



***A break was taken from 8:50 p.m. to 9:00 p.m.***

2. Public Hearing to Consider an Ordinance Changing the Planning District Designation from Low-Density Residential (RL) to Medical Center (MC) of Parcels of Land Located on SW Borland Road (21E 19C 1700 & 2000) and Amending the Community Plan Map 9-1 (PMA-09-03)
- 

Mayor Pro tem Barhyte read language required by legislation before a comprehensive plan or land-use regulation [ORS 197.763(5) and (6)] and opened the public hearing.

Councilor Harris noted he is a neighboring property owner to this application but does not believe it will affect his decision. No bias or ex parte contact noted.

Associate Planner Will Harper presented the staff report and entered the entire staff report into the record. This is for Plan Map Amendment 09-03, and the property is depicted on Attachment A. The proposal initiated by Legacy Health Systems is to follow through on plans the hospital has had to follow through on an expansion. This proposal would match all of the other Meridian Park Hospital land. The Medical Center (MC) Planning District has specific standards. Mr. Harper listed some of the allowed uses inside the MC designation. The staff report reviews the criteria information, traffic impact, impact on Tualatin's housing obligations, trends and developments, and reasons why Legacy is proposing this.

Staff is recommending Council consider the staff report as well as testimony and provide direction.

#### PROPONENTS

*Alyson Anderson, 19300 SW 65<sup>th</sup> Avenue, Tualatin*, chief administrative officer of Legacy Meridian Park Hospital and vice president of Legacy Health Systems, was present and said Meridian Park Medical Center has been proud to serve the community for the last 36 years and they are a not-for-profit health center. The hospital bought the acreage east in 2003, and are asking for the plan text amendment (PMA) in order to be able to expand in the future. A public meeting was held in 2003, and Ms. Anderson has copies of letters sent yearly to the immediate surrounding property owners, exceeding the property notification requirements. There is no requirement to do so, but it has always been their intent to continue to be a good neighbor. The hospital has also made many improvements to the property and have been a good neighbor to the property owners along the site.

*Thomasina Gabriele, Gabriele Services, 2424 NW Northup Street, Portland, OR 97210, and Mark Vandehey of Kittleson & Associates*, consultants representing the applicant were present. Ms. Gabriele said this is the best piece of property for the campus because it is adjacent to the main facility. It benefits the hospital and the patients that receive care from the hospital. Also, by receiving the services in one place it keeps people from driving to other areas for additional services. She has heard that it would be easier if it was known what the expansion is going to be, but Legacy is not at a point to determine that at this time or when. Ms. Gabriele believes the plan map amendment is in the public interest now as it will provide Legacy Meridian Park Hospital to know they have the land to do an expansion. The City will have certainty as this will be the place where your hospital services will be served, and it would be supporting the largest employer in the city, as well as one of the uses in identified in the Economic Development Plan for economic growth.

Ms. Gabriele said there is an opportunity to be able to have a conditional use for the property, but by proceeding with the plan text amendment the building height will be less in the Medical Center (MC) Planning District than a conditional use permit (CUP).

*Linda Moholt, Tualatin Chamber of Commerce CEO*, also a neighboring Fox Hills resident, said Legacy Meridian Park Hospital has been such a good neighbor and how much they have meant to the community. Tualatin is a great place to live and work, and Legacy is part of that equation.

#### OPPONENTS

*Mark Majors, 5756 SW Joshua Street, Tualatin, OR*, said his property abuts the 20 acres, and he would like Council do whatever it can to keep their property in good order.

*Steve Day, 5712 SW Calusa Loop, Tualatin, OR*, lives approximately 200 feet from the boundary of the property and said in reviewing the application, Legacy should discuss different aspects of the impact to natural resources. He was looking for sufficiency of statement that there are no natural resources impacted, particularly wetlands. Mr. Day said he attended a meeting a few years back where a consultant spoke that there is no wetlands on the south portion of the property, which he does not believe is an accurate statement. Mr. Day also said another concern is proof of a change to the neighborhood characteristic, Legacy only speaks to changes to the hospital.

*Marylee Tolley, 5725 SW Calusa Loop, Tualatin, OR*, was present and noted she also sent an e-mail. She understands the hospital has property, and hopes there will be conditions, including buffer, setback, lighting, and saving and maintaining as many trees as possible. She also did not want the three streets adjacent not become through streets, and to cap the maximum building height.

*Renee Gunwater (sp?), 5755 SW Natchez, Tualatin, OR*, reiterated what has been said, that the access to hospital remain on 65<sup>th</sup> and the three streets not become through streets.

*Todd Allison, 5753 SW Joshua, Tualatin, OR*, said it is vital to keep the hospital and not slow progress, and it is the largest employer of the city. He does not however, understand how this has come about with no notion of what will be built and encouraged Council to take their time with this proposal.

***A break was taken from 9:39 p.m. to 9:44 p.m.***

#### REBUTTAL

Ms. Gabriele said natural resources information is addressed in the materials submitted. One off-site wetland was identified as indicated on the map. Ms. Gabriele noted the required buffer area and will take that into consideration. The other issue of initial presentation is the hospital is not interested in making any connections to the subdivision local streets, other than a fire safety devices, and not in the hospital's interest to use those local streets being connected in any way. Other issues that were raised could be part of the architectural review (AR) process.

#### COUNCIL DISCUSSION

Mayor Pro tem Barhyte asked about the change of planning designation and if there is an opportunity to apply conditions and Community Development Director said no. He also asked about the conditional use process (CUP) which puts stringent uses on the applicant, and conditions that can be placed by the Council. The MC district setbacks are ten feet. Community Development Director Rux said a Development Agreement (DA) is another tool that could be done and explained the process. An agreement between the City and Legacy

would address certain parameters and issues would be brought up, details worked out and whatever Council would like to be considered in the agreement.

Community Development Director Rux said staff could work with the applicant on a DA and continue this hearing to sometime in January to allow time to have discussions, if the applicant is willing.

Councilor Harris asked about traffic issues, and assuming the zone change is granted, there would likely be a significant increase in traffic and level of service at the intersection. City Engineer Mike McKillip said staff will be doing a Public Facilities Report that looks at impacts of the development and conditions required, such as where does the traffic go, what directions, and what are the impacts on that, and decide what are the appropriate requirements to mitigate those impacts.

*Mark Vandehey, Kittleson & Associates*, said a traffic signal would go a long way to solve traffic issues at that particular intersection, and could work out a number of ways to address the transportation issue.

Ms. Gabriele clarified that 250,000 square feet is unlikely to be developed all at one time on the site, and with an already failing intersection. Beginning with the first building there would likely be funding to fix the intersection and the hospital is fine with that particular intersection.

Community Development Director Rux said it could be possible to continue this hearing to January 25, 2010, and if the applicant is willing to extend the 120-day requirement. Ms. Anderson said she would like to work on a DA, etc. instead of requesting an extension, but could continue the hearing to January 25, 2010.

MOTION by Councilor Maddux, SECONDED by Councilor Davis to continue the hearing to January 25, 2010. MOTION CARRIED. [7-0]

#### **G. GENERAL BUSINESS**

*None.*

#### **H. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

#### **I. EXECUTIVE SESSION**

Mayor Ogden noted an executive session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation will be held after the regular meeting.

#### **J. COMMUNICATIONS FROM COUNCILORS**

*None.*

**K. ADJOURNMENT**

MOTION by Councilor Beikman SECONDED by Councilor Davis to adjourn the meeting at 10:14 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary *Maurice Smith*



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF NOVEMBER 23, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Doug Rux, Community Development Director; Don Hudson, Finance Director; Dan Boss, Operations Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager; Eric Underwood, Development Coordinator; Kaaren Hofmann, Civil Engineer; Maureen Smith, Recording Secretary

ABSENT: None.

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

**A. CALL TO ORDER**

Mayor Ogden called the work session to order at 5:00 p.m.

*Council reviewed the Consent Agenda. Item D-1 was removed from the agenda in its entirety. Item D-6, Resolution Approving a Joint Position Statement, was modified to read "and/or Lake Oswego."*

Mayor Ogden recessed the Council work session at 5:03 p.m. and reconvened at 5:04 p.m.

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Central Urban Renewal District*

Community Development Director Doug Rux presented information and a financial analysis of extending the maximum indebtedness of the Central Urban Renewal District (CURD). Also present was consultant Jeff Tashman. The timeline of the process, next steps and needed Council action will be reviewed.

Community Development Director Rux began the discussion and distributed information on what is being covered at this meeting. Mr. Rux said there was also a supplemental memo that was distributed last week. It is a two step process and after the special work session on December 7, 2009, staff would then speak with the overlapping tax districts. A 75% agreement by the taxing districts would be needed to move forward.

The financial situation for the CURD is relatively good. The annual revenue is \$2.3 million and projected to increase next year. Mr. Tashman set up a model with spreadsheets associated with each, and look at what properties were likely to redevelop over the next 20 years. Some are ongoing now, others in the future, and others are a ways off. Mr. Tashman added it is important to know these projections and that redevelopment likely won't happen without certain investments in infrastructure and utilities, etc. Potential CURD redevelopment sites were reviewed and explained by Mr. Tashman.

Community Development Director Rux explained where the development assumptions came from, and said it goes back to the Town Center Plan, Memorandums of Understanding (MOU), Council goals, etc. Discussion followed on how the debt ratio, bond issues, and tax increment portion works.

Discussion continued on how maximum indebtedness would work over the next 20 years. Community Development Director Rux also explained some calculations in relation to the recent legislation that was passed. To extend and amend the maximum indebtedness is what is being determined, and Mr. Tashman said he aims to be especially accurate on assumptions. It was asked what might happen if funds are left after the end of the district, and Mr. Tashman said there could be pushback from the other taxing districts. City Manager Lombos said the Tigard-Tualatin School District (TTSD) is currently having a money crunch and it can be hard to look down the line 20 years at what would happen then, and what the other taxing districts would be willing to look at in the future.

Discussion continued on continuing the district and what the maximum indebtedness would need to be, and whether the other taxing districts would be amenable.

Community Development Director Rux said, in response to the question, that staff would like to have agreement for a reasonable maximum indebtedness number by the December 7, 2009 special work session. Mayor Ogden said the project list that has been done by staff does not give him a perspective of what that would entail, and is a long way in his mind as to what type of investments Tualatin is going to make.

It was explained what would happen if nothing is done about increasing the maximum indebtedness, and Mr. Rux said we would have to go through the whole process again, lose some of the \$2.3 million in revenue and up to \$180 million of redevelopment if there is not a decision. Councilor Harris said he is not comfortable making a decision yet and would like to discuss further. Councilor Maddux said it appears Council is at a point where there should be some type of agreement on maximum indebtedness. Discussion continued on what the length is of a typical district, which is 20 to 25 years. The Central Urban Renewal District (CURD) has been in existence since 1975. It was asked what if the district was extended to 30 years, and Mr. Tashman said he does not have those calculations at this meeting, but he could provide them.

Discussion concluded with Council asking staff for further calculations of what could happen in the next years, look at what might happen extending the district out 30 years, and what has happened since the Central Urban Renewal District has been in existence.

2. *Land Acquisition and Trails Update - POSTPONED*

3. *Tree Preservation Policy for Annexation of New Land - POSTPONED*

**C. CITIZEN COMMENTS – N/A**

**D. CONSENT AGENDA**

Council reviewed the Consent Agenda at the beginning of the work session with changes as noted.

**E. PUBLIC HEARINGS – Legislative or Other**  
N/A

**F. PUBLIC HEARINGS – Quasi-Judicial**

N/A

**G. GENERAL BUSINESS**

3. Ordinance No. 1292-09 Relating to Building Codes; Amending TMC 4-1-040, 4-1-050, 4-1-070, 4-1-090, 4-2-020, 4-2-040, and 4-3-100; Adding Table 4-2A
- 

MOTION by Councilor Beikman, SECONDED by Councilor Barhyte for a first reading by title only. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

4. Ordinance No. 1293-09 Requiring Gutters and Downspouts be Maintained on Rental Properties and Amending TMC 6-13-040(4)(a)

MOTION by Councilor Beikman, SECONDED by Councilor Maddux for a first reading by title only. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. MOTION by Councilor Beikman, SECONDED by Councilor Barhyte to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

5. Ordinance No. 1294-09 Relating to Bancroft Bonds; and Amending TMC 2-7-010

MOTION by Councilor Beikman, SECONDED by Councilor Harris for a first reading by title only. MOTION by Councilor Beikman, SECONDED by Councilor Barhyte for a second reading by title only. MOTION CARRIED. The poll was unanimous. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

6. Ordinance No. 1295-09 Granting Portland General Electric a Franchise for Ten Years to Erect, Construct, Maintain and Operate Within the City of Tualatin, an Electric Light and Power System; Providing an Effective Date; and Repealing Ordinance No. 1038-99
- 

MOTION by Councilor Beikman, SECONDED by Councilor Barhyte for a first reading by title only. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman for a second reading by title only. MOTION CARRIED. The poll was unanimous. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

**H. ITEMS REMOVED FROM CONSENT AGENDA – N/A**

**I. COMMUNICATIONS FROM COUNCILORS**

Mayor Ogden attended the National League of Cities conference in San Antonio. Also in attendance were Councilors Beikman and Harris. It was a great conference, and he discovered Tualatin is actually ahead of the game in terms of public involvement and participation and mentioned some of the ongoing issues that are happening in Tualatin in relation to the rest of the United States.

Councilor Davis has been appointed to the League of Oregon Cities General Government and Human Resources Policy Committees. Also Councilor Beikman, although not yet official, will be appointed to the Metro Policy Advisory Committee (MPAC).

Mayor Ogden mentioned there has been some good discussion with meetings that have taken place with Tualatin and Metro councilors on regional issues.

**J. EXECUTIVE SESSION**

*None.*

**K. ADJOURNMENT**

The work session adjourned at 6:49 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

  
\_\_\_\_\_





TUALATIN CITY COUNCIL MEETING MINUTES OF NOVEMBER 23, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Carina Christensen, Assistant to the City Manager, Maureen Smith, Recording Secretary

ABSENT: None.

***[Unless otherwise noted, MOTION CARRIED indicates all in favor.]***

**A. CALL TO ORDER**

Mayor Ogden called the meeting to order at 7:01p.m.

The Pledge of Allegiance was led by Councilor Maddux.

**B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS**

1. *Tualatin Tomorrow Presentation Key Focus Area - Health, Safety & Social Services*  
Jay Wilcox, member of the Vision Implementation Committee and lead for the health, safety and social services key area, was present and gave an update. He mentioned various things that have been done, such as holding an annual "health fair", senior center name change, the food pantry making the move to Rolling Hills Church on Borland, and cold weather shelters have been established during the winter months. Mr. Wilcox concluded the update and thanked Council and staff for the help and support of the program.

Councilor Beikman mentioned the many hours of volunteer time Mr. Wilcox spends on this program, and her appreciation of his efforts.

2. *Presentation of 25 Year Service Award to Human Resources Director Nancy McDonald*  
City Manager Sherilyn Lombos presented Nancy McDonald with a 25 year service award, and gave a brief background.

Mayor Ogden congratulated Ms. McDonald on her years of service and the work and dedication she has shown over the years with the city.

3. *Proclamation Declaring December 10, 2009 as "Human Rights Day" and the Week of December 7 – 13, 2009 as "Human Rights Week" in the City of Tualatin*

Councilor Davis began by noting she serves on the board of the Human Rights Council of Washington County, formed in 2006 and ten of the 14 cities in the county have presented a similar proclamation in support and show respect of the Human Rights Council.

In honor of "Human Rights Day" and "*Human Rights Week*" of December 7 – 13, 2009, Councilor Davis read the proclamation

4. *Tualatin Riverkeepers Presentation – Watershed Watch Coordinator Brian Wegener*  
Tualatin Tomorrow Visioning Committee member Connie Ledbetter was present and introduced Brian Wegener, Tualatin Riverkeepers Watershed Watch Coordinator.

Mr. Wegener presented a PowerPoint presentation on low impact development in the Tualatin Basin.

Councilor Davis noted the "Riverkeepers" have good coverage on Facebook. Councilor Maddux also thanked the Riverkeepers for a canoe trip she took, and the importance of what the Riverkeepers have accomplished.

5. *Tualatin Studio Tour 2009 Presentation – Tour Coordinator Hamish Corstorphine*  
Carl Switzer introduced Hamish Corstorphine, art studio tour coordinator, and also a member of the Library Foundation, who presented information on the upcoming artist tour. It is an opportunity for the public to get out and visit the various studios and view their work and meet the artists. The tour will be held Friday, Saturday, and Sunday, November 27-29, 2009. Also mentioned were the list of sponsors. Mr. Corstorphine said that Wine Styles has since closed their business, but wanted to thank them for being a sponsor.

Councilor Maddux noted her participation in last year's tour and encouraged all to visit the artists' studios, and noted the support of "Wine Styles" over the past few years.

6. *Tonquin Trail Master Plan Open House – Carl Switzer, Community Services*  
Parks and Recreation Coordinator Carl Switzer presented a brief PowerPoint on the Tonquin Trail and encouraged people to come to an open house. Three different open houses will be held, one in Tualatin, one in Sherwood, and one in Wilsonville. For more information visit [www.oregon-metro.gov/tonquintrail](http://www.oregon-metro.gov/tonquintrail).

7. *Starry Nights and Holiday Lights Update – Carl Switzer, Community Services*  
Parks and Recreation Coordinator Carl Switzer gave a brief presentation on the upcoming event at the Commons Lake and encouraged all to attend, and to bring a non-perishable food item. There will be various activities, and the event is taking place on December 4, 2009, 6:00 p.m. – 9:00 p.m., rain or shine.

**C. CITIZEN COMMENTS**

*Linda Moholt, present as a representative of the Tualatin Food Pantry, gave an update, and said the Kiwanis have put out food barrels, and she also thanked the Starry Nights Holiday Lights program for collecting non-perishable food donations.*

*Linda Moholt, present as Tualatin Chamber of Commerce CEO, expressed her views on the economic times, noting the recent closure of "Wine Styles," and the City's dealings with the recent nonconforming use issue.*

*Rene Willer, Verizon Community Relations Manager, presented a donation check to the Tualatin Youth Advisory Council's trip to San Antonio, Texas. Ms. Willer noted the importance of youth participation and Verizon supports the community. Ms. Willer noted that the original request was \$500, but Verizon was able to provide an additional \$500 for next year's conference. Mayor Ogden thanked Miss Willer, and said the conference was last week. Four youth representatives were able to attend and they will be presenting their report of the conference soon.*

*Gary Heitzman, citizen of West Linn, was present to speak on a "Consent Agenda" item, and noted his support of Ms. Moholt's comments on assisting with whatever the Council can do to support employment opportunities, etc.*

**D. CONSENT CALENDAR**

Item D-1 was removed from the agenda in its entirety. Items G-3, G-4, G-5, and G-6 were added to the Consent Agenda at work session. Noted Item D-6 was modified and also removed from the Consent Agenda.

MOTION by Councilor Barhyte, SECONDED by Councilor Maddux to adopt the Consent Agenda as amended and read:

- ~~1. Approval of the Work Session and Meeting Minutes of November 9, 2009~~
  2. Approval of a Change of Ownership Liquor License Application for Pinz's
  3. Community Involvement Committee Appointments
  4. Resolution No. 4939-09 Accepting Deed of Dedication and Easement Associated with the SW Leveton Drive Extension Project (L & T Properties LLC)
  5. Resolution No. 4940-09 Authorizing a Revocable Permit for Wall Signs on the Seneca Building Overhanging Public Right-of-Way of SW Seneca Street and SW Martinazzi Avenue
  7. Resolution No. 4942-09 Denying the Appeal of the July 23, 2009 Interpretation Answering "What is the Status of the Nonconforming Use Rights of the Land and Structure Located at 8250 SW Tonka Street?" (Tax Map 2S124CB Tax Lot 1700) (INT-09-01)
- G-3 Ordinance No. 1292-09 Relating to Building Codes; Amending TMC 4-1-040, 4-1-050, 4-1-070, 4-1-090, 4-2-020, 4-2-040, and 4-3-100; Adding Table 4-2A

- G-4 Ordinance No. 1293-09 Requiring Gutters and Downspouts be Maintained on Rental Properties and Amending TMC 6-13-040(4)(a)
- G-5 Ordinance No. 1294-09 Relating to Bancroft Bonds; and Amending TMC 2-7-010
- G-6 Ordinance No. 1295-09 Granting Portland General Electric a Franchise for Ten Years to Erect, Construct, Maintain and Operate Within the City of Tualatin, an Electric Light and Power System; Providing an Effective Date; and Repealing Ordinance No. 1038-99

**E. PUBLIC HEARINGS – Legislative or Other**

*None.*

**F. PUBLIC HEARINGS – Quasi-Judicial**

*None.*

**G. GENERAL BUSINESS**

1. Consideration of Installation of Stop Sign on SW Dogwood Street at SW 106<sup>th</sup> Avenue

Civil Engineer Hofmann said this is a request for installation of two additional stop signs at the Dogwood Street and SW 10<sup>th</sup> Avenue intersection, and noted the policies used to determine the placement of stop signs within the city. The City Engineer recommends against installing two additional stop signs at the SW Dogwood Street at SW 106<sup>th</sup> Avenue intersection.

*Eric Johnson, resides on the corner of Dogwood Street and 106<sup>th</sup> Avenue, was present and said he has lived at that location for five years. It is a great neighborhood, but said there is a line of sight issue, particularly on the corner of 106<sup>th</sup> Avenue, and believes it is a dangerous area and is really a safety issue.*

Councilor Beikman said she has driven along Dogwood and there is a line of sight problem and suggested enforcement could be done there, but she is not in favor of installing a stop sign. Mr. Johnson spoke again and suggested perhaps a speed hump could be installed instead.

Councilor Maddux said she lives near the area in question and while she empathized with Mr. Johnson, there are policies used to determine placement, and a recommendation from the City Engineer.

Mayor Ogden said every neighborhood is different, and who better to know the needs of a neighborhood and how traffic flows than the people that live there. However there currently isn't a process in place in dealing with issues such as stop signs, and he doesn't want to have prolonged staff time taken either.

Councilor Truax said he recognized Mr. Johnson's concern, but a process really needs to be in place to fully address the issue. Councilor Barhyte said he wants to fix the problem and said it is important, particularly for the neighborhood making the request, and he wants to be able to adequately address these types of requests in the future.

After discussion Council directed that staff put together a process that will be able to address these type of requests. Staff will return to Council at a future meeting with more information.

2. Consideration of the Removal of Stop Signs at the SW Alsea Drive/SW 99<sup>th</sup> Avenue Intersection and at the SW Alsea Court/SW 100<sup>th</sup> Drive Intersection

Civil Engineer Kaaren Hofmann gave a brief background on the request of a neighbor to remove stop signs on Alsea Drive/99<sup>th</sup> Avenue intersection and SW Alsea Court/SW 100<sup>th</sup> Drive intersection. Other neighbors were contacted and the responses received were to keep the stop signs at both intersections. The City Engineer recommends the stop signs not be removed.

City Engineer Mike McKillip noted e-mails that are part of the record and distributed additional e-mails that were received. Brief discussion followed. Councilor Truax said he will be voting in favor of the City Engineer 's recommendation, and noted when Council has made hasty decisions in the past on this type of issue, it has turned out poorly.

Councilor Maddux commented on the amount of staff time that has been spent dealing with these issues from a single request by one citizen, and there may be a better way to approach this. Brief discussion followed. Council discussed various ways to deal with these type of requests, and directed staff to come back with a formal process of installation and removal of stop signs.

MOTION by Councilor Truax, SECONDED by Councilor Beikman to deny removal of the stop signs located at the SW Alsea Drive/SW 99<sup>th</sup> Avenue intersection, and the SW Alsea Court/SW 100<sup>th</sup> Drive intersection. MOTION CARRIED. [Vote: 7-0]

#### H. ITEMS REMOVED FROM CONSENT AGENDA

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

6. Resolution No. 4941-09 Approving a Joint Position Statement by the Cities of Lake Oswego, Tualatin and West Linn and/or Lake Oswego Regarding the Future Urbanization of the Stafford Area North of I-205 and the Northern Portion of Pete's Mountain Along the Tualatin River [Amended]

*Gary Heitzman, 2188 Clubhouse Drive, West Linn, OR* was present, and said although he doesn't live in Tualatin he wanted to be able to mention his concerns regarding this issue, particularly West Linn's position.

Mr. Heitzman said the first sentence of the third paragraph, reads, "..... cities do not wish to discuss the process of urbanizing the Stafford area...." and said he would prefer it say "...Council only to consider a rural designation for the Stafford area..." Mr. Heitzman said he feels it better represents what the other cities have in mind and essentially removes Tualatin from the table. He said the City of West Linn recently went through a similar process and asked that Council reconsider the sentence in the position statement.

Mayor Ogden said Mr. Heitzman's point is well taken, and went on to explain the complexities of the process of determining the urban/rural reserves, and further explained how the cities of Tualatin, West Linn, and possibly Lake Oswego's purpose is to say "do not make this an urban reserve area." Council President Barhyte added this has been a long process and cities wanted to be sure they were being heard.

Mr. Heitzman thanked Council for their time.

MOTION by Councilor Beikman, SECONDED by Councilor Barhyte to approve a joint position statement by the cities of Tualatin and West Linn regarding the future urbanization of the Stafford Area north of I-205 and the northern portion of Pete's Mountain along the Tualatin River, and amend to include "...and/or Lake Oswego". MOTION CARRIED.

**I. EXECUTIVE SESSION**

*None.*

**J. COMMUNICATIONS FROM COUNCILORS**

Councilor Beikman wanted to publicly thank the Police Department for their work and professionalism during the recent tragic shooting incident in Tualatin. She also wanted to thank her family for "putting up" with the time she takes to be here at meetings, and the level of commitment that is given by all councilors for the good of the community.

**K. ADJOURNMENT**

MOTION by Councilor Harris, SECONDED by Councilor Barhyte to adjourn the meeting at 8:45 p.m. MOTION CARRIED.

Sherilyn Lombos, City Manager

Recording Secretary





Approved By Tualatin City Council  
Date 12-14-09  
Recording Secretary *M. G. M.*

# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** December 14, 2009

**SUBJECT:** APPROVAL OF A CHANGE OF OWNERSHIP LIQUOR LICENSE APPLICATION FOR FAMOUS DAVE'S BBQ

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a change of ownership liquor license application for Famous Dave's BBQ Restaurant.

### RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for Famous Dave's BBQ Restaurant.

### EXECUTIVE SUMMARY:

Famous Dave's BBQ has submitted a change of ownership liquor license application for Full On-Premises Sales, Commercial Establishment. The business is located at 7121 SW Nyberg Street. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

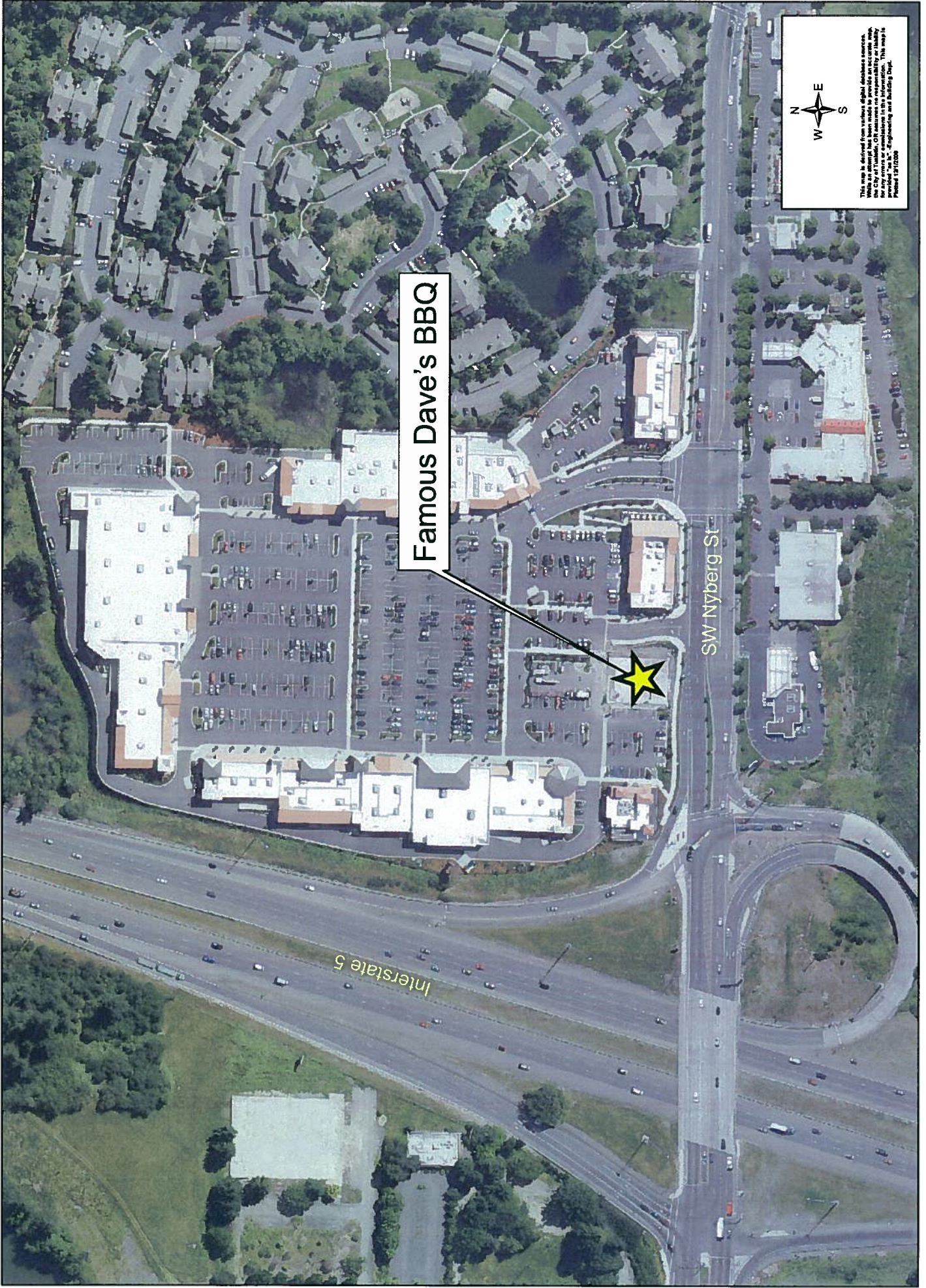
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### FINANCIAL IMPLICATIONS:

A fee has been paid by the applicant.

- Attachments:**
1. Vicinity Map
  2. OLCC License Types
  3. Liquor License Application

Famous Dave's BBQ - 7121 SW Nyberg Street



Famous Dave's BBQ

N  
W  
E  
S

This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualgis, OR assumes no responsibility or liability for any errors or omissions. The map is provided "as is." Engineering and Surveying Dept. Project 13171008



## **OREGON LIQUOR CONTROL COMMISSION LICENSE TYPES & PRIVILEGES**

### **Brewery – public house**

Allows the manufacture & sale of malt beverages to wholesalers, & the sale of malt beverages, wine & cider for consumption on or off the premises. [ORS 471.200]

### **Brewery**

Allows the manufacture, importation, storage, transportation & wholesale sale of malt beverages to OLCC licensees. Malt beverages brewed on the premises may be sold for consumption on the premises & sold in kegs to the public. [ORS 471.220] designates a licensee that does not allow tastings or other on premises consumption.

### **Certificate of Approval**

This certificate allows an out-of-state manufacturer, or an importer of foreign wine or malt beverages, to import wine & malt beverages to Oregon licensees. [ORS 471.289]

### **Distillery**

Allows the holder to import, manufacture, distill, rectify, blend, denature & store distilled spirits. A distillery that produces distilled liquor may permit tastings by visitors. [ORS 471.230]

### **Direct Shipper Permit**

Allows manufacturers & retailers to ship wine & cider directly to Oregon residents for their personal use. [ORS 471.282]

### **Full On Premises Sales**

Allows the sale & service of distilled spirits, malt beverages & wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off of the licensed premises [ORS 471.175] license sub-type designates the type of business licensed: F-CAT- caterer; F-CLU- private club; F-COM - commercial establishment; F-PC - passenger carrier; F-PL - other public location.

### **Growers Sales Privilege**

Allows the importation, storage, transportation, export, & wholesale & retail sales of wines made from fruit or grapes grown in Oregon [ORS 471.227]. Designates a licensee that does not allow tastings or other on premises consumption.

### **Limited On Premises Sales**

Allows the sale of malt beverages, wine & cider for consumption on the licensed premises & the sale of kegs of malt beverages for off premises consumption. Also allows licensees who are pre-approved to cater events off of the licensed premises. [ORS 471.178]

### **Off Premises Sales**

Allows the sale of malt beverages, wine & cider in factory sealed containers for consumption off the licensed premises & allows approved licensees to offer sample tasting of malt beverages, wine & cider. [ORS 471.186]

### **Warehouse**

Allows the storage, importing, exporting, bottling, producing, blending & transporting of wine & malt beverages. [ORS 471.242]

### **Wholesale Malt Beverage & Wine**

Allows the importation, storage, transportation & wholesale sale of malt beverages & wine to OLCC licensees & limited retail sales to the public (dock sales). [ORS 471.235]

### **Wine Self Distribution Permit**

Allows manufacturers to sell & ship wine & cider produced by the manufacturer directly to Oregon retailers for resale to consumers. May ship to businesses which have an OLCC endorsement to receive the shipments. [ORS 471.274]

### **Winery**

Allows the licensee to import, bottle, produce, blend, store, transport & export wines, & allows wholesale sales to OLCC & licensees, & retail sales of malt beverages & wine for consumption on or off the licensed premises.[ORS 471.223]



CITY OF TUALATIN
LIQUOR LICENSE APPLICATION

REC'D
CITY OF TUALATIN

NOV 17 2009

MAYOR... COUNCIL... POLICE... ADM...
FINANCE... COMM DEV... LEGAL... OPER...
COMM & BLDG... ENG & BLDG... LIBRARY...

Date 11-11-09

IMPORTANT: This is a three-page form. You are required to complete all sections of the form.
If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.
Thank you for your assistance and cooperation.

SECTION 1: TYPE OF APPLICATION

- Original (New) Application - \$100.00 Application Fee.
Change in Previous Application - \$75.00 Application Fee.
Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License #
Temporary License - \$35.00 Application Fee.

SECTION 2: DESCRIPTION OF BUSINESS

Name of business (dba): Famous Dave's BBQ

Business address 7121 SW Nyberg Street City Tualatin State OR Zip Code 97062

Mailing address PO Box 53696 City Irvine State CA Zip Code 92619

Telephone # 503-486-5631 Fax # 503-486-5635

Name(s) of business manager(s) First: Kevin Middle: Leigh Last: Summers

Date of birth Social Security # WADL# M: X F:

Home address City Vancouver State WA Zip Code 98683
(attach additional pages if necessary)

Type of business Full Service Restaurant with Bar

Type of food served BBQ Chicken - Pork - Beef

Type of entertainment (dancing, live music, exotic dancers, etc.) N/A

Days and hours of operation Sunday-Thursday 11AM to 10PM; Friday-Saturday 11AM to 11 PM

Food service hours: Breakfast N/A Lunch 11 AM-4 PM Dinner 4 PM to Close

Restaurant seating capacity 221 Inside Outside or patio seating capacity 48 Patio

How late will you have outside seating? Until Closing How late will you sell alcohol? Until Closing

How many full-time employees do you have? (Apprx) 20 Part-time employees? (Apprx) 45-50

**SECTION 3: DESCRIPTION OF LIQUOR LICENSE**

Name of Individual, Partnership, Corporation, LLC, or Other applicants NyTown Partners, LLC

Type of liquor license (refer to OLCC form) Full On – Premises Sales

Form of entity holding license (check one and answer all related applicable questions):

**INDIVIDUAL:** *If this box is checked, provide full name, date of birth, and residence address.*  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_

**PARTNERSHIP:** *If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.*  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_

**CORPORATION:** *If this box is checked, complete (a) through (c).*  
*(a) Name and business address of registered agent.*  
Full name \_\_\_\_\_  
Business address \_\_\_\_\_

*(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.*  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_

*(c) Are there more than 35 shareholders of this corporation? Yes No. If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.*  
Full name of president: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_  
Full name of treasurer: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_  
Full name of secretary: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_

**LIMITED LIABILITY COMPANY:** *If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.*  
Full name: Cayuga Blue Waters, LLC – Manager Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_

Full name: Four Reefs Investors, LLC - Member Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_

**OTHER:** *If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.*

**SECTION 4: APPLICANT SIGNATURE**

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

 11/11/09  
Signature of Applicant Date  
Title: **Manager of Cayuga Blue Waters, LLC, Manager**

**For City Use Only**

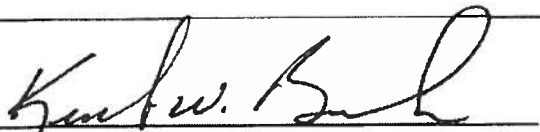
Sources Checked:

DMV by my       LEDS by my       TuPD Records by my  
 Public Records by my

0 Number of alcohol-related incidents during past year for location.  
 0 Number of Tualatin arrest/suspect contacts for \_\_\_\_\_

**It is recommended that this application be:**

Granted  
 Denied  
Cause of unfavorable recommendation: \_\_\_\_\_

 12/01/09  
Signature Date

Kent W. Barker  
Chief of Police  
Tualatin Police Department



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 12-14-09  
Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** December 14, 2009

**SUBJECT:** APPROVAL OF A NEW LIQUOR LICENSE APPLICATION FOR NEW YORK RUBEN'S

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve a new liquor license application for New York Ruben's.

### RECOMMENDATION:

Staff respectfully recommends that the Council approve endorsement of the liquor license application for New York Ruben's.

### EXECUTIVE SUMMARY:

New York Ruben's, formerly the Lunch Box, has submitted a new liquor license application for Limited On-Premises Sales. The business is located at 18857 SW Martinazzi Avenue. The application is in accordance with provisions of Ordinance No. 680-85 which established a procedure for review of liquor licenses by the Council.

Ordinance No. 680-85 establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed and signed off on this application.

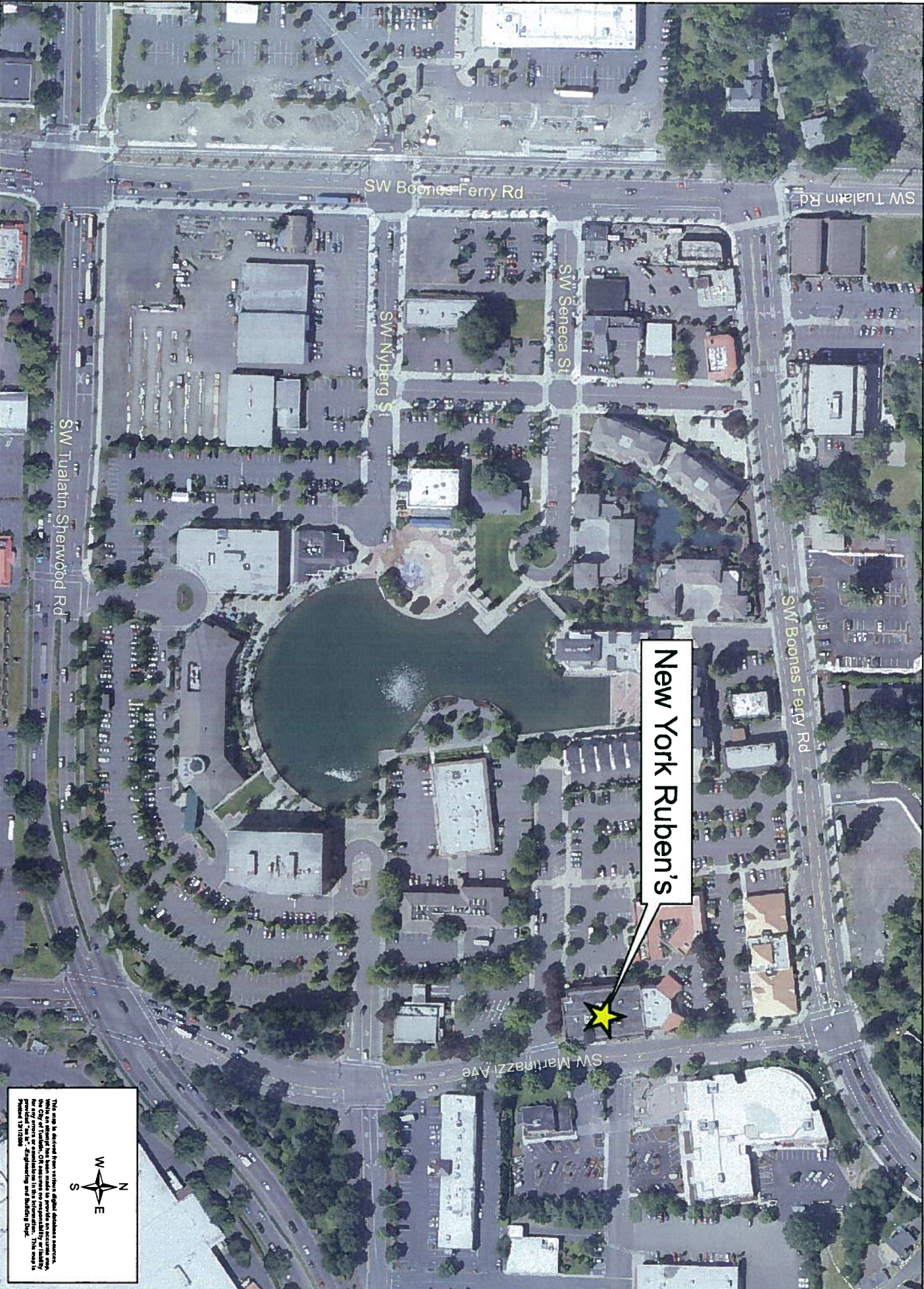
According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### FINANCIAL IMPLICATIONS:


A fee has been paid by the applicant.

**Attachments:**

1. Vicinity Map
2. OLCC License Types
3. Liquor License Application



New York Ruben's



This map is derived from various digital database sources. The City of Tualatin, OR assumes no responsibility for liability or damages of any kind resulting from the use of this information. The user is responsible for verifying the accuracy of the information.

## **OREGON LIQUOR CONTROL COMMISSION LICENSE TYPES & PRIVILEGES**

### **Brewery – public house**

Allows the manufacture & sale of malt beverages to wholesalers, & the sale of malt beverages, wine & cider for consumption on or off the premises. [ORS 471.200]

### **Brewery**

Allows the manufacture, importation, storage, transportation & wholesale sale of malt beverages to OLCC licensees. Malt beverages brewed on the premises may be sold for consumption on the premises & sold in kegs to the public. [ORS 471.220] designates a licensee that does not allow tastings or other on premises consumption.

### **Certificate of Approval**

This certificate allows an out-of-state manufacturer, or an importer of foreign wine or malt beverages, to import wine & malt beverages to Oregon licensees. [ORS 471.289]

### **Distillery**

Allows the holder to import, manufacture, distill, rectify, blend, denature & store distilled spirits. A distillery that produces distilled liquor may permit tastings by visitors. [ORS 471.230]

### **Direct Shipper Permit**

Allows manufacturers & retailers to ship wine & cider directly to Oregon residents for their personal use. [ORS 471.282]

### **Full On Premises Sales**

Allows the sale & service of distilled spirits, malt beverages & wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off of the licensed premises [ORS 471.175] license sub-type designates the type of business licensed: F-CAT- caterer; F-CLU- private club; F-COM - commercial establishment; F-PC - passenger carrier; F-PL - other public location.

### **Growers Sales Privilege**

Allows the importation, storage, transportation, export, & wholesale & retail sales of wines made from fruit or grapes grown in Oregon [ORS 471.227]. Designates a licensee that does not allow tastings or other on premises consumption.

### **Limited On Premises Sales**

Allows the sale of malt beverages, wine & cider for consumption on the licensed premises & the sale of kegs of malt beverages for off premises consumption. Also allows licensees who are pre-approved to cater events off of the licensed premises. [ORS 471.178]

### **Off Premises Sales**

Allows the sale of malt beverages, wine & cider in factory sealed containers for consumption off the licensed premises & allows approved licensees to offer sample tasting of malt beverages, wine & cider. [ORS 471.186]

### **Warehouse**

Allows the storage, importing, exporting, bottling, producing, blending & transporting of wine & malt beverages. [ORS 471.242]

### **Wholesale Malt Beverage & Wine**

Allows the importation, storage, transportation & wholesale sale of malt beverages & wine to OLCC licensees & limited retail sales to the public (dock sales). [ORS 471.235]

### **Wine Self Distribution Permit**

Allows manufacturers to sell & ship wine & cider produced by the manufacturer directly to Oregon retailers for resale to consumers. May ship to businesses which have an OLCC endorsement to receive the shipments. [ORS 471.274]

### **Winery**

Allows the licensee to import, bottle, produce, blend, store, transport & export wines, & allows wholesale sales to OLCC & licensees, & retail sales of malt beverages & wine for consumption on or off the licensed premises.[ORS 471.223]



CITY OF TUALATIN
LIQUOR LICENSE APPLICATION

Date 11/18/09

IMPORTANT: This is a three-page form. You are required to complete all sections of the form. If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation. Thank you for your assistance and cooperation.

SECTION 1: TYPE OF APPLICATION

- Original (New) Application - \$100.00 Application Fee.
Change in Previous Application - \$75.00 Application Fee.
Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License #
Temporary License - \$35.00 Application Fee.

SECTION 2: DESCRIPTION OF BUSINESS

Name of business(dba): NEW YORK RUBEN'S LLC

Business address: 18857 SW MARTINAZZI AVE. City: TUALATIN State: OR Zip Code: 97062

Telephone #: (503) 612-8512 Fax #:

Name(s) of business manager(s): First N/A Middle N/A Last N/A

Date of birth N/A Social Security # N/A ODL# N/A M F

Home address: N/A City: N/A State: N/A Zip Code: N/A (attach additional pages if necessary)

Type of business: FOOD SERVICE "RESTAURANT"

Type of food served: NEW YORK STYLE "PIZZA, SANDWICHES, PASTA, SALAD"

Type of entertainment (dancing, live music, exotic dancers, etc.): N/A

Days and hours of operation: MONDAY TO SUNDAY 9:00 AM TO 10:00 PM

Food service hours: Breakfast: 9-11 AM Lunch: 11-3 Dinner: 3-10 PM

Restaurant seating capacity: 60 Outside or patio seating capacity: 10

How late will you have outside seating? 10:00 PM How late will you sell alcohol? 9:00 PM

How many full-time employees do you have? 2 Part-time employees? 1

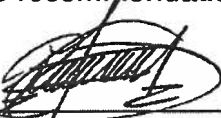
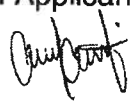




**OTHER:** If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

**SECTION 4: APPLICANT SIGNATURE**

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

  
Signature of Applicant \_\_\_\_\_ Date 11/18/09  
 \_\_\_\_\_ Date 11/18/09

**For City Use Only**

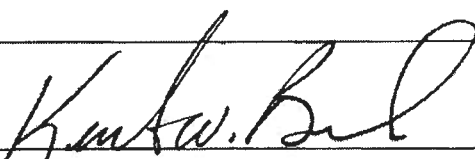
Sources Checked:

- DMV by my       LEDS by my       TuPD Records by my  
 Public Records by my

It is recommended that this application be:

- Granted  
 Denied

Cause of unfavorable recommendation: \_\_\_\_\_

  
Signature \_\_\_\_\_ Date 12/01/09


Kent W. Barker  
Chief of Police  
Tualatin Police Department



# STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Brenda Braden, Legal Department 

**DATE:** December 14, 2009

**SUBJECT:** RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN WEST LINN-WILSONVILLE SCHOOL DISTRICT AND CITY OF TUALATIN

---

**ISSUE BEFORE THE COUNCIL:**

The Council will consider whether to approve an amendment to the Intergovernmental Agreement with the West Linn-Wilsonville School District to allow the City to retain 4% of the Construction Excise Tax for the City's administrative costs of collecting the tax.

**RECOMMENDATION:**

Staff recommends that Council approve the Amendment to the Intergovernmental Agreement to collect and remit construction excise tax between the West Linn-Wilsonville School District and the City of Tualatin.

**EXECUTIVE SUMMARY:**

The State of Oregon passed House Bill 2014 which amends ORS 320.179 that governs the fee a city may retain for collecting the Construction Tax for a school district from 1% to 4%. The West Linn-Wilsonville School District entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008 with the 1% administration fee. Currently, the fee retained to collect the Construction Tax is insufficient to cover the administrative costs associated with collecting the Tax. Raising the fee to 4% would provide additional revenues to better offset the City's costs of collecting the tax.

**OUTCOMES OF DECISION:**

Raising the administration fee will produce increased revenue helping to offset the administrative costs associated with the collection of the Construction Tax.

**ALTERNATIVES TO RECOMMENDATION:**

- Deny the Amendment and keep current administrative fee at 1%.
- Instruct staff to bring back resolution with changes to the Amendment and a new administrative fee between the ranges of 1-4%.

**FINANCIAL IMPLICATIONS:**

An increase in the CET fee would allow the building department to recoup its costs for collecting and remitting the tax.

**Attachments:** Resolution

RESOLUTION NO. 4943-09

RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN WEST LINN-WILSONVILLE SCHOOL DISTRICT AND CITY OF TUALATIN

WHEREAS the State of Oregon passed House Bill 2014 which amends ORS 320.179; and

WHEREAS ORS 320.179 amends the administrative fee that a city may retain for collecting the construction tax from 1% to 4%; and

WHEREAS the West Linn-Wilsonville School District and the City of Tualatin entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008; and

WHEREAS it is in the best interest of the City for the Council to approve the amendment.

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

Section 1. The City Council authorizes the Mayor to sign the Amendment to the Intergovernmental Agreement to collect and remit Construction Excise Tax between the West Linn-Wilsonville School District and City of Tualatin as shown on Exhibit A (attached) and incorporated by reference.

INTRODUCED AND ADOPTED this 14th day of December, 2009.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:  
BY   
City Recorder

**AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT TO  
COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN THE  
WEST LINN-WILSONVILLE SCHOOL DISTRICT AND CITY OF  
TUALATIN**

WHEREAS, the West Linn-Wilsonville School District ("School District") and the City of Tualatin ("City") entered into an Intergovernmental Agreement on March 7, 2008 in which the City agreed to collect and remit construction excise tax as permitted by ORS 320.179; and

WHEREAS, in the 2009 session, the Legislature raised the amount of administrative fee that cities could collect to cover their costs involved in collecting and remitting such tax; and

WHEREAS the parties recognize that the previously allowed fee of 1% that was intended to cover the City's costs in collecting and remitting the construction excise tax does not cover the City's costs; and

WHEREAS, the parties have agreed that the percentage of the administrative fee should be raised from 1% to the new statutory maximum of 4%.

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

- A. Section (10) is amended by changing the amount of consideration retained by the City for collecting the Construction Excise Tax from 1% to 4%.
- B. Exhibit A is amended to add new exemptions from the tax in sections 7, 8, and 9 to read as follows:
- (7) Non-profit long term care facilities.
  - (8) Non-profit residential care facilities.
  - (9) Non-profit continuing care retirement communities.

ENTERED INTO this 14 day of December, 2009.

West Linn-Wilsonville School District

By: 

City of Tualatin

By: 

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

Approved By Tualatin City Council  
Date 12-14-09  
Recording Secretary *WBM*



# STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Brenda Braden, Legal Department *BB*

**DATE:** December 14, 2009

**SUBJECT:** RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN SHERWOOD SCHOOL DISTRICT AND CITY OF TUALATIN

---

## ISSUE BEFORE THE COUNCIL:

The Council will consider whether to approve an amendment to the Intergovernmental Agreement with the Sherwood School District to allow the City to retain 4% of the Construction Excise Tax for the City's administrative costs of collecting the tax.

## RECOMMENDATION:

Staff recommends that Council approve the Amendment to the Intergovernmental Agreement to collect and remit construction excise tax between the Sherwood School District and the City of Tualatin.

## EXECUTIVE SUMMARY:

The State of Oregon passed House Bill 2014 which amends ORS 320.179 that governs the fee a city may retain for collecting the Construction Tax for a school district from 1% to 4%. The Sherwood School District entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008 with the 1% administration fee. Currently, the fee retained to collect the Construction Tax is insufficient to cover the administrative costs associated with collecting the Tax. Raising the fee to 4% would provide additional revenues to better offset the City's costs of collecting the tax.

**OUTCOMES OF DECISION:**

Raising the administration fee will produce increased revenue helping to offset the administrative costs associated with the collection of the Construction Tax.

**ALTERNATIVES TO RECOMMENDATION:**

- Deny the Amendment and keep current administrative fee at 1%.
- Instruct staff to bring back resolution with changes to the Amendment and a new administrative fee between the ranges of 1-4%.

**FINANCIAL IMPLICATIONS:**

An increase in the CET fee would allow the building department to recoup its costs for collecting and remitting the tax.

**Attachments:** Resolution



RESOLUTION NO. 4944-09

RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN SHERWOOD SCHOOL DISTRICT AND CITY OF TUALATIN

WHEREAS the State of Oregon passed House Bill 2014 which amends ORS 320.179; and

WHEREAS ORS 320.179 amends the administrative fee that a city may retain for collecting the construction tax from 1% to 4%; and

WHEREAS the Sherwood School District and the City of Tualatin entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008; and

WHEREAS it is in the best interest of the City for the Council to approve the amendment.

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

Section 1. The City Council authorizes the Mayor to sign the Amendment to the Intergovernmental Agreement to collect and remit Construction Excise Tax between the Sherwood School District and City of Tualatin as shown on Exhibit A (attached) and incorporated by reference.

INTRODUCED AND ADOPTED this 14th day of December, 2009.

CITY OF TUALATIN, OREGON

BY

  
\_\_\_\_\_  
Mayor

ATTEST:

BY

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

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
CITY ATTORNEY



# SHERWOOD SCHOOLS

a great place for all kids

January 19, 2010

CITY OF TUALATIN  
RECEIVED

JAN 25 2010

ENGINEERING &  
BUILDING DEPARTMENT

Michael McKillip, City Engineer  
City of Tualatin  
18880 SW Martinazzi Ave  
Tualatin, Oregon 97062-7092

Dear Michael

I have included a signed copy of the amendment and included a copy of the Board resolution that gave our superintendent or his designee the authority to sign. Let me know if you need anything else.

Thanks for your help with this.

Wayne Lowry  
Director of Finance and Operations

Administrative Services

23295 S.W. Main Street \* Sherwood, Oregon 97140

(503) 825-5000 \* FAX (503) 825-5001

[www.sherwood.k12.or.us](http://www.sherwood.k12.or.us)

SHERWOOD SCHOOL DISTRICT 88J  
23295 SW Main Street  
Sherwood, Oregon 97140

COPY

**RESOLUTION AUTHORIZING THE SUPERINTENDENT OR HIS DESGNEE TO  
AMEND EXISTING CONSTRUCTION EXCISE TAX AGREEMENTS TO COMPLY  
WITH HB2014**

Whereas, the District currently has agreements in place for the collection of the construction excise tax with its five government partners within its boundaries, and

Whereas, HB2014 passed by the legislature in 2009 increase the administrative fee from 1% to 4% requiring all five agreements to be amended

Now, Therefore be it resolved by the Sherwood Board of Education that:

The Superintendent or his designee is authorized to amend the construction excise tax agreements to comply with the requirements of HB2014.

Dated this 12<sup>th</sup> day of January, 2010.

BOARD OF DIRECTORS  
SHERWOOD SCHOOL DISTRICT 88J  
WASHINGTON, CLACKAMAS, AND YAMHILL COUNTIES, OREGON

Absent  
\_\_\_\_\_  
Connie Hansen, Chair

\_\_\_\_\_  
Mark Christie, Director

\_\_\_\_\_  
Sue Hekker, Director

\_\_\_\_\_  
Dan Jamison, Superintendent-Clerk

\_\_\_\_\_  
Andy Pihl, Director

\_\_\_\_\_  
Kevin Noreen, Director

**AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT TO  
COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN THE  
SHERWOOD SCHOOL DISTRICT AND CITY OF TUALATIN**

WHEREAS, the Sherwood School District ("School District") and the City of Tualatin ("City") entered into an Intergovernmental Agreement on March 7, 2008 in which the City agreed to collect and remit construction excise tax as permitted by ORS 320.179; and

WHEREAS, in the 2009 session, the Legislature raised the amount of administrative fee that cities could collect to cover their costs involved in collecting and remitting such tax; and

WHEREAS the parties recognize that the previously allowed fee of 1% that was intended to cover the City's costs in collecting and remitting the construction excise tax does not cover the City's costs; and

WHEREAS, the parties have agreed that the percentage of the administrative fee should be raised from 1% to the new statutory maximum of 4%.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- A. Section (10) is amended by changing the amount of consideration retained by the City for collecting the Construction Excise Tax from 1% to 4%.
- B. Exhibit A is amended to add new exemptions from the tax in sections 7, 8, and 9 to read as follows:
- (7) Non-profit long term care facilities.
  - (8) Non-profit residential care facilities.
  - (9) Non-profit continuing care retirement communities.

ENTERED INTO this 14 day of December, 2009.

Sherwood School District

By: \_\_\_\_\_

City of Tualatin

By: \_\_\_\_\_

APPROVED AS TO LEGAL FORM

CITY ATTORNEY

Approved By Tualatin City Council  
Date 12-14-09  
Recording Secretary *[Signature]*



## STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Brenda Braden, Legal Department *[Signature]*

**DATE:** December 14, 2009

**SUBJECT:** RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN TIGARD-TUALATIN SCHOOL DISTRICT AND CITY OF TUALATIN

---

### **ISSUE BEFORE THE COUNCIL:**

The Council will consider whether to approve an amendment to the Intergovernmental Agreement with the Tigard-Tualatin School District to allow the City to retain 4% of the Construction Excise Tax for the City's administrative costs of collecting the tax.

### **RECOMMENDATION:**

Staff recommends that Council approve the Amendment to the Intergovernmental Agreement to collect and remit construction excise tax between the Tigard-Tualatin School District and the City of Tualatin.

### **EXECUTIVE SUMMARY:**

The State of Oregon passed House Bill 2014 which amends ORS 320.179 that governs the fee a city may retain for collecting the Construction Tax for a school district from 1% to 4%. The Tigard-Tualatin School District entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008 with the 1% administration fee. Currently, the fee retained to collect the Construction Tax is insufficient to cover the administrative costs associated with collecting the Tax. Raising the fee to 4% would provide additional revenues to better offset the City's costs of collecting the tax.

**OUTCOMES OF DECISION:**

Raising the administration fee will produce increased revenue helping to offset the administrative costs associated with the collection of the Construction Tax.

**ALTERNATIVES TO RECOMMENDATION:**

- Deny the Amendment and keep current administrative fee at 1%.
- Instruct staff to bring back resolution with changes to the Amendment and a new administrative fee between the ranges of 1-4%.

**FINANCIAL IMPLICATIONS:**

An increase in the CET fee would allow the building department to recoup its costs for collecting and remitting the tax.

**Attachments:** Resolution

RESOLUTION NO. 4945-09

RESOLUTION TO APPROVE AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN TIGARD-TUALATIN SCHOOL DISTRICT AND CITY OF TUALATIN

WHEREAS the State of Oregon passed House Bill 2014 which amends ORS 320.179; and

WHEREAS ORS 320.179 amends the administrative fee that a city may retain for collecting the construction tax from 1% to 4%; and

WHEREAS the Tigard-Tualatin School District and the City of Tualatin entered into the original Intergovernmental Agreement to collect the Construction Tax on March 7, 2008; and

WHEREAS it is in the best interest of the City for the Council to approve the amendment.

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

Section 1. The City Council authorizes the Mayor to sign the Amendment to the Intergovernmental Agreement to collect and remit Construction Excise Tax between the Tigard-Tualatin School District and City of Tualatin as shown on Exhibit A (attached) and incorporated by reference.

INTRODUCED AND ADOPTED this 14th day of December, 2009.

CITY OF TUALATIN, OREGON

BY

  
\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
CITY ATTORNEY

ATTEST:

BY

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

**AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT TO  
COLLECT AND REMIT CONSTRUCTION EXCISE TAX BETWEEN THE  
TIGARD-TUALATIN SCHOOL DISTRICT AND CITY OF TUALATIN**

WHEREAS, the Tigard-Tualatin School District ("School District") and the City of Tualatin ("City") entered into an Intergovernmental Agreement on March 7, 2008 in which the City agreed to collect and remit construction excise tax as permitted by ORS 320.179; and

WHEREAS, in the 2009 session, the Legislature raised the amount of administrative fee that cities could collect to cover their costs involved in collecting and remitting such tax; and

WHEREAS the parties recognize that the previously allowed fee of 1% that was intended to cover the City's costs in collecting and remitting the construction excise tax does not cover the City's costs; and

WHEREAS, the parties have agreed that the percentage of the administrative fee should be raised from 1% to the new statutory maximum of 4%.

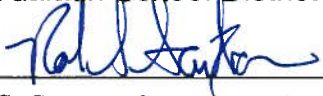
NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- A. Section (10) is amended by changing the amount of consideration retained by the City for collecting the Construction Excise Tax from 1% to 4%.
- B. Exhibit A is amended to add new exemptions from the tax in sections 7, 8, and 9 to read as follows:
  - (7) Non-profit long term care facilities.
  - (8) Non-profit residential care facilities.
  - (9) Non-profit continuing care retirement communities.

ENTERED INTO this 14 day of December, 2009.

Tigard-Tualatin School District

City of Tualatin

By:   
Rob S. Saxton, Superintendent

1/21/10  
Date

By: 

By:   
Jill Zurschmeide, Board Chair

1-21-10  
Date

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY





# STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Doug Rux, Community Development Director *[Signature]*  
Eric Underwood, Development Coordinator *[Signature]*

**DATE:** December 14, 2009

**SUBJECT:** RESOLUTION ACCEPTING DEED OF DEDICATION AND EASEMENT ASSOCIATED WITH THE SW LEVETON DRIVE EXTENSION PROJECT (3 – GRIMM BROTHERS, LLC)

---

## ISSUE BEFORE THE COUNCIL:

Whether the Tualatin City Council should adopt a resolution accepting a Deed of Dedication and Slope/Utility Easement as part of the SW Leveton Drive Extension Project.

## RECOMMENDATION:

Staff recommends that the City Council adopt the attached resolution.

## EXECUTIVE SUMMARY:

- This action is not a public hearing.
- The Fiscal Year 09/10 Leveton Tax Increment District Project Fund contains a capital project to design roadway improvements, and acquire rights-of-way and easements for the SW Leveton Drive Extension Project.
- The project area extends west from SW 128<sup>th</sup> Avenue to SW 130<sup>th</sup> Avenue then northerly to Highway 99W (Attachment A).
- This public improvement project is funded by the Tualatin Development Commission ("Commission").
- The primary purpose of constructing the roadway is to better facilitate freight mobility and industrial traffic flow within the District.
- As part of the project, rights-of-way and slope/utility and temporary easements have been identified.

- The acceptance of the Deed of Dedication and Easement are conditioned on the Commission at their December 14, 2009 meeting adopting a resolution authorizing compensation for the Deed of Dedication and Easement for the amounts noted in the attached documents.
- The Commission at its May 26, 2009 meeting directed the acquisition of rights-of-ways and easements.
- The document to be accepted is from the following:
  - 3 – Grimm Brothers LLC (Deed of Dedication and Slope/Utility Easement).
- The Deed of Dedication and Easement are being presented to the Council for acceptance because the subject project is for a public street improvement and the Commission does not accept these types of documents.
- There are no criteria to apply to this request.

**OUTCOMES OF DECISION:**

Approval of the request to accept Deed of Dedication and Easement will result in the following:

1. Allow the Commission to obtain the right-of-way and easement needed to construct roadway improvements.
2. Allow the SW Leveton Drive Project to maintain its current timeline.

Denial of the request to accept Deed of Dedication and Easement will result in the following:

1. The project will be delayed.
2. The Commission will need to decide whether or not to renegotiate right-of-way and easement acquisition costs.

**ALTERNATIVES TO RECOMMENDATION:**

Alternatives evaluated to acceptance of Deed of Dedication and Easement are as follows:

1. Renegotiate right-of-way and easement need and acquisition costs with current property owners.
2. Put project on hold.

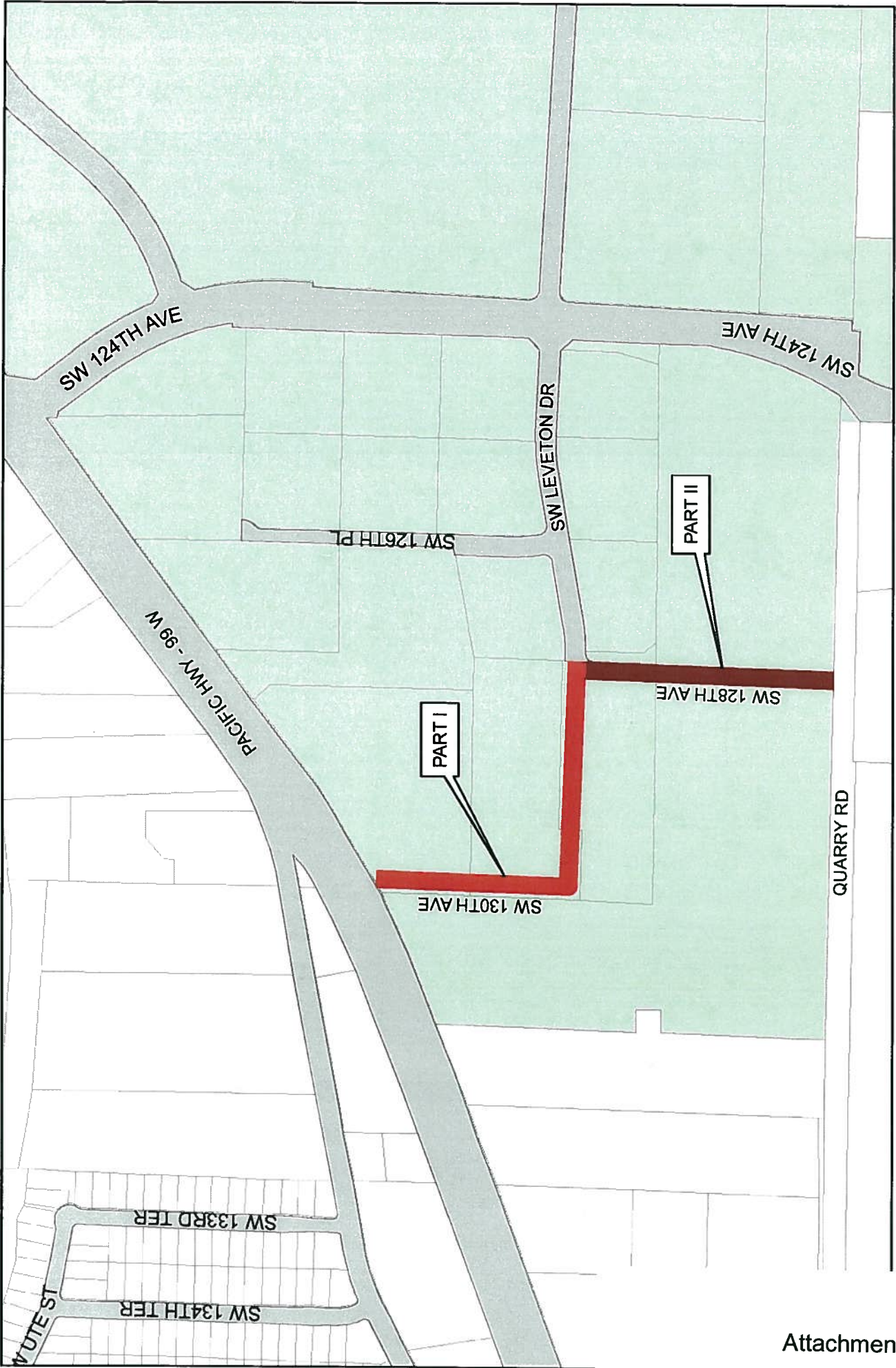
**FINANCIAL IMPLICATIONS:**

Compensation for the Deed of Dedication and Easement was addressed by the Commission at their December 14, 2009 meeting and is not applicable to acceptance of these documents.

**PUBLIC INVOLVEMENT:**

Public involvement is not required as part of this action.

- Attachments:**
- A. Vicinity Map
  - B. Right-of-Way and Slope/Utility Easement Map
  - C. Resolution with Exhibits



This map is derived from various digital datasets sources. While an attempt has been made to provide an accurate map, the City of Tualsis, OR assumes no responsibility or liability for any errors or omissions in the information. This map is prepared by Engineering and Building Dept. Plotted 10/17/2007

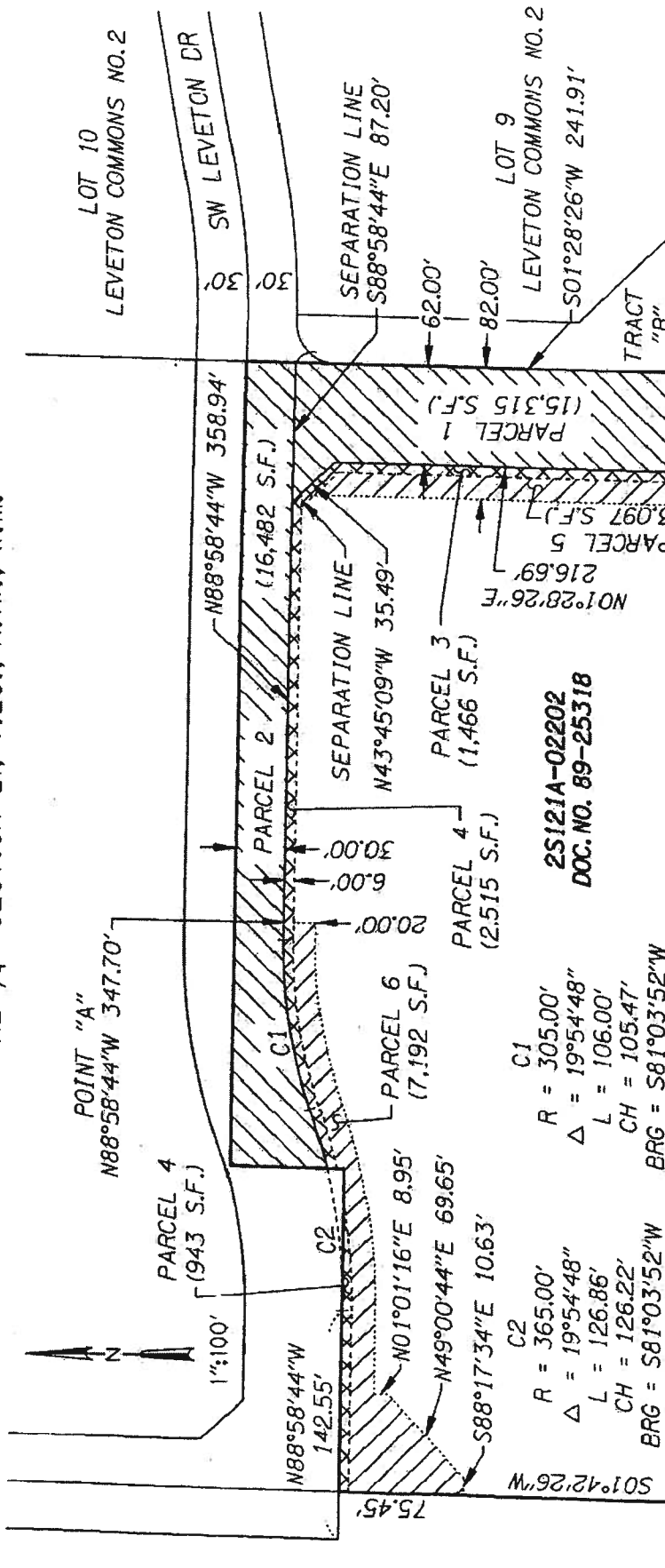


RF 1:4,500

Leveton Tax Increment District

# EXHIBIT B

ACQUISITION MAP  
 TUALATIN DEVELOPMENT COMMISSION  
 NE 1/4 SECTION 21, T.2S., R.1W., W.M.



SW LEVETON DRIVE EXTENSION PROJECT  
 PAGE 1 OF 1  
 JANUARY 2, 2009  
 REVISED JANUARY 14, 2009

**CH2MHILL**

RESOLUTION NO. 4946-09

RESOLUTION ACCEPTING DEED OF DEDICATION  
AND EASEMENT IN ASSOCIATION WITH THE  
SW LEVETON DRIVE EXTENSION PROJECT (3 – GRIMM  
BROTHERS, LLC)

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

Section 1. The attached documents, Exhibit 1 and 2 are hereby accepted by the  
City of Tualatin:

- a. Deed of Dedication from 3 – Grimm Brothers, LLC
- b. Slope/Public Utility Easement from 3 – Grimm Brothers, LLC

Section 2. The City Recorder shall be instructed to cause said Deed of  
Dedication and Slope/Public Utility Easement to be recorded in the Book of  
Records of the Washington County Recorder.

Section 3. The acceptance of the Deed of Dedication and Easement are  
conditioned on the Tualatin Development Commission adopting a resolution  
authorizing compensation for the Deed of Dedication and Easement.

INTRODUCED AND ADOPTED this 14<sup>th</sup> day of December, 2009.


CITY OF TUALATIN, OREGON

By  \_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM

  
CITY ATTORNEY

ATTEST:

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

Resolution No. 4946-09



COPY

CITY OF TUALATIN, OREGON

DEED OF DEDICATION

Sent for Recording  
By: T.O.C.

KNOW ALL MEN BY THESE PRESENTS, that Rodney D. Grimm, who took title as Rodney G. Grimm, Jeffrey D. Grimm, Mark H. Grimm, who took title as Mark D. Grimm, and Daniel F. Grimm (the "GRANTOR"), grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the following real property with the tenements, hereditaments and appurtenances, situated in the County of Washington, State of Oregon, for the use of the public as a public way forever, for street, road, right-of-way and public utility purposes, bounded and described as follows, to wit:

*See Parcel 1 and Parcel 2 of Exhibits A and B, attached hereto  
and by this reference made a part of this document*

TO HAVE AND TO HOLD, the described and granted premises unto the said CITY, its successors in interest and assigns forever.

The true consideration of this conveyance is **Two Hundred Three Thousand Five Hundred Sixty-Four and No/100 Dollars (\$203,564.00)** and other valuable consideration, the receipt of which is acknowledged by GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances, except encumbrances stated in the attached and incorporated exhibit entitled "Excepted Encumbrances", and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

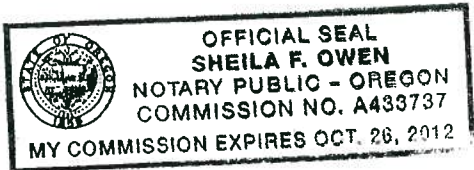
EXECUTED this 9 day of September, 2009

Rodney D. Grimm, who took title as Rodney G. Grimm

Rodney D. Grimm  
Rodney D. Grimm

STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 9 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Rodney D. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me. [Signature]  
Notary Public for Oregon

My commission expires: October 26, 2012

CITY OF TUALATIN, OREGON  
By [Signature]  
Mayor

ATTEST:  
By [Signature]  
City Recorder

DEED OF DEDICATION  
Sent for Recording  
By: \_\_\_\_\_

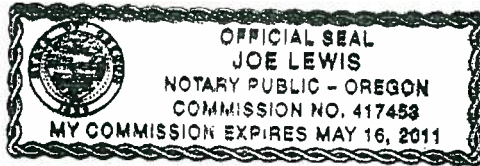


EXECUTED this 9th day of September, 2009

Jeffrey D. Grimm

Jeffrey D. Grimm  
Jeffrey D. Grimm

STATE OF OREGON )  
 ) ss  
County of Washington )



On this 9th day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Jeffrey D. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me: Joseph D Lewis  
Notary Public for Oregon

My commission expires: May 16, 2011

CITY OF TUALATIN, OREGON  
By [Signature]  
Mayor

ATTEST:  
By [Signature]  
City Recorder

Sent for Recording  
By: \_\_\_\_\_

EXECUTED this 09 day of September, 2009

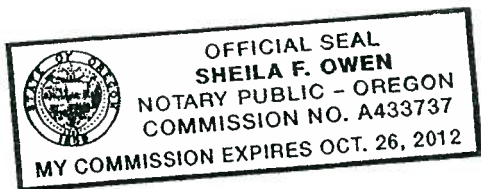
Mark D. Grimm

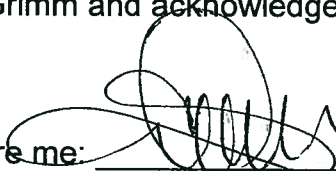


Mark D. Grimm  
H

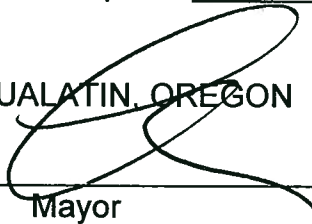
STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 09 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Mark D. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me:   
Notary Public for Oregon

My commission expires: October 26, 2012

CITY OF TUALATIN, OREGON  
By   
Mayor

ATTEST:  
By   
City Recorder

**COPY**

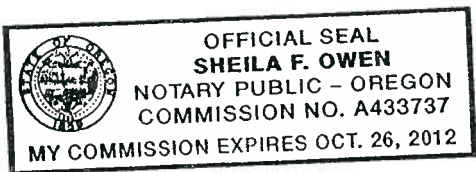
EXECUTED this 29 day of 29, 2009

Daniel F. Grimm

*Daniel F. Grimm*  
Daniel F. Grimm

STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 9 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Daniel F. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me: *[Signature]*  
Notary Public for Oregon

My commission expires: October 26, 2012

CITY OF TUALATIN, OREGON  
By *[Signature]*  
Mayor

ATTEST:  
By *[Signature]*  
City Recorder

**COPY**

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 1 – Right-of-Way Dedication

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

**BEGINNING** at a point on the south line of said Grimm property that bears N88°58'37"W 678.90 feet and N01°28'26"E 529.58 feet from a 3-1/4 inch diameter aluminum disk marking the east quarter corner of said Section 21; thence N01°28'26"E, along a line parallel with and 62.00 feet west, when measured at right angles, of the east line of said Grimm property, 216.69 feet to an angle point; thence N43°45'09"W 35.49 feet to a point lying 30.00 feet south, when measured at right angles, of the north line of said Grimm property, said point being the westerly end of the line separating Parcels 1 and 2; thence S88°58'44"E along said line 87.20 feet to the east line of said Grimm property; thence S01°28'26"W along said east line 241.91 feet to the southeast corner of said Grimm property; thence N88°58'37"W along the south line of said Grimm property 62.00 feet to the **POINT OF BEGINNING**.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 1 applies contains 0.35 acre (15,315 square feet), more or less.

Sent for Recording  
By: \_\_\_\_\_

**COPY**

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 2 – Right-of-Way Dedication

All that portion of said Grimm property lying north of the following described line:

**BEGINNING** at the easterly end of the line separating Parcels 1 and 2, as described in Parcel 1; thence N88°58'44"W along said separation line and its westerly extension 358.94 feet (passing Point "A" at 347.70 feet) to the point of curvature of a 305.00 foot radius curve to the left; thence along said curve, through a central angle of 19°54'48" (which chord bears S81°03'52"W 105.47 feet), an arc distance of 106.00 feet to the point of reverse curvature of a 365.00 foot radius curve to the right; thence along said curve, through a central angle of 19°54'48" (which chord bears S81°03'52"W 126.22 feet), an arc distance of 126.86 feet to the point of tangency, said point lying on the most westerly north line of said Grimm property; thence N88°58'44"W along said north line and its westerly extension 142.55 feet to the terminus of the line being described.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 2 applies contains 0.38 acre (16,482 square feet), more or less.

Sent for Recording  
By: \_\_\_\_\_

**COPY**

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 3 – Permanent Slope and Utility Easement

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

All that portion of said Grimm property lying easterly and northeasterly of a line parallel with and 6.00 feet left, when measured at right angles, of the west line of Parcel 1, and lying south of a line parallel with and 6.00 feet south, when measured at right angles, of the line described in Parcel 1 separating Parcels 1 and 2.

EXCEPT THEREFROM Parcel 1.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 3 contains 0.03 acre (1,466 square feet), more or less.

### Parcel 4 – Permanent Slope and Utility Easement

All that portion of said Grimm property lying northerly of a line parallel with and 6.00 feet south, when measured at right angles, of the line described in Parcel 2.

EXCEPT THEREFROM Parcels 1 and 2.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 4 contains 0.06 acre (2,515 square feet), more or less.

Sent for Recording  
By: \_\_\_\_\_

COPY

**EXHIBIT A**

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

**Parcel 5 – Temporary Construction Easement**

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

The east 82.00 feet of said Grimm property, EXCEPT THEREFROM Parcels 1 and 3.

Parcel 5 applies contains 0.07 acre (3,097 square feet), more or less.

**Parcel 6 – Temporary Construction Easement**

That portion of said Grimm property described as follows:

**BEGINNING** at the northwest corner of said Grimm property; thence S01°42'26"W along the west line thereof 75.45 feet; thence, leaving said west line, S88°17'34"E 10.63 feet; thence N49°00'44"E 69.65 feet; thence N01°01'16"E 8.95 feet to a point lying 20.00 feet left, when measured at right angles, of the line described in Parcel 2; thence proceeding easterly, parallel with and 20.00 feet left of said line described in Parcel 2 to a point lying 20.00 feet left of Point "A", as described in Parcel 2; thence northerly at right angles 20.00 feet to Point "A"; thence proceeding westerly along said line described in Parcel 2 to the northwest corner of said Grimm property and the **POINT OF BEGINNING**, EXCEPTING THEREFROM Parcel 4.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 6 contains 0.17 acre (7,192 square feet), more or less.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*John V. Thatcher*

OREGON  
JULY 19, 1994  
JOHN V. THATCHER  
2681

RENEWS: 7/01/10  
SIGNED: 1-15-09

Sent for Recording  
By: \_\_\_\_\_

**COPY**





COPY



CITY OF TUALATIN, OREGON

Sent for Recording  
By: T. D. C.

**SLOPE AND PUBLIC UTILITY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS, that Rodney D. Grimm, who took title as Rodney G. Grimm, Jeffrey D. Grimm, Mark H. Grimm, who took title as Mark D. Grimm, and Daniel F. Grimm (the "GRANTOR"), grants to the City of Tualatin (the "CITY"), its successors in interest and assigns, the permanent right to construct, reconstruct, operate and maintain a Slope and Public Utilities, including but not limited to water, sewer, storm drain, power, telephone, cable television, and natural gas lines and facilities on the following described land:

*See Parcel 3 and Parcel 4 of Exhibits A and B, attached hereto  
and by this reference made a part of this document*

This Slope and Public Utility Easement is granted for the purpose of design, construction, operation, reconstruction, maintenance, and repair of a slope and utility in support of and to protect and save from damage the adjacent public right-of-way used for a public roadway, sidewalk, and related improvements and to allow installation of public utilities systems in this area.

TO HAVE AND TO HOLD, the described easement unto the CITY, its successors in interest and assigns forever.

GRANTOR reserves the right to use the surface of the land for walkways, plantings, parking, landscape maintenance, and related uses. Uses by the GRANTOR shall not be inconsistent or interfere with the use of the easement area by the CITY. No building or utility shall be placed upon, under, or within the property subject to the easement during its term without the written permission of the CITY.

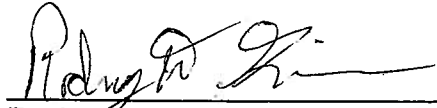
Except as otherwise provided, upon completion of construction by CITY, the CITY shall restore the disturbed surface of the property to the condition reasonably similar to the previous state, and shall indemnify and hold the GRANTOR harmless against all loss, costs, or damage arising out of the exercise of the rights granted. Nothing contained in this easement shall be construed as requiring the CITY, its successors in interest or assigns to maintain landscaping, walkways, parking, or other surface or subsurface improvement made or constructed by or on behalf of the GRANTOR, its heirs, successors in interest or assigns.

The true and actual consideration paid for this transfer consists of **Three Thousand Eight Hundred Twenty-One and No/100 Dollars (\$3,821.00)** or includes other property or other value given or promised, the receipt of which is acknowledge by the GRANTOR.

The GRANTOR covenants to the CITY, and CITY'S successors in interest and assigns that GRANTOR is lawfully seized in fee simple of the granted premises, free from all encumbrances, except encumbrances, easements, restrictions and rights-of-way of record and those common and apparent on the land, and that GRANTOR, GRANTOR'S heirs, and personal representatives shall warrant and forever defend the premises to the CITY, its successors in interest and assigns against the lawful claims and demands of all persons claiming by, through, or under the GRANTOR.

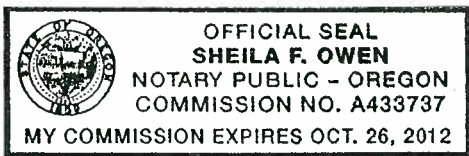
EXECUTED this 9 day of 9, 2009


Rodney D. Grimm, who took title as Rodney D. Grimm

  
Rodney D. Grimm

STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 9 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Rodney D. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me:   
Notary Public for Oregon

My commission expires: October 26, 2012

CITY OF TUALATIN, OREGON

By   
Mayor

ATTEST:

By   
City Recorder

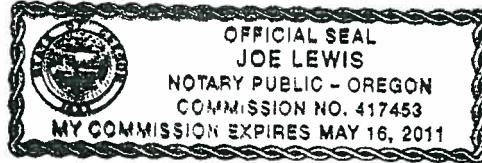
**COPY**

EXECUTED this 9th day of September, 2009

Jeffrey D. Grimm

Jeffrey D. Grimm  
Jeffrey D. Grimm

STATE OF OREGON )  
 ) ss  
County of Washington )



On this 9th day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Jeffrey D. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me: Joseph D Lewis  
Notary Public for Oregon

My commission expires: May 16, 2011

CITY OF TUALATIN, OREGON

By [Signature]  
Mayor


ATTEST:

By [Signature]  
City Recorder

**COPY**

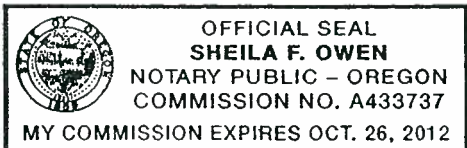
EXECUTED this 09 day of September, 2009

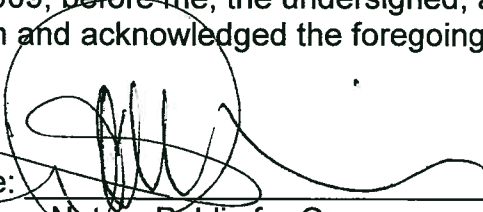
Mark D. Grimm

  
\_\_\_\_\_  
Mark ~~D~~. Grimm  
H

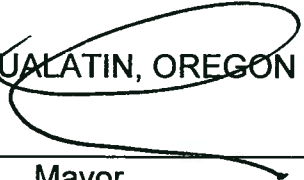
STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 09 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Mark ~~D~~. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me:   
\_\_\_\_\_  
Notary Public for Oregon

My commission expires: October 26 2012


CITY OF TUALATIN, OREGON  
By   
\_\_\_\_\_  
Mayor

ATTEST:  
By   
\_\_\_\_\_  
City Recorder

**COPY**

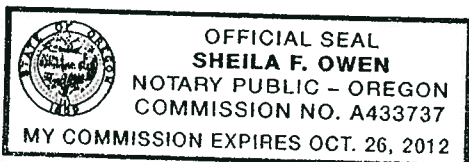
EXECUTED this 09 day of 09, 2009


Daniel F. Grimm

  
\_\_\_\_\_  
Daniel F. Grimm

STATE OF OREGON                    )  
  ) ss  
County of Washington            )

On this 9 day of September, 2009, before me, the undersigned, a Notary Public, personally appeared Daniel F. Grimm and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me:   
\_\_\_\_\_  
Notary Public for Oregon

My commission expires: October 26, 2012

CITY OF TUALATIN, OREGON

By   
\_\_\_\_\_  
Mayor

ATTEST:

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

**COPY**

Sent for Recording  
By: \_\_\_\_\_

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 1 – Right-of-Way Dedication

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

**BEGINNING** at a point on the south line of said Grimm property that bears N88°58'37"W 678.90 feet and N01°28'26"E 529.58 feet from a 3-1/4 inch diameter aluminum disk marking the east quarter corner of said Section 21; thence N01°28'26"E, along a line parallel with and 62.00 feet west, when measured at right angles, of the east line of said Grimm property, 216.69 feet to an angle point; thence N43°45'09"W 35.49 feet to a point lying 30.00 feet south, when measured at right angles, of the north line of said Grimm property, said point being the westerly end of the line separating Parcels 1 and 2; thence S88°58'44"E along said line 87.20 feet to the east line of said Grimm property; thence S01°28'26"W along said east line 241.91 feet to the southeast corner of said Grimm property; thence N88°58'37"W along the south line of said Grimm property 62.00 feet to the **POINT OF BEGINNING**.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 1 applies contains 0.35 acre (15,315 square feet), more or less.

**COPY**

Sent for Recording  
By: \_\_\_\_\_

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 2 – Right-of-Way Dedication

All that portion of said Grimm property lying north of the following described line:

**BEGINNING** at the easterly end of the line separating Parcels 1 and 2, as described in Parcel 1; thence N88°58'44"W along said separation line and its westerly extension 358.94 feet (passing Point "A" at 347.70 feet) to the point of curvature of a 305.00 foot radius curve to the left; thence along said curve, through a central angle of 19°54'48" (which chord bears S81°03'52"W 105.47 feet), an arc distance of 106.00 feet to the point of reverse curvature of a 365.00 foot radius curve to the right; thence along said curve, through a central angle of 19°54'48" (which chord bears S81°03'52"W 126.22 feet), an arc distance of 126.86 feet to the point of tangency, said point lying on the most westerly north line of said Grimm property; thence N88°58'44"W along said north line and its westerly extension 142.55 feet to the terminus of the line being described.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 2 applies contains 0.38 acre (16,482 square feet), more or less.

COPY

Sent for Recording  
By: \_\_\_\_\_

## EXHIBIT A

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

### Parcel 3 – Permanent Slope and Utility Easement

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

All that portion of said Grimm property lying easterly and northeasterly of a line parallel with and 6.00 feet left, when measured at right angles, of the west line of Parcel 1, and lying south of a line parallel with and 6.00 feet south, when measured at right angles, of the line described in Parcel 1 separating Parcels 1 and 2.

EXCEPT THEREFROM Parcel 1.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 3 contains 0.03 acre (1,466 square feet), more or less.

### Parcel 4 – Permanent Slope and Utility Easement

All that portion of said Grimm property lying northerly of a line parallel with and 6.00 feet south, when measured at right angles, of the line described in Parcel 2.

EXCEPT THEREFROM Parcels 1 and 2.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 4 contains 0.06 acre (2,515 square feet), more or less.

**COPY**

Sent for Recording  
By: \_\_\_\_\_



**EXHIBIT A**

Tualatin Development Commission  
SW Leveton Drive Extension Project  
January 2, 2009  
Revised January 14, 2009

Rodney G. Grimm, Jeffery D. Grimm, Mark  
D. Grimm, and Daniel F. Grimm  
Assessor No. 2S 1 21A 002202  
Doc. No. 89-25318

**Parcel 5 – Temporary Construction Easement**

A portion of that property conveyed to Rodney G. Grimm, Jeffery D. Grimm, Mark D. Grimm, and Daniel F. Grimm by Warranty Deed recorded as Document No. 89-25318, Washington County Deed Records, located in the northeast quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tualatin, Washington County, Oregon, being more particularly described as follows:

The east 82.00 feet of said Grimm property, EXCEPT THEREFROM Parcels 1 and 3.

Parcel 5 applies contains 0.07 acre (3,097 square feet), more or less.

**Parcel 6 – Temporary Construction Easement**

That portion of said Grimm property described as follows:

**BEGINNING** at the northwest corner of said Grimm property; thence S01°42'26"W along the west line thereof 75.45 feet; thence, leaving said west line, S88°17'34"E 10.63 feet; thence N49°00'44"E 69.65 feet; thence N01°01'16"E 8.95 feet to a point lying 20.00 feet left, when measured at right angles, of the line described in Parcel 2; thence proceeding easterly, parallel with and 20.00 feet left of said line described in Parcel 2 to a point lying 20.00 feet left of Point "A", as described in Parcel 2; thence northerly at right angles 20.00 feet to Point "A"; thence proceeding westerly along said line described in Parcel 2 to the northwest corner of said Grimm property and the **POINT OF BEGINNING**, EXCEPTING THEREFROM Parcel 4.

Bearings are based Survey No. 31065, Washington County Survey Records.

Parcel 6 contains 0.17 acre (7,192 square feet), more or less.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*John V. Thatcher*

OREGON  
JULY 19, 1994  
JOHN V. THATCHER  
2681

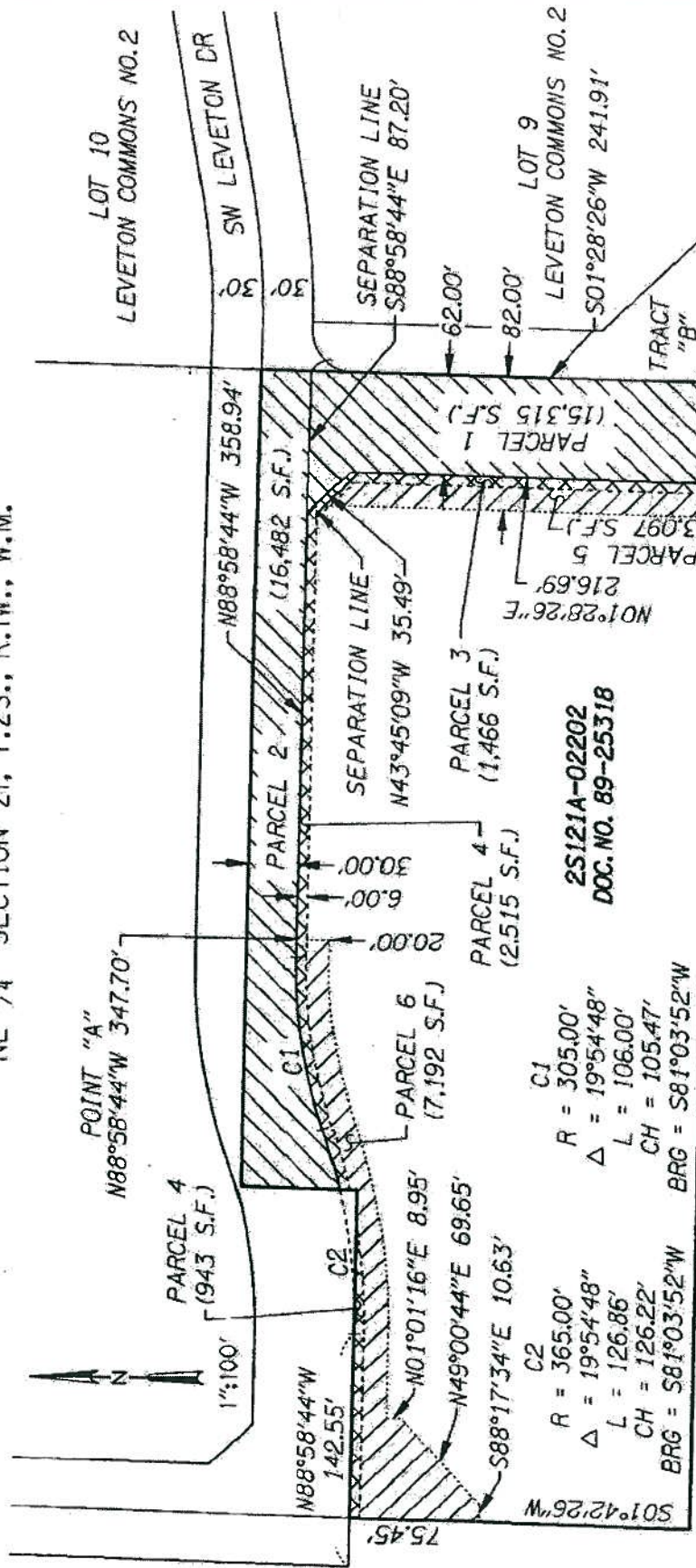
RENEWS: 7/01/10  
SIGNED: 1-15-09

**COPY**

Sent for Recording  
By: \_\_\_\_\_

# EXHIBIT B

ACQUISITION MAP  
TUALATIN DEVELOPMENT COMMISSION  
NE 1/4 SECTION 21, T.2S., R.1W., W.M.



	PARCEL 1 ROW DEDICATION AREA = 15,315 S.F. ±
	PARCEL 2 ROW DEDICATION AREA = 16,482 S.F. ±
	PARCEL 3 PERMANENT SLOPE & UTILITY EASEMENT AREA = 1,466 S.F. ±
	PARCEL 4 PERMANENT SLOPE & UTILITY EASEMENT AREA = 3,458 S.F. ±
	PARCEL 5 - TEMPORARY CONSTRUCTION EASEMENT AREA = 3,097 S.F. ±
	PARCEL 6 TEMPORARY CONSTRUCTION EASEMENT AREA = 7,192 S.F. ±

$R = 305.00'$   
 $\Delta = 19^\circ 54' 48''$   
 $L = 106.00'$   
 $CH = 105.47'$   
 $BRG = S81^\circ 03' 52'' W$

**2S121A-02202**  
**DOC. NO. 89-25318**

SW LEVETON DRIVE EXTENSION PROJECT  
 PAGE 1 OF 1  
 JANUARY 2, 2009  
 REVISED JANUARY 14, 2009

**CH2MHILL**

Sent for Recording  
By: \_\_\_\_\_

**COPY**



# STAFF REPORT

## CITY OF TUALATIN

Approved By Tualatin City Council  
Date 12-14-09  
Recording Secretary M. [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Paul Hennon, Community Services Department

**DATE:** December 14, 2009

**SUBJECT:** RESOLUTION AUTHORIZING ACQUISITION OF PARK LANDS  
USING LOCAL SHARE FUNDS FROM THE 2006 METRO  
NATURAL AREAS BOND MEASURE

---

### ISSUE BEFORE THE COUNCIL:

The Council will consider adopting a resolution authorizing acquisition of land located along the south bank of the Tualatin River using Local Share funds from the 2006 Metro Natural Areas Bond Measure.

### RECOMMENDATION:

The staff respectfully recommends that the Council adopt the attached resolution.

### EXECUTIVE SUMMARY:

The attached resolution authorizes acquisition of 3.44 acres of land with approximately 235 feet of Tualatin River frontage from a willing seller using Local Share funds from the 2006 Metro Natural Areas Bond Measure.

The property is located at 10511 SW Hazelbrook Road (see Exhibit A to the attached resolution). The property is included in the Tualatin River Greenway and is adjacent to the west boundary of Jurgens Park.

Acquisition of this land is consistent with objectives of the Park and Recreation Master Plan to preserve the scenic value of the Tualatin River, enhance water quality, preserve fish and wildlife habitat, and provide public pedestrian and bicycle access within the Tualatin River Greenway. The acquisition also furthers Council's Goal No. 5 to "Preserve Tualatin's unique and important natural features and resources."

STAFF REPORT: RESOLUTION AUTHORIZING ACQUISITION OF PARK LANDS  
ALONG THE TUALATIN RIVER USING LOCAL SHARE FUNDS FROM THE 2006  
METRO NATURAL AREAS BOND MEASURE

December 14, 2009

Page 2 of 2

On November 7, 2006, electors of Metro approved Ballot Measure 26-80 authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the "Measure").

The Measure provided that \$44 million from bond proceeds be expended by local parks providers for specified projects between April 1, 2007 and March 31, 2012. The Local Share Partner is a local government jurisdiction who has received approval for funding for projects as specified in the Measure.

The City of Tualatin is a Local Share Partner and on October 13, 2008 entered into an intergovernmental agreement with Metro in order to receive its share of the Measure funds, subject to the terms and conditions as provided for in the Measure including use of Local Share funds only for projects included on the Local Share Project List.

On February 27, 2006, prior to the November 7, 2006 election on the Measure, the Council passed Resolution No. 4487-06 approving the City of Tualatin's Local Share Project List which specified that Tualatin's Local Share funds would be used solely for land acquisition within the boundaries of the Tualatin River Greenway.

In Executive Session on September 14, 2009, the Council provided direction to enter into a purchase and sale agreement and to complete the due diligence process for the purpose of acquiring the property described in Exhibit A.

Closing is anticipated by mid January, 2010. The owner may retain possession of the property for up to 90 days following closing. After closing and taking possession, the next steps will be to take several actions to stabilize the property (e.g., remove barbed wire fencing, debris, and any hazardous conditions) in preparation of holding the land for future development including expansion of the Tualatin River Greenway trail).

Funds for master planning long-term use and site development of the property are not currently available. Possibilities for interim use consistent with the Measure and available resources will be considered over the coming months. The property is not in the City of Tualatin and staff will forward a request for annexation and appropriate land use approvals in the coming months.

**FINANCIAL IMPLICATIONS:**

The purchase price is \$400,000 and funding will be through Tualatin's Local Share of the 2006 Metro Natural Areas Bond Measure. Adequate funds have been budgeted in the FY09/10 budget.

**ATTACHMENTS**

1. Resolution

c: Members of the Tualatin Park Advisory Committee

RESOLUTION NO. 4947-09

RESOLUTION AUTHORIZING ACQUISITION OF PARK LANDS  
ALONG THE TUALATIN RIVER USING LOCAL SHARE FUNDS FROM THE  
2006 METRO NATURAL AREAS BOND MEASURE

WHEREAS the City of Tualatin has adopted the Tualatin Parks and Recreation Master Plan as part of the Tualatin Community Plan, and it has been incorporated by reference into the Tualatin Development Code; and

WHEREAS objectives of the Park and Recreation Master Plan are to preserve the scenic value of the Tualatin River, enhance water quality, preserve fish and wildlife habitat, and provide public pedestrian and bicycle access within the Tualatin River Greenway; and

WHEREAS an objective of the Tualatin Development Code is to conduct an advance land acquisition program to assure the future availability of park lands at the most reasonable cost; and

WHEREAS there is currently an opportunity to purchase, from a willing seller, 3.44 acres of land with approximately 235 feet of Tualatin River frontage that is immediately adjacent to the west boundary of Jurgens Park, as described in Exhibit A; and

WHEREAS on October 13, 2008 the City of Tualatin entered into an intergovernmental agreement with Metro in order to receive its Local Share of the 2006 Metro Natural Areas Bond Measure (“the Measure”) funds in the amount of \$786,506, subject to the terms and conditions as provided for in the Measure including use of Local Share funds only for projects included on the Local Share Project List.

WHEREAS on February 27, 2006, prior to the November 7, 2006 election on the Measure, the Council passed Resolution No. 4487-06 approving the City of Tualatin’s Local Share Project List which specified that Tualatin’s Local Share funds would be used solely for land acquisition within the boundaries of the Tualatin River Greenway; and

WHEREAS Tualatin’s Local Share funding remains available and is sufficient to cover the acquisition costs of the property described in Exhibit A; and

WHEREAS in Executive Session on September 14, 2009, the Council provided direction to enter into a purchase and sale agreement and to complete the due diligence process for the purpose of acquiring the property described in Exhibit A.

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

Section 1. The Council finds it is consistent for purposes of carrying out the Parks and Recreation Master Plan that property described in Exhibit A, attached and incorporated, be acquired.

Section 2. The City agrees to pay \$400,000 from its 2006 Metro Natural Areas Bond Measure Local Share funds for purchase of the property described in Exhibit A, which is attached and incorporated into this Resolution.

Section 3. The City Manager is authorized to execute the necessary documents to acquire the property described in Exhibit A.

INTRODUCED AND ADOPTED THIS 14<sup>th</sup> day of December, 2009.

CITY OF TUALATIN, TUALATIN, OREGON

BY:   
\_\_\_\_\_  
Mayor

ATTEST:  
BY:   
\_\_\_\_\_  
City Recorder

Approved as to legal form:

  
\_\_\_\_\_  
City Attorney

EXHIBIT A

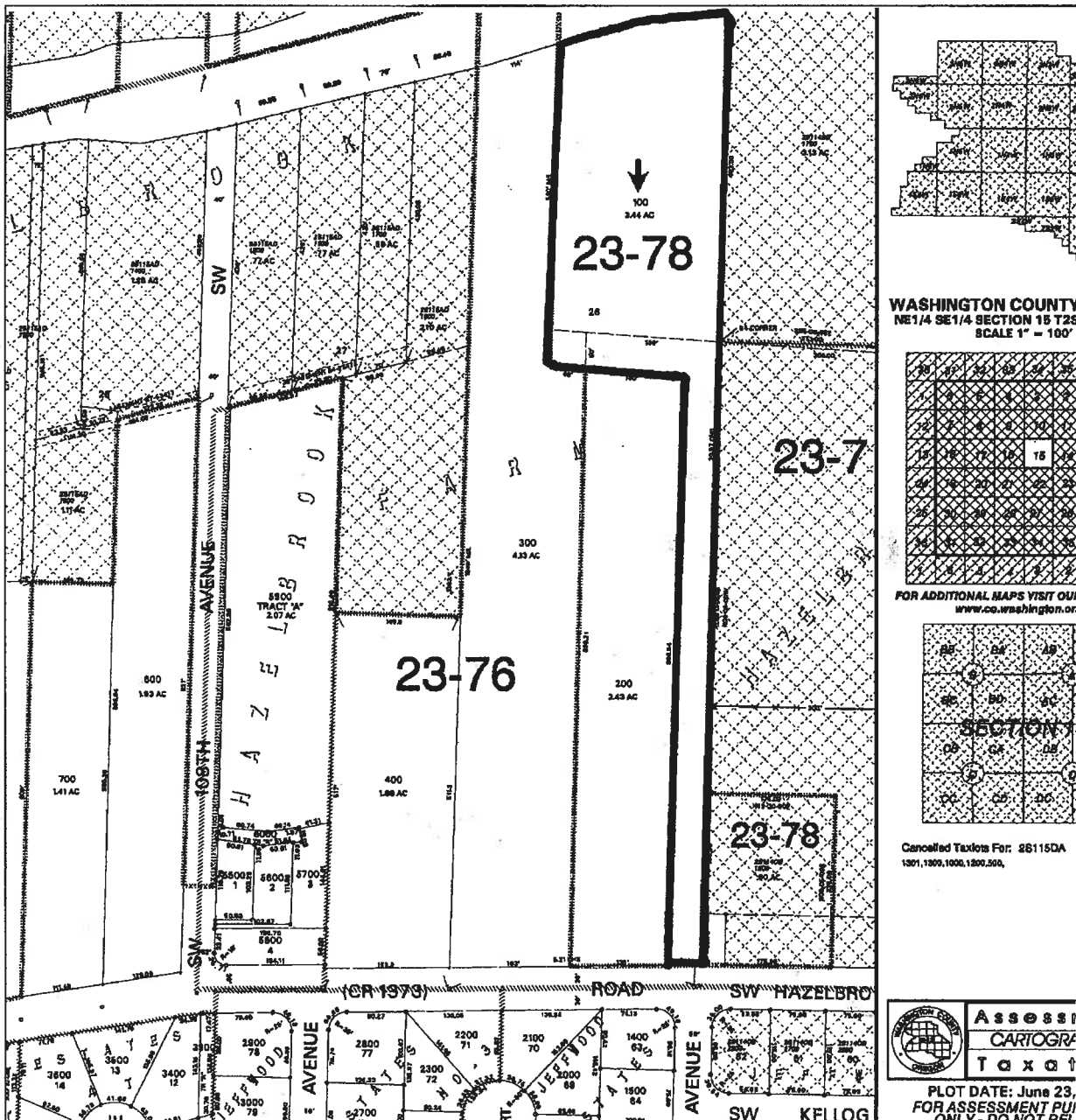
PROPERTY DESCRIPTION / LOCATOR MAP

Washington County

Tax Account Number: Map 2S 1 15DA, Tax lot 100

Acreage: 3.44

Street Address: 10511 SW Hazelbrook Road, Tualatin





## MEMORANDUM CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *SL*

**FROM:** Donald A. Hudson, Finance Director *DAH*

**DATE:** December 14, 2009

**SUBJECT:** A RESOLUTION ADOPTING THE CITY OF TUALATIN  
CONTINGENCY AND RESERVE POLICY

---

### ISSUE BEFORE THE COUNCIL:

Council will consider whether to approve and adopt a new policy related to operating contingencies and reserves.

### EXECUTIVE SUMMARY:

It is prudent to maintain a level of financial resources to protect against the need to reduce service levels due to temporary revenue shortfalls or unpredicted one-time expenditures. Currently, there is an informal recommended level of contingencies and reserves for many of the City's funds.

The Government Finance Officers Association recommends that governments establish a formal policy on the level of contingencies and reserves and provides guidelines for minimum levels to consider when setting such a policy. In addition, Local Budget Law dictates appropriate uses of contingency, reserves and unappropriated fund balance in the City's funds.

The City's current policy of 3% contingency and 12% reserve in the General Fund is proposed to be consolidated into a 15% contingency, to more accurately comply with recommended practices and Oregon budget language. Additionally, a 10% unappropriated fund balance level is recommended to provide the City with the necessary working capital until property tax revenue is received in November.

The policy allows for amounts higher than the recommended levels in order to deal with special operational or capital project needs. By no means are these levels or recommendations intended to replace prudent and responsible budget practices and



MEMORANDUM: A Resolution adopting the City's contingency and reserve policy

Date: December 14, 2009

Page 2 of 2

expenditures which can be ascertained and estimated during the budget process are to be included in the proposed and adopted budget.

**RECOMMENDATION:**

Staff recommends that the City Council approve the attached resolution adopting a formal contingency and reserve policy.

Attachment: Resolution

**RESOLUTION NO. 4948-09**

**A RESOLUTION ADOPTING THE CITY OF TUALATIN CONTINGENCY  
AND RESERVE POLICY**

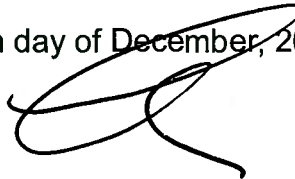
WHEREAS, It is prudent to maintain a level of financial resources to protect against the need to reduce service levels due to temporary revenue shortfalls or unpredicted one-time expenditures; and

WHEREAS, the Government Finance Officers Association, as well as bond rating agencies, recommend that governments establish a formal policy on the level of contingencies, reserves and unappropriated fund balance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TUALATIN that:

Section 1. The City Council adopts the attached City of Tualatin Contingency and Reserve Policy (Exhibit A).

INTRODUCED AND ADOPTED this 14th day of December, 2009.

BY   
\_\_\_\_\_  
Mayor

ATTEST:   
BY \_\_\_\_\_  
City Recorder

APPROVED AS TO LEGAL FORM

  
\_\_\_\_\_  
CITY ATTORNEY

## Exhibit A

# City of Tualatin Contingency and Reserve Policy

---

### **PURPOSE:**

To ensure that the City maintain a prudent level of financial resources to protect against the need to reduce service levels due to temporary revenue shortfalls or unpredicted one-time expenditures.

### **POLICY:**

To maintain fund balances of the various operating funds of the City at adequate levels to mitigate current and future risks from revenue shortfalls or unanticipated expenditures and at levels sufficient to protect the City's creditworthiness as well as its financial position from unforeseeable emergencies.

The City shall establish a contingency reserve to provide for unanticipated expenditures of a nonrecurring nature to meet unexpected increases in service delivery costs. In accordance with local budget law in the State of Oregon, the contingency reserve must be an appropriated budget item, though funds may not be directly disbursed from the contingency reserve. Amounts must be reclassified into another appropriation line through Council resolution (up to 15% of total appropriations of a fund) or a supplemental budget. The City shall maintain minimum contingency amounts for the following funds:

- General Fund – 15% of total appropriations
- Engineering and Building, Operations and all Utility Funds – 15% of operational requirements
- Capital Development Funds – net balance of the fund

Unappropriated Fund Balances are amounts that are set aside for future years and cannot be transferred by resolution or appropriated through a supplemental budget, unless necessitated by a qualifying emergency as defined in Oregon Revised Statutes (ORS) 294.371. The City should maintain the following Unappropriated Fund Balances:

- General Fund – 10% of total appropriations, to provide the City with the necessary working capital until property tax receipts are received from the County Treasurer in November.
- Engineering and Building – “net” balance of building related fees, as per ORS 455.210

Other individual funds may have contingency or reserve requirements set by the Tualatin Municipal Code, State Statutes, Bond Covenants or other legally binding documents.

The amounts recommended above may be exceeded as circumstances warrant due to special operational or capital project needs, but the City will adhere to the policy that expenditures which are anticipated, expected to occur during the fiscal year and can reasonably be ascertained and estimated should be part of the basic budgeted appropriations.



## STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager *[Signature]*

**FROM:** Doug Rux, Community Development Director *[Signature]*  
William Harper, Associate Planner *[Signature]*

**DATE:** December 14, 2009

**SUBJECT:** A RESOLUTION FOR A CONDITIONAL USE PERMIT FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100) (CUP-09-04)

---

### ISSUE BEFORE THE CITY COUNCIL:

A request for a Conditional Use Permit (CUP) that would allow a contractor's shop & equipment storage use at the Haltiner Building site in the Light Manufacturing (ML) Planning District at 6510 SW Rosewood Street (Tax Map 2S113AD, Tax Lot 100).

### RECOMMENDATION:

Staff recommends the City Council consider the staff report and supporting attachments and provide direction. If the Council chooses to adopt a resolution granting CUP-09-04 to allow a contractor's shop & equipment storage, staff recommends the following condition:

1. To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

### EXECUTIVE SUMMARY:

- This matter is a quasi-judicial public hearing.
- This matter is a Conditional Use Permit (CUP) request.
- The applicant is Myrv L. Chose, business owner of Glass Doctor dba Oregon City Glass, Inc. and the property owner is the Haltiner Rev Living Trust.

- The .91 acre subject property is the multi-tenant Haltiner Building located at 65100 SW Rosewood Street (Tax Map 2S1 13AD, Tax Lot 100) at the corner of SW 65<sup>th</sup> Avenue in the ML Planning District. Land uses in this area include a mix of light industrial uses such as Haltiner Sheet Metal, FedEx Package Delivery, Globe Lighting Supply and Fahey Machinery and the Industrial Business Park Overlay District (IBPOD) uses in the Meridian Business Center located across SW Rosewood to the north and SW 65<sup>th</sup> Avenue to the east. A Vicinity Map and a Site Map are included as Attachments A & B respectively. The applicant's materials including a site plan are included as Attachment C.
- The Glass Doctor is a contractor for commercial and residential window & glass replacement services and also performs mobile auto glass replacement & repair for customers at their home or workplace. The applicant states "We are and have always been a licensed contractor." The firm has seven employees and the operation is described as "...Our service technicians travel to our customer's homes and businesses to perform our services. So only 3 of our employees will normally be in the building during business hours. Because our company is mostly a mobile service, we have few walk-in customers." "Any walk-in work will be done inside the building, we will secure all vehicle and equipment inside the building, and nothing will be stored outside." (Attachment C, pg. 2).
- The site is currently improved with an existing 10,240 s.f. building, landscaping, parking, and loading area that was approved in AR-06-10. The site plan shows the Glass Doctor contracting use occupying approximately 5,120 s.f. of the eastern portion of the building (the western portion of the building is available for a future tenant), and utilizing a portion of the on-site parking and loading areas. (Attachment C-Site Plan.)
- A contractor's shop & equipment storage use is a conditional use in the ML Planning District [TDC 60.040(1)(d)]. A contractor's office is a permitted use in the ML District [60.020(3)].
- The Applicant has prepared a narrative that describes the proposed conditional use and addresses the Conditional Use Permit approval criteria (Attachment C). Staff has reviewed the Applicant's materials and included pertinent excerpts in the Analysis and Findings section of this report (Attachment D). Attachment E is a Memorandum prepared by the Engineering Division addressing transportation and other public facilities associated with the proposed conditional use.
- The Engineering Division reviewed the Applicant's submitted Traffic Impact Letter that showed the proposed conditional use will increase the AM Peak by 6 (six) trips, decrease the PM Peak by 9 (nine trips) from the currently allowed Architectural Review (AR-06-10), as shown in the following table:

10,240 s.f. Bldg	AM Peak	PM Peak
AR-06-10 (Speculative Industrial Bldg)	16	15
CUP-09-04 Contractor's Shop & Equipment Storage	22	6

(See Attachment E for the Engineering Division Memorandum and Attachment C for the Applicant's Materials including the Traffic Impact Letter.)

- The City Council has approved conditional use permits for contractor's shops and equipment storage uses in the ML and MG Planning Districts, including CUP-06-01 for American Classic Deck & Fence, CUP-06-02 for Columbia Roofing & Sheet Metal and CUP-07-01 for Oswego Drywall. The Haltiner Sheet Metal business located in the attached building was approved for a light metal fabrication conditional use in CUP-91-14.
- The applicable policies and regulations that apply to the proposed conditional use in the ML Planning District include: TDC 7.040 ML Planning District Objectives; TDC Chapter 32 - Conditional Uses; TDC 60.020 Light Manufacturing (ML) Planning District Permitted Uses; TDC 60.040 ML Planning District Conditional Uses; and TDC Chapter 73 - Community Design. The Analysis and Findings (Attachment D) considers the applicable policies and regulations.
- Before granting the proposed CUP, the City Council must find that the use is allowed as a conditional use in the ML Planning District and the criteria listed in TDC 32.030 are met. The Analysis and Findings (Attachment D) examines the application with respect to the criteria for granting a CUP.
- Attachment F is the Resolution.

**OUTCOMES OF DECISION:**

Approval of the Conditional Use Permit request will result in the following:

1. Allows the applicant to operate the commercial and residential glass contracting activity with service vehicles and material storage inside the building on the subject property and the off-site auto glass repair and replacement activity to be based at this location. The subject property is located in an industrial area and the applicant will utilize an existing industrial building with parking, loading and landscaping improvements previously approved in Architectural Review AR-06-10.
2. The proposed Glass Doctor business with the recommended condition requiring indoor storage of vehicles and materials associated with the contractor's shop & equipment operation is compatible with industrial developments in the area.

Denial of the Conditional Use Permit request will result in the following:

1. The applicant will be restricted from conducting the contractor's shop and equipment storage activity on the subject property. A contractor's office will remain a permitted use.

**ALTERNATIVES TO RECOMMENDATION:**

The alternatives to the staff recommendation for the Council are:

- Approve the proposed Conditional Use Permit with conditions the Council deems necessary.
- Deny the request for the proposed Conditional Use Permit with findings that state which criteria in TDC 32.030 the Applicant has failed to meet.
- Continue the discussion of the proposed Conditional Use Permit and return to the matter at a later date.

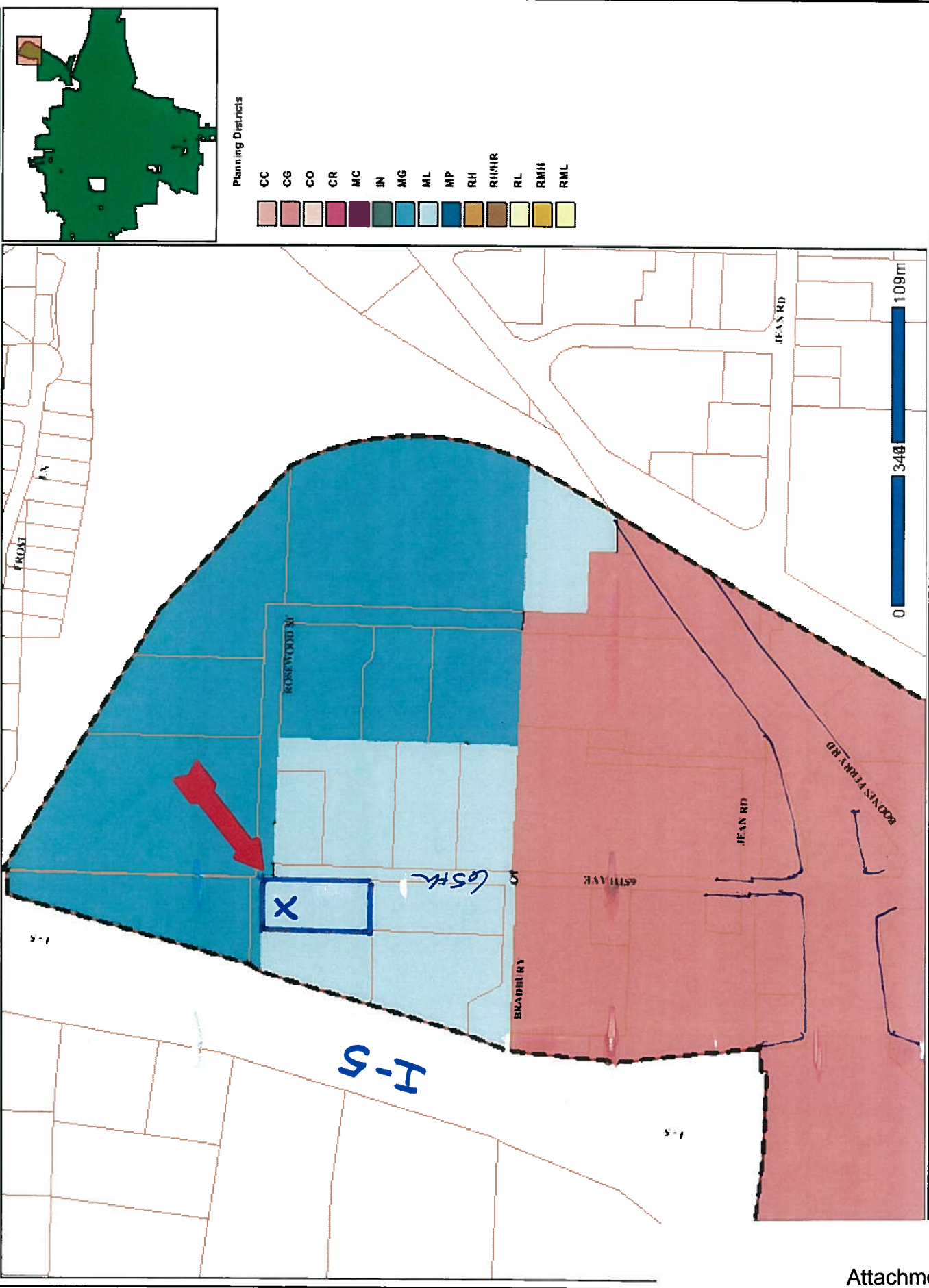
**FINANCIAL IMPLICATIONS:**

Revenue for Conditional Use Permits has been budgeted for Fiscal Year 09/10 and the Applicant submitted payment on October 16, 2009, to process CUP-09-04 per the City of Tualatin Fee Schedule.

**PUBLIC INVOLVEMENT:**

The Applicant conducted a Neighbor/Developer meeting at the 6510 SW Rosewood Street on September 30, 2009, at 6:00 pm to explain the CUP proposal to neighboring property owners and to receive comments. No residents or property owners attended the meeting.

- Attachments:**
- A. Vicinity Map
  - B. Site Plan
  - C. Applicant's Materials and Supporting Information including Lancaster Engineering Traffic Impact Letter (October 22, 2009)
  - D. Analysis and Findings
  - E. Engineering Division Memorandum
  - F. Resolution

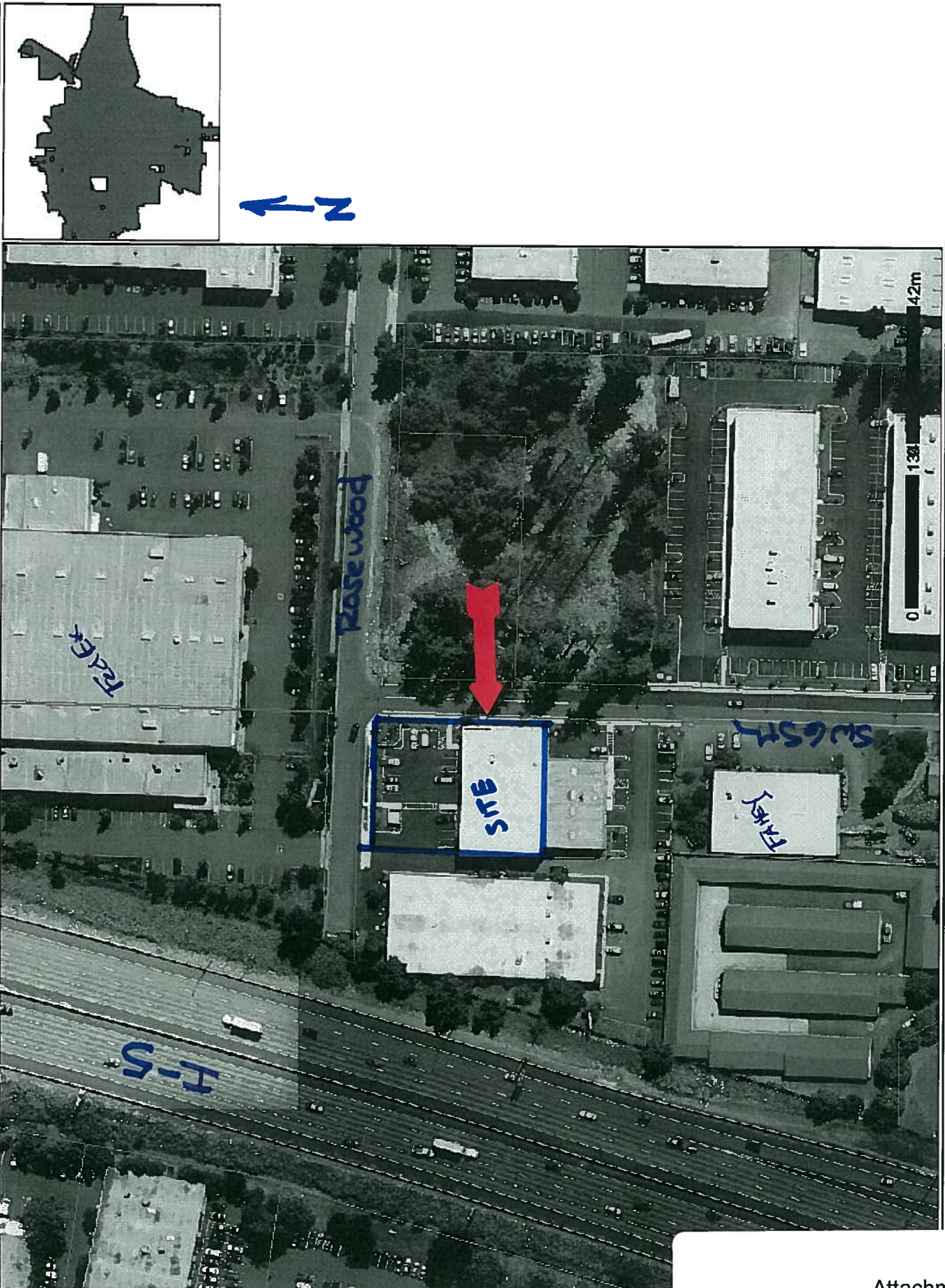


Planning Districts

CC	CG	CO	CR	MC	IN	MG	ML	MP	RH	RJHR	RL	RMH	RML
----	----	----	----	----	----	----	----	----	----	------	----	-----	-----



TualMap: Area of Interest Map





# City of Tualatin

www.ci.tualatin.or.us

## APPLICATION FOR CONDITIONAL USE

City of Tualatin Community Development Department - Planning Division  
18880 S.W. Martinuzzi Avenue  
Tualatin, OR 97142  
503-691-3026

Case No. CUP-09-04  
Fee Rec'd. 1345.00  
Receipt No. 139071  
Date Rec'd. 10-16-09  
By [Signature]

PLEASE PRINT IN INK OR TYPE

Code Section 60.040(1)(d) Conditional Use to allow Contractor Shop + Equipment Storage  
Planning District ML  
Owner's Name HATTNER REY Living Trust Phone 503 625 0863  
RICHARD / KAREN S. HATTNER TRS.  
Owner's Address 73812 S.W. Robson Ter, Sherwood OR. 97140  
(street) (city) (state) (ZIP)

Owner recognition of application:

[Signature]  
Signature of owner(s)

Applicant's Name: MYRVIN L Chose Phone 503 572 3843  
Applicant's Address 2886 Tukwila Dr, Warrenton OR  
(street) (city) (state) (ZIP) 97141

Applicant is: Owner  Contract Purchaser  Developer  Agent

Other

Contact person's name SAME Phone: \_\_\_\_\_

Contact person's address \_\_\_\_\_  
(street) (city) (state) (ZIP)

Assessor's Map Number AS 113AD-00100 Tax Lot Number(s) Rosewood Acre tracts lot 1 & part 91

Address of Property 6510 S.W. Rosewood St. #101 Lot Area 91 acres

Existing Buildings (Number and Type) concrete tilt up

Current Use VACANT

As the person responsible for this application, I, the undersigned hereby acknowledge that I have read the above application and its attachments, understand the requirements described herein, and state that the information supplied is as complete and detailed as is currently possible, to the best of my knowledge.

Name M. L. Chose Phone 503 572 3843  
Address same Date 8/17/09



**A DBA of Oregon City Glass, Inc.  
13851 S. Beaver Creek Rd., B101  
Oregon City, OR 97045**

October 22, 2009

**Criteria for Review of Conditional Use  
Responses**

**A) Yes, we are requesting a conditional use based on the TDC, section 60.040, part (d) Contractor's shops and equipment storage.**

We are and have always been a licensed contractor. We have always provided our customers with quality window & glass repair and sales. The residential & commercial portion of our business currently accounts for 70% of our total sales and we expect that percentage to continue to increase over the next 3-5 years. The other 30% of our business is auto glass installation, which is primarily mobile in nature. Few customers bring their vehicles to our location.

**B) The characteristics of the site are suitable for the proposed use. We are attempting to lease an existing building consisting of 5120 sq ft. We will have a showroom area of no more than 256 sq ft. We have negotiated with the lessor for additional designated parking spaces behind the building to virtually eliminate street parking. A majority of our business is done off site, and the work that is completed on site will be done inside the building.**

**C) We will have little to no impact on the items listed under C. We will be occupying an existing building. With only 7 employees, we will have very minimal impact on any existing transportation systems, public facilities or existing services. Our service technicians travel to our customer's homes and businesses to perform our services, so only 3 of our employees will normally be in the building during business hours. Because our company is mostly mobile service, we have few walk-in customers.**

**D) The proposed use will not have any noticeable effect on the surrounding area. We are offering to lease an existing building to which we have requested no exterior changes. Any walk-in work will be completed inside the building, we will secure all vehicles and equipment inside the building, and nothing will be stored outside. We are respectful of our neighbors; we do not have noisy equipment and we do not store any hazardous chemicals. We don't have extended or unreasonable office hours. There were no concerns voiced by adjacent property owners at our Neighborhood/Developer meeting.**

**E) Our proposed use of this site satisfies the objectives of the Tualatin Community Plan in that we will be providing a benefit to the general welfare of the public and filling a probable need in the community. By relocating to this site, we will be able to continue to provide the local community with a reliable, trustworthy and dedicated existing business. As a company, we will gain improved accessibility to the surrounding freeways allowing us to service a greater number of customers on any given workday.**

Thank you for your consideration.

# **GLASSDOCTOR<sup>®</sup>**

H O M E • A U T O • B U S I N E S S

We fix your panes!<sup>®</sup>

**A DBA of Oregon City Glass, Inc.  
13851 S. Beaver Creek Rd., B101  
Oregon City, OR 97045**

City of Tualatin  
City Council

October 15, 2009,

To whom it may concern,

Regarding our application for conditional use in the structure located at 6510 SW Rosewood St., Suite 101A, Lake Oswego, OR 97034.

We have been an established and reliable business entity in the City of Tualatin for 20+ years. We have supported the local economy by being a top notch service provider to the citizens of Washington & Clackamas Counties, a local employer and a community supporter through our participation in the Chamber Of Commerce, Tualatin Crawfish Festival and sponsorships of Tualatin athletic teams.

In the current economic climate, and due to the fact that our existing leases were expiring, we have decided to consolidate our locations to reduce overhead. That is why we are currently pursuing this conditional use. Consolidation will eliminate costly overhead and allow us to hopefully maintain our current workforce without layoffs.

We currently have a staff of 7 full time employees consisting of 3 office admin staff and 4 service technicians. The service technicians are dispatched to their schedule of jobs in the am and upon finishing their assigned tasks, they commute directly to their homes as they drive company vehicles.

Our business consists of 70% home or business service and repair to glass, windows, shower doors, tabletops, screens and storefronts. The other 30% of our business is auto glass. Installation and repair of auto glass has become a very cut-throat and unprofitable business model due to lack of state installation requirements & regulations. Over the last several years, the industry has become almost entirely a mobile installation business. We have had to adapted to that trend and currently only have approximately 2 cars brought to our location on any given day. The vast majority of consumers require mobile installation simply for convenience. We expect that trend to continue.

For these reasons, we believe our business will have a very minor impact on the existing traffic in and around the proposed location.

With 70% of our business focusing on home and business related glass service, we are licensed as a General Contractor with the State of Oregon. Therefore, we are requesting a conditional use based on Section 60.040 of the TDC listed under section (d) Contractor's shops and equipment storage.

Please note: All business will be done within the confines of the building. We will not be storing any product or vehicles outside.

In conclusion, the vast majority of our daily operations are performed away from our location. When we are on site, we do not have noisy equipment and we are respectful of our neighboring businesses.

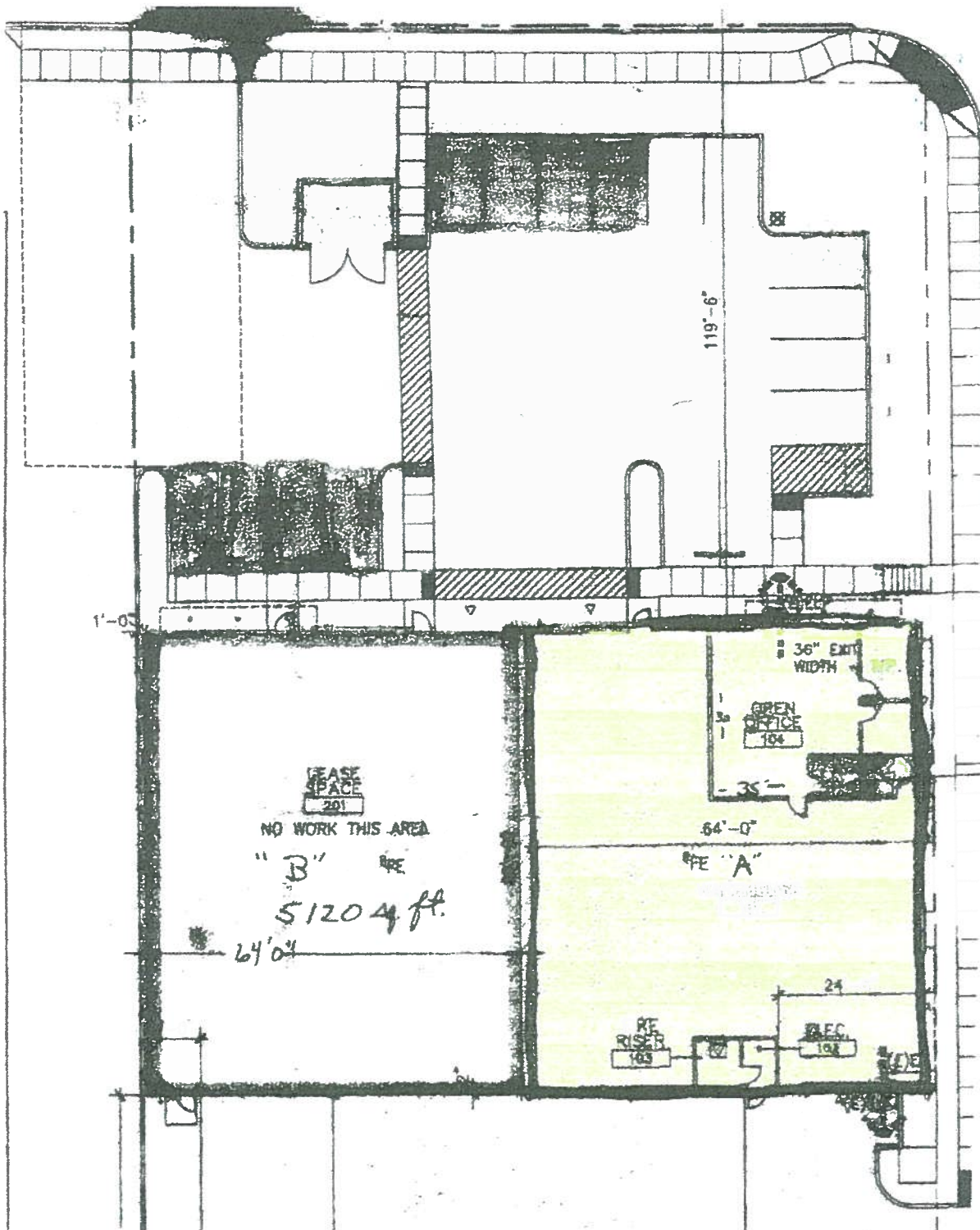
We respectfully ask that the council considers allowing our conditional use for this location.

Regards,

A handwritten signature in black ink that reads "Myrv Chose". The signature is written in a cursive, flowing style.

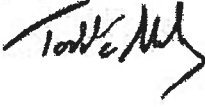
Myrv Chose  
Owner, Glass Doctor  
(503) 572-3843  
(503) 723-9714 fax

EXHIBIT A





## TECHNICAL MEMORANDUM

**TO:** Myrv Chose, Owner, Glass Doctor  
**FROM:** Todd E. Mobley, PE, PTOE   
**DATE:** October 22, 2009  
**SUBJECT:** Glass Doctor Conditional Use Application  
Transportation Analysis



321 SW 4th Ave., Suite 400  
Portland, Oregon 97204  
phone: 503.248.0313  
fax: 503.248.9251  
lancasterengineering.com

### INTRODUCTION

As you know, Glass Doctor is a glass business that has proposed to relocate and occupy half (5,120 square feet) of the existing building at 6510 SW Rosewood Street. Due to the nature of your business, a Conditional Use Permit (CUP) is required pursuant to Tualatin Development Code (TDC) Section 60.040(d). As part of that application, the City of Tualatin has requested a transportation analysis that examines the potential increase in trip generation that may be possible as a result of the CUP. City planning staff has indicated that the CUP will run with the land and the entire building, not the tenant (Glass Doctor) or the amount of space occupied by that tenant. For this reason, trip generation of the following scenarios is examined. The site is in the Light Manufacturing (ML) planning district.

- Glass Doctor occupying 5,120 square feet.
- A similar tenant occupying the entire building (10,240 square feet) that could make use of the CUP for "contractor's shops and equipment storage".
- Tenancy of a user that is allowed as an outright permitted use under the TDC, occupying either all or a portion of the subject building.

### TRIP GENERATION

To estimate the trip generation associated with the proposed CUP, several sources were used. For the proposed Glass Doctor tenancy, the characteristics of the business were used. This was also used to estimate trip characteristics in general for a contractor's shop and equipment storage. To estimate trips from a tenant permitted as an outright use, trip rates from the manual *Trip Generation*, Eighth Edition, published by the Institute of Transportation Engineers (ITE). This is discussed in more detail below.

In each scenario, the trip generation during the morning and evening peak hours is estimated rather than the daily trip generation. Lancaster Engineering has conducted a number of recent traffic studies for other developments in the area, including the adjacent Hale-Meridian Business Park and the recently completed Panda Express to the south on SW 65<sup>th</sup> Avenue. Those studies have shown that the evening peak hour is the critical time period with respect to the operation of the surrounding transportation system, particularly at the intersection of 65<sup>th</sup> Avenue and Lower Boones Ferry Road.



Myrv Chose  
October 22, 2009  
Page 2 of 4

By calculating the peak hour trip generation of the proposed CUP, a direct comparison can be made between the three scenarios listed above as they would relate to peak-hour traffic impacts.

#### *Glass Doctor*

As stated in other application materials for the proposed CUP, Glass Doctor has a total of seven employees. Three are office staff and four service technicians. The service technicians are dispatched with a schedule of jobs for the day and do not return to the office, as they use their vehicles to commute home directly.

To estimate the peak hour trip generation for the proposed use (occupying 5,120 square feet of the existing building) the worst-case assumption was made that all seven employees would arrive at the site during the morning peak hour, all in separate vehicles. In addition, it was assumed that the four service technicians would exit the site during the same peak hour. During the evening peak hour, it was assumed that all office employees would leave the site in separate vehicles during the evening peak hour. This results in a total of 11 trips during the morning peak hour and three trips during the evening peak hour. To the extent that employee arrivals and departures do *not* coincide with the peak hours, the actual trip generation will be less than what is reported here.

#### *Contractor's Shops & Equipment Storage*

Since there is not a land-use category in the ITE *Trip Generation* manual that accurately describes this use, the trip characteristics for Glass Doctor were examined. This type of operation would likely be common for a contractor who needs an office with equipment storage, but conducts the majority of work off site. Also, it is likely that the morning peak hour would have a higher trip rate with both office and field employees arriving for work. The end of the work day tends to be more variable as employees finish at varying times and at varying locations, some employees may not return to the office such as the Glass Doctor technicians, etc. Given the lack of data in the ITE manual, the Glass Doctor characteristics were used as a reasonable approximation of a similar use.

If a contractor with similar use characteristics were to occupy the entire building, the trip generation would be twice that of Glass Doctor, or 22 trips during the morning peak hour and six trips during the evening peak hour.

#### *Outright Permitted Use*

The uses allowed in the existing ML planning district are described in detail in TDC section 60.020. These uses were examined to determine the number of trips that could be generated by a tenant that would be allowed as a permitted use. TDC 60.020(10) shows that "offices for executive, administrative, and professional uses related to the sale or service of industrial products" are allowed. The trip generation of such a use was estimated using trip rates from land-use code 710, General Office, in the ITE *Trip Generation* manual.

2e

Myrv Chose  
October 22, 2009  
Page 3 of 4

The trip generation calculations show that a total of 16 trips would be generated during the morning peak hour and 15 trips during the evening peak hour if the entire building were occupied as office. The results of the trip generation calculations for all three scenarios are shown in the table below and detailed trip generation calculations for the office use are attached to this memo.

	AM Peak Hour		PM Peak Hour	
	Trips	Trip Rate <sup>1</sup>	Trips	Trip Rate <sup>1</sup>
<i>Proposed Conditional Use</i>				
Glass Doctor – 5,120 sq ft	11	2.15	3	0.59
<i>Proposed Condition Use (Entire Building)</i>				
Contractor's Shops & Storage – 10,240 sq ft	22	2.15	6	0.59
<i>Outright Permitted Use (Entire Building)</i>				
Offices related to sale or service of industrial products – 10,240 sq ft	16	1.55	15	1.49
<i>Potential net increase in trips from CUP</i>	6	-	-9	-

<sup>1</sup> Trips per 1,000 square feet of floor area

As shown in the table above, the proposed CUP will result in a morning peak hour trip rate that is slightly higher than what would be possible for a permitted use in the ML planning district. However, the trip rate would be *lower* during the evening peak hour, which is the critical period for the operation of the surrounding transportation system.

1e

Myrv Chose  
October 22, 2009  
Page 4 of 4

### SUMMARY & CONCLUSIONS

The proposed CUP has the potential to generate more trips during the morning peak hour than a use that is permitted outright in the current ML planning district. However, the CUP will result in a potential *decrease* in trips during the evening peak hour. In recent studies conducted by Lancaster Engineering for the nearby Hale-Meridian Business Park and the Panda Express restaurant, the evening peak hour has been the critical period for operation of the transportation system, in particular, the intersection of 65<sup>th</sup> Avenue at Lower Boones Ferry Road. In fact, the intersection was shown to operate near or at capacity during the evening peak hour, but approximately 30 percent below capacity during the morning peak hour. As such, a small net increase of only six in trips during the morning peak hour can easily be accommodated.

Because the proposed CUP will result in a net decrease in trips from the subject site during the critical evening peak hour, no further analysis is necessary and no mitigations are recommended.



EXPIRES: 12/31/2010

2e

### TRIP GENERATION CALCULATIONS

*Land Use:* General Office Building  
*Land Use Code:* 710  
*Variable:* 1000 Sq Ft Gross Floor Area  
*Variable Value:* 10.24

#### AM PEAK HOUR

*Trip Rate:* 1.55

	Enter	Exit	Total
Directional Distribution	88%	12%	
Trip Ends	14	2	16

#### PM PEAK HOUR

*Trip Rate:* 1.49

	Enter	Exit	Total
Directional Distribution	17%	83%	
Trip Ends	3	12	15

#### WEEKDAY

*Trip Rate:* 11.01

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	56	56	112

#### SATURDAY

*Trip Rate:* 2.37

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	12	12	24

## ATTACHMENT D

### CUP-09-04: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 32.030 must be met if the proposed Conditional Use Permit (CUP) for a contractor's shop & equipment storage is to be granted. The Applicant prepared a narrative that addresses the CUP criteria (Attachment C). Staff has reviewed the Applicant's material and included pertinent excerpts below.

**1. The use is listed as a conditional use in the underlying planning district.**

The Applicant states: "Yes, we are requesting a conditional use based on the TDC 60.040, part (d) Contractor's shop & equipment storage."

Contractor's shops and equipment storage is allowed as a conditional use in the Light Manufacturing (ML) District, as stated in TDC 60.040(1)(d). The proposed site is in the ML Planning District.

Criterion 1 is met.

**2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.**

**Size:** The subject property is .91 acres [39,640 square feet (s.f.)] in size. The site is currently developed with a 10,240 square foot building with parking, loading and landscaping improvements with access to SW Rosewood Street. The applicant proposes to occupy a 5,120 s.f. tenant space and keep the contractor/service vehicles and material storage entirely within the building. The site size is suitable for the use.

**Shape:** The shape of the subject property is a rectangular lot and is suitable for the proposed use. Access to the building is via a shared driveway from SW Rosewood Street to the north.

**Location:** The site is north of SW Lower Boones Ferry Road at the southwest corner of SW 65<sup>th</sup> Avenue and SW Rosewood Street in the ML Planning District. On the south and west, the subject site adjoins other industrial properties including the Haltiner Sheet Metal business and Globe Lighting Supply. The FedEx Package Delivery facility is located across SW Rosewood Street to the north and vacant land approved for future buildings of the Meridian Business Park is to the east across SW 65<sup>th</sup> Avenue. The site's location is in an area characterized by existing light industrial and wholesaling uses. The site's location is suitable for the proposed conditional use.

- Topography: The topography of the site is flat and is suitable for the proposed conditional use.
- Improvements: The site is improved with a 10,240 s.f. industrial building with 35 (total) parking spaces, loading spaces and site landscaping improvements approved in Architectural Review AR-06-10.
- Natural Features: The site does not contain natural features.

The applicant states "The characteristics of the site are suitable for the proposed use. We are attempting to lease an existing building of 5,120 sq. ft. We will have a showroom area of no more than 256 sq. ft. We have negotiated with the lessor for additional designated parking spaces behind the building to virtually eliminate street parking. A majority of our business is done off site, and the work that is completed on site will be done in the building." (Attachment C, pp 2-3) Given the features and improvements of the subject property listed above, the characteristics of the site are suitable for the proposed uses.

Criterion 2 is met.

**3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.**

The applicant states "We will have little or no impact on the items listed under "C" (Criterion 3). We will be occupying an existing building. With only 7 employees, we will have very minimal impact on any exiting transportation systems, public facilities or existing services."

The Engineering Division provides some of the following information in Attachment E.

Transportation

The site is adjacent to SW 65th Avenue & SW Rosewood Street. SW 65th Avenue is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. SW Rosewood Street is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. The SW Lower Boones Ferry Road/SW 65th Avenue Intersection is an ODOT controlled intersection. SW Lower Boones Ferry Road east of 65th Avenue is a Clackamas County facility, and west of 65th Avenue is an ODOT facility.

The Transportation Analysis states, "in recent studies conducted by Lancaster Engineering for the nearby businesses, the evening peak hour has been the critical period for operation of the transportation system, in particular, the intersection of 65th Avenue at Lower Boones Ferry Road. In fact, the intersection was shown to operate near or at capacity during the evening peak house, but approximately 30 percent below capacity during the morning peak hour. As such, a small net increase of only 6 trips during the morning peak hour can easily be accommodated. Because the proposed

CUP will result in a net decrease in trips from the subject site during the critical evening peak hour, no further analysis is necessary and no mitigations are recommended."

Following are the trip generation numbers for tax lot #100:

Existing AR Approval:

10,240 SF Speculative Industrial Building  
16 AM Peak Hour Trips  
15 PM Peak Hour Trips

Conditional Use:

10,240 SF Contractor's Shop & Equipment Storage  
22 AM Peak Hour Trips  
6 PM Peak Hour Trips

(See Attachment E for the Engineering Division Memorandum and Attachment D for the Applicant's Materials including the Traffic Impact Letter.)

Traffic generation from the proposed conditional use will not limit, impair or preclude surrounding properties from primary uses allowed in the ML Planning District.

Public Facilities & Services:

Water: A connection to the City system is currently under construction or already exists.

Sanitary Sewer: A connection to the City system already exists.

Storm Drainage: A connection to the City system already exists.

Based on Staff review and analysis of the application, the proposed conditional use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Criterion 3 is met.

**4. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.**

The subject property is in the ML Planning District. Surrounding Planning/Zoning Districts and land uses include:

N: MG FedEx (Across SW Rosewood Street)  
E: MG Undeveloped-Future site of Meridian Business Park Buildings G&H  
(Across SW 65<sup>th</sup> Ave.)  
S: ML Haltiner Sheet Metal Building  
W: ML Globe Lighting Supply

There are no residential areas adjoining the subject property. The area on both sides of SW 65<sup>th</sup> Avenue is characterized by industrial development in the ML Planning District. North of SW Rosewood Street is the MG Planning District. The buildings in the vicinity

of the subject building are light industrial buildings with manufacturing and wholesaling uses.

The Applicant states: "the proposed use will not have any noticeable effect on the surrounding area. Any work will be completed inside the building, we will secure all vehicles and equipment inside the building and nothing will be stored outside. We are respectful of our neighbors; we do not have any noisy equipment and we do not store any hazardous chemicals. We don't have extended or unreasonable office hours. There were no concerns voiced by adjacent property owners at our Neighbor/Developer meeting." (Attachment C)

The Glass Doctor operation proposes keeping vehicles, materials and equipment inside the building, which will eliminate the need for outdoor storage. Storage of materials and equipment in outdoor areas would be unsightly to the developments on adjoining properties and to the site's adjoining frontages with SW Rosewood Street and SW 65<sup>th</sup> Avenue and not meet Criterion #4. TDC 73.160(4)(b) requires outdoor storage in industrial development "...shall be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping." There is no approved outdoor storage area or enclosure on the Haltiner Building site. Approval of a conditional use permit on the site will allow other concurrent or succeeding contractor's firms that may be interested in conducting their operation with outdoor storage. To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

Based on the applicant's submitted information and review by staff, with the existing site improvements, and the condition of approval requiring vehicle, materials & equipment storage to be conducted inside the subject building, it is concluded that the proposed use will not alter the character of the surrounding area in any manner which substantially limits, impairs or precludes the surrounding properties for the primary uses listed in the underlying Planning Districts.

Criterion 4 is met.

**5. The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.**

The Applicant states: "Our proposed use of this site satisfies the objectives of the Tualatin Community Plan in that we will be providing a benefit to the general welfare of the public and filling a probable need in the community."

Following is a discussion of the objective (in **bold face type**) that is applicable to the proposed conditional use.

**7.030(1) Encourage new industrial development.**

This proposal is for a contractor's shop and equipment storage use in an existing facility, which is an industrial use. This use promotes the objective stated above.

Staff concurs that the proposal is consistent with plan policies.



Criterion 5 is met.

Based on the application and the above findings and analysis and with the recommended condition of approval listed below, the Glass Doctor conditional use permit application for a contractor's shop and equipment storage use meets the criteria of TDC 32.030.

Recommended Condition of Approval:

1. To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

# MEMORANDUM

**DRAFT**

DATE: November 30, 2009

TO: Will Harper, AICP  
Associate Planner

FROM: Dayna Webb, PE  
Project Engineer

SUBJECT: CUP-09-04 – To allow a Contractor's Shop & Equipment Storage in ML  
6510 SW Rosewood Street

---

**TDC 32.030 Criterion (c): The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.**

The site is adjacent to SW 65<sup>th</sup> Avenue & SW Rosewood Street. SW 65<sup>th</sup> Avenue is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. SW Rosewood Street is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. The SW Lower Boones Ferry Road/SW 65<sup>th</sup> Avenue Intersection is an ODOT controlled intersection. SW Lower Boones Ferry Road east of 65<sup>th</sup> Avenue is a Clackamas County facility, and west of 65<sup>th</sup> Avenue is an ODOT facility.

The site has received an approval with conditions as a part of the Architectural Review (AR-06-10 Haltiner Building) process for a 10,240 sf building on the site. The applicant has submitted a Transportation Analysis, dated October 22, 2009, by Lancaster Engineering.

Transportation Systems:

A 'reasonable worst case' allowed use on tax lot 100 would be the existing 10,240 sf speculative industrial building – which includes offices related to the sale and service of industrial products. The applicant is requesting a conditional use permit to allow a contractor's shop and equipment storage.

The proposed conditional use would increase the AM Peak Hour trips by 6 and decrease the PM Peak Hour trips by 9.

Therefore, the conditional use would result in fewer PM Peak Hour Trips than the 'reasonable worst case' scenario.

The Transportation Analysis states, "in recent studies conducted by Lancaster Engineering for the nearby businesses, the evening peak hour has been the critical period

Page 2

for operation of the transportation system, in particular, the intersection of 65<sup>th</sup> Avenue at Lower Boones Ferry Road. In fact, the intersection was shown to operate near or at capacity during the evening peak house, but approximately 30 percent below capacity during the morning peak hour. As such, a small net increase of only 6 trips during the morning peak hour can easily be accommodated. Because the proposed CUP will result in a net decrease in trips from the subject site during the critical evening peak hour, no further analysis is necessary and not mitigations are recommended.

Following are the trip generation numbers for tax lot #100:

Existing AR Approval:

10,240 SF	Speculative Industrial Building
16	AM Peak Hour Trips
15	PM Peak Hour Trips

Conditional Use:

10,240 SF	Contractor's Shop & Equipment Storage
22	AM Peak Hour Trips
6	PM Peak Hour Trips

Public Facilities & Services:

*Water:* A connection to the City system already exists.

*Sanitary Sewer:* A connection to the City system already exists.

*Storm Drainage:* A connection to the City system already exists.

Conclusion:

The City Engineer generally agrees with the submitted traffic information. Additionally, the City Engineer agrees that the development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Please let me know if you have questions, I can be reached at 503-691-3036.

**DRAFT**

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION FOR A CONDITIONAL USE PERMIT FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on December 14, 2009, upon the application of Myrv L. Chose, business owner of Glass Doctor dba Oregon City Glass, Inc.; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

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

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote \_-]; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff report, dated December 14, 2009, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

Section 1. The Glass Doctor dba Oregon City Glass, Inc. is granted a Conditional Use Permit that would allow contractor's shop & equipment storage in the Light Manufacturing (ML) Planning District at 6510 SW Rosewood Street, subject to the following condition:

To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

INTRODUCED AND ADOPTED this 14th day of December, 2009.

CITY OF TUALATIN, Oregon

By \_\_\_\_\_  
Mayor

ATTEST:

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

RESOLUTION NO. 4949-09

A RESOLUTION FOR A CONDITIONAL USE PERMIT FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)(CUP-09-04)

WHEREAS a quasi-judicial public hearing was held before the City Council of the City of Tualatin on December 14, 2009, upon the application of Myrv L. Chose, business owner of Glass Doctor dba Oregon City Glass, Inc.; and

WHEREAS notice of public hearing was given as required by the Tualatin Development Code by mailing a copy of the notice to affected property owners located within 300 feet of the property, which is evidenced by the Affidavit of Mailing marked "Exhibit A," attached and incorporated by this reference, and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

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

WHEREAS after the conclusion of the public hearing the Council vote resulted in approval of the application [Vote 7-0]; and

WHEREAS based upon the evidence and testimony heard and considered by the Council, the Council makes, enters, and adopts as its findings of fact the findings and analysis in the City staff report, dated December 14, 2009, marked "Exhibit C," attached and incorporated by reference; and

WHEREAS based upon the foregoing Findings of Fact, the Council finds that the applicant has provided sufficient evidence to demonstrate that all of the requirements of the Tualatin Development Code relative to a conditional use have been satisfied and that granting the conditional use permit is in the best interests of the residents and inhabitants of the City, the applicant, and the public generally.

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

Section 1. The Glass Doctor dba Oregon City Glass, Inc. is granted a Conditional Use Permit that would allow contractor's shop & equipment storage in the Light Manufacturing (ML) Planning District at 6510 SW Rosewood Street, subject to the following condition:

To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

INTRODUCED AND ADOPTED this 14th day of December, 2009.

CITY OF TUALATIN, Oregon

By \_\_\_\_\_  
Mayor

ATTEST:  
By \_\_\_\_\_  
City Recorder

APPROVED AS TO LEGAL FORM

*Brenda L. Praden*  
CITY ATTORNEY

# AFFIDAVIT OF MAILING

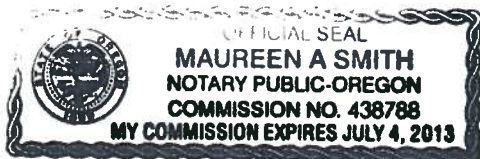
STATE OF OREGON                    )  
  ) SS  
COUNTY OF WASHINGTON        )

I, Stacy Crawford, being first duly sworn, depose and say:

That on the 24<sup>th</sup> day of November, 2009, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of a Notice of Hearing marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail at Tualatin, Oregon, with postage fully prepared thereon.

Stacy Crawford  
Stacy Crawford

SUBSCRIBED AND SWORN to before me this 24<sup>th</sup> day of November, 2009.



Maureen A Smith  
Notary Public for Oregon  
My commission expires: July 4, 2013

RE: CUP-09-04—CONDITIONAL USE PERMIT TO ALLOW FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)

EXHIBIT A



21E18BB02300, 21E18BC00500, 600, 700, 800,  
& 2S113AA01200  
JAMES BERREY LLC  
6305 SW ROSEWOOD STREET, STE D  
LAKE OSWEGO, OR 97035

2S113AD00100  
HALTINER REV LIVING TUST BY  
RICHARD/KAREN HALTINER TRUST  
23812 SW ROBSON TERRACE  
SHERWOOD, OR 97140

2S113AD00200  
TUALATIN-LAKE OSWEGO LLC  
1919 NW 19<sup>TH</sup> AVENUE  
PORTLAND, OR 97209

2S113AD00300  
FAHEY INVESTIMENT LLC  
8148 NW THOMPSON ROAD  
PORTLAND, OR 97229

2S113AD00400  
GOLDEN KEY LLC BY GEORGE EDENS  
309 10<sup>TH</sup> AVENUE  
LAKE OSWEGO, OR 97035



# City of Tualatin

www.ci.tualatin.or.us

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Monday, December 14, 2009**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

### **CUP-09-04—CONDITIONAL USE PERMIT TO ALLOW FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)**

In reviewing the conditional use the City Council must find that:

- (1) The use is listed as a conditional use in the underlying planning district;
- (2) The characteristics of the site are suitable for the proposed use;
- (3) The proposed use is timely;
- (4) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the uses of surrounding properties for the primary uses listed in the underlying planning district;
- (5) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

All citizens are invited to attend and be heard upon the application. Failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals (LUBA) based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing.

Copies of the applications, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the City Library and Planning Division at least seven days prior to the hearing, and will be provided at reasonable cost. For information contact **William Harper, Associate Planner, at (503) 691-3027**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

# AFFIDAVIT OF POSTING

STATE OF OREGON                    )  
  ) SS  
COUNTY OF WASHINGTON        )

I, Stacy Crawford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted two copies of the Notice of Hearing on the 24<sup>th</sup> day of November, 2009, a copy of which Notice is attached hereto; and that I posted said copies in two public and conspicuous places within the City, to wit:

1. City of Tualatin - Police Department
2. City of Tualatin - City Center Building
3. City of Tualatin - Community Development
4. City of Tualatin - Library

Dated this 24<sup>th</sup> day of November ~~October~~, 2009.

Stacy Crawford  
Stacy Crawford

Subscribed and sworn to before me this 24<sup>th</sup> day of November, 2009.



Maureen A Smith  
Notary Public for Oregon  
My Commission expires: July 4, 2013

RE: CUP-09-04—CONDITIONAL USE PERMIT TO ALLOW FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)

EXHIBIT B



# City of Tualatin

www.ci.tualatin.or.us

## NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at **7:00 p.m., Monday, December 14, 2009**, at the Council Building, 18880 SW Martinazzi Avenue, to consider:

### **CUP-09-04—CONDITIONAL USE PERMIT TO ALLOW FOR GLASS DOCTOR (OREGON CITY GLASS, INC.) CONTRACTOR'S SHOP & EQUIPMENT STORAGE IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT AT 6510 SW ROSEWOOD STREET (TAX MAP 2S113AD, TAX LOT 100)**

In reviewing the conditional use the City Council must find that:

- (1) The use is listed as a conditional use in the underlying planning district;
- (2) The characteristics of the site are suitable for the proposed use;
- (3) The proposed use is timely;
- (4) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the uses of surrounding properties for the primary uses listed in the underlying planning district;
- (5) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

All citizens are invited to attend and be heard upon the application. Failure of an issue to be raised in the hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals (LUBA) based on that issue. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings are commenced with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing.

Copies of the applications, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the City Library and Planning Division at least seven days prior to the hearing, and will be provided at reasonable cost. For information contact **William Harper, Associate Planner, at (503) 691-3027**. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos  
City Recorder

## ATTACHMENT D

### CUP-09-04: ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC) 32.030 must be met if the proposed Conditional Use Permit (CUP) for a contractor's shop & equipment storage is to be granted. The Applicant prepared a narrative that addresses the CUP criteria (Attachment C). Staff has reviewed the Applicant's material and included pertinent excerpts below.

**1. The use is listed as a conditional use in the underlying planning district.**

The Applicant states: "Yes, we are requesting a conditional use based on the TDC 60.040, part (d) Contractor's shop & equipment storage."

Contractor's shops and equipment storage is allowed as a conditional use in the Light Manufacturing (ML) District, as stated in TDC 60.040(1)(d). The proposed site is in the ML Planning District.

Criterion 1 is met.

**2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.**

**Size:** The subject property is .91 acres [39,640 square feet (s.f.)] in size. The site is currently developed with a 10,240 square foot building with parking, loading and landscaping improvements with access to SW Rosewood Street. The applicant proposes to occupy a 5,120 s.f. tenant space and keep the contractor/service vehicles and material storage entirely within the building. The site size is suitable for the use.

**Shape:** The shape of the subject property is a rectangular lot and is suitable for the proposed use. Access to the building is via a shared driveway from SW Rosewood Street to the north.

**Location:** The site is north of SW Lower Boones Ferry Road at the southwest corner of SW 65<sup>th</sup> Avenue and SW Rosewood Street in the ML Planning District. On the south and west, the subject site adjoins other industrial properties including the Haltiner Sheet Metal business and Globe Lighting Supply. The FedEx Package Delivery facility is located across SW Rosewood Street to the north and vacant land approved for future buildings of the Meridian Business Park is to the east across SW 65<sup>th</sup> Avenue. The site's location is in an area characterized by existing light industrial and wholesaling uses. The site's location is suitable for the proposed conditional use.

- Topography: The topography of the site is flat and is suitable for the proposed conditional use.
- Improvements: The site is improved with a 10,240 s.f. industrial building with 35 (total) parking spaces, loading spaces and site landscaping improvements approved in Architectural Review AR-06-10.
- Natural Features: The site does not contain natural features.

The applicant states "The characteristics of the site are suitable for the proposed use. We are attempting to lease an existing building of 5,120 sq. ft. We will have a showroom area of no more than 256 sq. ft. We have negotiated with the lessor for additional designated parking spaces behind the building to virtually eliminate street parking. A majority of our business is done off site, and the work that is completed on site will be done in the building." (Attachment C, pp 2-3) Given the features and improvements of the subject property listed above, the characteristics of the site are suitable for the proposed uses.

Criterion 2 is met.

**3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.**

The applicant states "We will have little or no impact on the items listed under "C" (Criterion 3). We will be occupying an existing building. With only 7 employees, we will have very minimal impact on any exiting transportation systems, public facilities or existing services."

The Engineering Division provides some of the following information in Attachment E.

Transportation

The site is adjacent to SW 65th Avenue & SW Rosewood Street. SW 65th Avenue is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. SW Rosewood Street is designated as a Local Commercial Industrial (BC-I) by the City of Tualatin (TDC 11.620 – Table 11-2) and would ultimately include two travel lanes, a center turn lane, planter strips and sidewalks. The SW Lower Boones Ferry Road/SW 65th Avenue Intersection is an ODOT controlled intersection. SW Lower Boones Ferry Road east of 65th Avenue is a Clackamas County facility, and west of 65th Avenue is an ODOT facility.

The Transportation Analysis states, "in recent studies conducted by Lancaster Engineering for the nearby businesses, the evening peak hour has been the critical period for operation of the transportation system, in particular, the intersection of 65th Avenue at Lower Boones Ferry Road. In fact, the intersection was shown to operate near or at capacity during the evening peak house, but approximately 30 percent below capacity during the morning peak hour. As such, a small net increase of only 6 trips during the morning peak hour can easily be accommodated. Because the proposed

CUP will result in a net decrease in trips from the subject site during the critical evening peak hour, no further analysis is necessary and no mitigations are recommended."

Following are the trip generation numbers for tax lot #100:

Existing AR Approval:

10,240 SF Speculative Industrial Building  
16 AM Peak Hour Trips  
15 PM Peak Hour Trips

Conditional Use:

10,240 SF Contractor's Shop & Equipment Storage  
22 AM Peak Hour Trips  
6 PM Peak Hour Trips

(See Attachment E for the Engineering Division Memorandum and Attachment D for the Applicant's Materials including the Traffic Impact Letter.)

Traffic generation from the proposed conditional use will not limit, impair or preclude surrounding properties from primary uses allowed in the ML Planning District.

Public Facilities & Services:

Water: A connection to the City system is currently under construction or already exists.

Sanitary Sewer: A connection to the City system already exists.

Storm Drainage: A connection to the City system already exists.

Based on Staff review and analysis of the application, the proposed conditional use is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.

Criterion 3 is met.

**4. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.**

The subject property is in the ML Planning District. Surrounding Planning/Zoning Districts and land uses include:

N: MG FedEx (Across SW Rosewood Street)  
E: MG Undeveloped-Future site of Meridian Business Park Buildings G&H  
(Across SW 65<sup>th</sup> Ave.)  
S: ML Haltiner Sheet Metal Building  
W: ML Globe Lighting Supply

There are no residential areas adjoining the subject property. The area on both sides of SW 65<sup>th</sup> Avenue is characterized by industrial development in the ML Planning District. North of SW Rosewood Street is the MG Planning District. The buildings in the vicinity

of the subject building are light industrial buildings with manufacturing and wholesaling uses.

The Applicant states: "the proposed use will not have any noticeable effect on the surrounding area. Any work will be completed inside the building, we will secure all vehicles and equipment inside the building and nothing will be stored outside. We are respectful of our neighbors; we do not have any noisy equipment and we do not store any hazardous chemicals. We don't have extended or unreasonable office hours. There were no concerns voiced by adjacent property owners at our Neighbor/Developer meeting." (Attachment C)

The Glass Doctor operation proposes keeping vehicles, materials and equipment inside the building, which will eliminate the need for outdoor storage. Storage of materials and equipment in outdoor areas would be unsightly to the developments on adjoining properties and to the site's adjoining frontages with SW Rosewood Street and SW 65<sup>th</sup> Avenue and not meet Criterion #4. TDC 73.160(4)(b) requires outdoor storage in industrial development "...shall be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping." There is no approved outdoor storage area or enclosure on the Haltiner Building site. Approval of a conditional use permit on the site will allow other concurrent or succeeding contractor's firms that may be interested in conducting their operation with outdoor storage. To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.

Based on the applicant's submitted information and review by staff, with the existing site improvements, and the condition of approval requiring vehicle, materials & equipment storage to be conducted inside the subject building, it is concluded that the proposed use will not alter the character of the surrounding area in any manner which substantially limits, impairs or precludes the surrounding properties for the primary uses listed in the underlying Planning Districts.

Criterion 4 is met.

**5. The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.**

The Applicant states: "Our proposed use of this site satisfies the objectives of the Tualatin Community Plan in that we will be providing a benefit to the general welfare of the public and filling a probable need in the community."

Following is a discussion of the objective (in **bold face type**) that is applicable to the proposed conditional use.

**7.030(1) Encourage new industrial development.**

This proposal is for a contractor's shop and equipment storage use in an existing facility, which is an industrial use. This use promotes the objective stated above.

Staff concurs that the proposal is consistent with plan policies.



Criterion 5 is met.

Based on the application and the above findings and analysis and with the recommended condition of approval listed below, the Glass Doctor conditional use permit application for a contractor's shop and equipment storage use meets the criteria of TDC 32.030.

**Recommended Condition of Approval:**

1. To ensure compatibility with surrounding uses, contractor's shop & equipment storage activities on this site, including service fleet vehicle parking, material & equipment storage, shall be conducted within the building.