



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

December 12, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Durham Plan Amendment
DLCD File Number 005-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 2, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Marguerite Nabeta, DLCD Regional Representative
Bill Holstrom, DLCD Transportation Growth Management
Larry Ksionzyk, DLCD Community Development Planning Specialist
Roland Signett, City of Durham

<paa> yl

Notice of Adoption

**THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	DEC 12 2007
	LAND CONSERVATION AND DEVELOPMENT
For DLCD Use Only	

Jurisdiction: **City of Durham**

Local file number: **579-07**

Date of Adoption: **11/27/2007**

Date Mailed: **12/6/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **8/2/07**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Map amendment to the City of Durham zoning map to change the zoning and plan designation from Industrial Park (IP) to Multiple-Family (MF) and add the Multi-Family Design Overlay (MD) on a 4.6 acre parcel (tax lot 2S113DC01400)

Does the Adoption differ from proposal? **No**, no explanation is necessary

Plan Map Changed from: **Industrial**

to: **multi-family residential**

Zone Map Changed from: **Industrial**

to: **Multi-family residential**

Location: **Assessor's map 2S1 13DC 1400 (Lower Boones Ferry R** Acres Involved: **4.6**

Specify Density: Previous: **n/a**

New: 60 units/acre max.

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD# 005-07 (16285)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Washington County, Tigard Water, Clean Water Services, ODOT, Tualatin Valley Fire and Rescue, Metro, City of Tualatin

Local Contact: **Roland Signett**

Phone: (503) 639-6851 Extension:

Address: **17160 SW Upper Boones Ferry Rd**

Fax Number: **503-598-8595**

City: **Durham**

Zip: **97224-**

E-mail Address: **cityofdurham@comcast.net**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

ORDINANCE NO. 241-07

**AN ORDINANCE APPLYING THE MULTIPLE FAMILY RESIDENTIAL (MF) DISTRICT
AND MULTI-FAMILY DESIGN (MD) OVERLAY DISTRICT TO ONE PARCEL
CURRENTLY DESIGNATED INDUSTRIAL PARK (IP) CITY FILE #579-07**

Whereas, upon the application of TCR Pacific Northwest Acquisitions LP and the property owner Parkland Development, LLC, the Council conducted a public hearing on October 23, 2007 related to applying the Multiple Family Residential (MF) base zone and Multi-Family Design (MD) overlay district to one parcel currently designated Industrial Park (IP) (Assessor's Map 2S1 13DC 1400); and

Whereas, proper notice of the public hearing was provided by means of publication in the Tigid Times on September 27, 2007 and posting in Durham City Hall; and

Whereas, the Planning Commission unanimously recommended approval of the application after considering testimony and evidence at a public hearing on October 2, 2007, and the Council on October 23, 2007 heard and considered the testimony and evidence presented by the City staff and those appearing at hearing;

NOW, THEREFORE,

THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

Section 1. AMENDMENT OF ZONING FOR ASSESSOR'S MAP 2S1 13DC 1400 .

The Durham zoning map is amended to show the property known as Assessor's Map 2S1 13DC 1400 as rezoned from IP to MF with the MD overlay.

Section 2. FINDINGS. The City Council adopts as its findings and conclusions in support of this amendment, the minutes of the public hearings referenced above and those proposed findings in the the city staff reports dated September 25, 2007 and October 18, 2007 all incorporated herein by reference.

First Reading this 23 day of October 2007.

Second Reading and Passage this 27 day of November 2007.

CITY OF DURHAM

By: 

Gery Schirado, Mayor

ATTEST:


Roland Signett, City Administrator/Recorder



City of Durham

17160 SW Upper Boones Ferry Rd.

email:

cityofdurham@comcast.net

P.O. Box 23483, Durham, Oregon 97281 (503) 639-6851

Fax

(503) 598-8595

Roland Signett – City Administrator Linda Smith – Administrative Assistant

<p>STAFF REPORT September 25, 2007</p>
--

APPLICATION FILE #: 579-07

REQUEST: Approval of a quasi-judicial zone and plan map amendment to change the zone and plan designation on property described as tax lot 1400 on Assessor's Map 2S1 13DC from Industrial Park District (IP) to the Multiple Family Residential District with the Multi-Family Design Overlay District (MF-MD). The subject property is located in the City of Durham at 18055 SW Lower Boones Ferry Road.

APPLICANT: Trammel Crow, Northwest
630 NW 10th Avenue
Portland, OR 97209

AUTHORIZATION: Chapter VI, Article 2, Comprehensive Land Use Code,
Revised December 1995

I. PROPOSED MAP AMENDMENTS

The subject application is attached as Exhibit A with this staff report and includes a written summary that explains the proposed map amendments as follows:

"The applicant is requesting a quasi-judicial map amendment to change the plan designation and zoning on the 4.6 acre subject site shown on Figure 1 from the Industrial Park District (IP) to the Multiple Family Residential district with the Multi-Family Design Overlay district (MF-MD). The subject property is located in the City of Durham, just north of the intersection of SW Lower Boones Ferry Road and SW Childs Road. The subject property is abutting properties in the City of Tualatin on its southern, eastern and western edges. The applicant hopes to develop this parcel in conjunction with three of the adjacent parcels within the City of Tualatin and is in the process of having those parcels rezoned as well.

The area in and around Bridgeport Village area is rapidly redeveloping into a mixed use, urban community which makes the current Industrial Park zoning much less appropriate in terms of compatibility with surrounding land uses. Given the mix of retail, office and commercial uses in the area and the excellent access to transit in the vicinity, the subject property is a highly suitable location for higher-density multifamily housing allowed by the MF-MD designation. The proposed MF-MD zone provides for a much higher level of investment and improvement to the land, maximizing the economic and aesthetic value to the City and enabling the highest and best use of the land."

(Source: Page 1, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

II. FINDINGS

Chapter VI, Article 2, Section 2A. specifies that the applicant's request for a plan map amendment shall bear the burden of satisfying each of the following approval criteria:

"1. Demonstration of the public need for the change, and why the need is best served by the proposal."

The applicant has provided a written response to criterion no. 1 (See pages 4 and 5, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007 attached as Exhibit A). As advocated in the Metro Regional Functional Plan, there is a public need to increase residential density within the existing urban growth boundary (UGB). The proposed map amendment would provide more multi-family land with the potential for higher densities consistent with the regional plan policy.

Also, the last update of the Durham Comprehensive Land Use Plan (CLUP) did anticipate that *"the future employment and housing opportunities will be closely balanced, i.e., the number of jobs will nearly equal the number of dwellings."* (page 25, CLUP). City records for business licenses issued in Durham show a current city employment count of 977 employees. There is an estimated total housing count of 560 dwelling units in Durham. Therefore, the current number of jobs significantly exceeds the number of dwellings. The proposed amendment would allow an increase in the dwelling count that would help achieve the balance as anticipated in the CLUP.

As explained above and in the applicant's written statement, criterion no. 1 is satisfied.

"2. Demonstration that the public need can best be served on the proposed site in comparison with other comparable, alternative vacant sites of similar size that are already designated for the proposed use."

The applicant has addressed this criterion as follows:

"There are two existing sites zoned Multiple-Family within the City of Durham, totaling 11.5 acres. Both sites are currently developed. Although there are no other alternative vacant sites that are already designated for Multiple-Family (MF), given the subject site's proximity to the burgeoning Bridgeport Village area, it is particularly well suited for multi-family development that will enjoy the nearby retail, office, and commercial uses."

(Source: Page 5, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The applicant is correct in stating that multi-family zoning is located at two existing sites in Durham. However, both sites have a total area of nearly 15 acres (rather than 11.5 acres), and both sites are developed with multi-family dwellings. One of the sites (former White Birches Apartments) is not developed to its full zoning potential and contains a detached single family dwelling.

Nevertheless, the planning staff would agree with the applicant that there are no alternative vacant sites available of similar size already designated MF. Also, the subject property's proximity to the Bridgeport Village development would further suggest that the need for multi-family housing can best be served at this location. Therefore, criterion no. 2 is satisfied.

“3. *Compliance with appropriate Comprehensive Plan policies*”

The applicant has addressed this criterion as follows:

“The proposed map amendment to MF-MD complies with the City’s Comprehensive Plan policies, including policies addressing housing and the jobs/housing balance. The general housing policies in the Comprehensive Plan (subsection D, p. 30) suggest that site suitability for residential development should take into consideration factors such as: access and the adequacy of public streets; site characteristics such as size, user convenience and avoidance of natural hazards, the availability of public services, and community benefit. Given the excellent access, site size, mix of retail, office and commercial uses in the area, lack of natural hazards, and availability of services (including excellent access to transit in the vicinity), the subject property is a highly suitable location for the higher-density multifamily housing allowed by the MF-MD designation. As noted in response to criterion 1, the proposed map amendment to MF-MD will also help the City better achieve its goals for achieving a jobs/housing balance.”

(Source: Page 5, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The planning staff would concur with the applicant's response above and further note that the proposed zone change would also comply with the comprehensive plan goal regarding housing:

“1. Provide for housing opportunities commensurate with Durham’s ability to accommodate an expanding population.”

(Source: Page 29, Durham Comprehensive Land Use Plan, June 30, 1995.)

The applicant also recognizes that the proposed zone change will have potential economic impacts, especially with respect to meeting future employment projections established by Metro and a jobs/housing balance. The applicant submitted an economic analysis prepared by Leland Consulting Group (attached as Exhibit C to the map amendment application). The analysis demonstrates that the employment capacity impacts of the proposed zone change will not prevent the City from meeting the Metro job projection (522). Nor would the jobs/housing balance be reduced below an acceptable standard as described in the “Growth and Development Findings” of the comprehensive plan.

Based on the above discussion, criterion no. 3 is satisfied.

“4. Approval of the proposal will not adversely affect adjacent properties.”

As explained in the applicant’s written statement (page 6), adjacent properties to the Northeast, Southeast, and Southwest are located within the City of Tualatin and are zoned General Commercial (CG), with some lots pending a zone change approval to CG or Mixed Use Commercial Overlay District (MUCOD). Properties to the Northwest are located within the City of Durham and are zoned Office Park (OP) and currently developed with office uses.

The planning staff concurs with the applicant’s assessment that the proposed MF-MD zoning will be more compatible with the surrounding land use designations and will not adversely affect adjacent properties. Therefore, criterion no. 4 is satisfied.

“5. Availability of necessary public facilities and services, and what expansions, additions, or other modifications would be required for these services in order to accommodate the proposed land use change.”

The applicant’s response to this criterion is shown as follows:

“As outlined in the Transportation Impact Analysis prepared by Kittelson and Associates (Exhibit A), all of the study intersections are forecast to operate acceptably during the weekday p.m. peak hour assuming “reasonable maximum” build-out under the proposed zone change and the proposed zoning designation would not cause any of the identified study intersections to fall below the minimum acceptable

performance standards. The proposed zoning designation would result in future traffic volumes that are consistent with the functional classifications of the roadways in the study area.

No City of Durham owned or controlled public facilities are impacted by the proposed zone change. As outlined in the Public Facilities memorandum prepared by Alpha Community Development (Exhibit B), water, sanitary sewer and storm sewer service for this site will be provided by the City of Tualatin through an intergovernmental agreement (IGA). The applicant has been working closely with the City of Tualatin engineering staff and has found that the City of Tualatin has adequate public utility capacities available to service the subject parcel."

(Source: Page 7, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The City Engineer has reviewed the application with respect to the availability of public facilities and provided comments as follows:

"I concur with the findings presented in the Memorandum from Alpha Community Development dated July 20, 2007 regarding the availability of individual utilities to serve a development of the size contemplated. The memo recognizes the possibility that some improvements to the respective utilities will be necessary and that some of the cost of the utility upgrades may be borne by the developer."

(Source: Memorandum dated September 17, 2007 from David Evans and Associates by Joseph D. Eskew, PE and attached with staff report Exhibit B.)

The City Transportation Engineer has reviewed the Traffic Impact Analysis (See Memorandum dated September 17, 2007 from David Evans and Associates by Christian Snuffin, PE and attached with staff report Exhibit B.) and generally concluded that the proposed zone change on the subject site could be accommodated by the existing transportation system. However, the applicant is also intending to develop simultaneously the adjoining parcels that are located within the City of Tualatin, and additional traffic would be generated for these parcels that would impact the two Durham intersections on SW Upper Boones Ferry Road, i.e., at SW Bridgeport Road and at SW Lower Boones Ferry Road.

In order to fully evaluate the total traffic impacts from the Durham and Tualatin parcels, the City Transportation Engineer would need to have the

applicant provide further traffic analysis for his review (although the engineer noted that a full accounting of all trips would not likely result in a major change to the analysis results at the two Durham intersections.). The applicant has recently submitted a response to the engineer's concern, and this response is being forwarded to the engineer for review and comment.

"6. Significant change in circumstances or conditions of the subject site or the surrounding area that supports amending the original Plan."

As explained in the applicant's written statement:

"As noted in Exhibit C, the area in and around Bridgeport Village area is rapidly redeveloping into a mixed use, urban community. This makes the current Industrial Park zoning much less appropriate both in terms of compatibility with surrounding land uses and providing for the highest and best use of the land. Given the mix of retail, office and commercial uses in the area and the excellent access to transit in the vicinity, the subject property is a highly suitable location for the higher density multifamily housing allowed by the MF-MD designation."

(Source: Page 7, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The construction of Bridgeport Village created a significant change that has strongly influenced economic development activities on adjacent properties to a large degree. This would appear especially applicable to the land area between Bridgeport Road and Lower Boones Ferry Road, in which the subject site is located. The former industrial use occupying the site has vacated the premises, and rezoning the site to a high density multi-family use would be more appropriate and efficient given this change of circumstance. Therefore, the planning staff would concur with the applicant's response and conclusion that criterion no. 6 is satisfied.

"7. Conformance with statewide planning goals as established by the Oregon Land Conservation and Development Commission."

The application contains an analysis regarding the applicable statewide planning goals as follows:

Goal 1 – Citizen Involvement

"Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." The proposed amendment has been reviewed through the post acknowledgement plan amendment process

and the City of Durham plan amendment process, which ensures that there is adequate opportunity for citizen involvement and participation through the Planning Commission and City Council hearings.”

(Source: Page 8, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The proposed amendment process includes an adequate opportunity for citizen participation consistent with Goal 1.

Goal 2 – Land Use Planning

“Statewide Planning Goal 2 addresses the process for land use planning. It requires coordination between cities and other governments and government agencies. The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Durham process, which ensure coordination and citizen involvement. The amendment is consistent with Statewide Planning Goal 2.”

(Source: Page 8, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The planning staff concurs with the applicant’s comments regarding Goal 2.

Goal 9 – Economy of the State

“Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs. OAR 660-009-0010(4) implements Goal 9. Goal 9 is echoed in Title 4 of the Metro Functional Plan. Title 4 establishes a job capacity target for the City of Durham of 522 jobs. As described in Exhibit C, the proposed amendment will not adversely impact the City of Durham’s ability to meet its targets for long term job capacity and supply of employment/industrial land supply, so the requirements of Goal 9 and Title 4 are satisfied.”

(Source: Page 8, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The planning staff concurs with the applicant’s comments regarding Goal 9.

Goal 10 – Housing

“This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. The proposed amendment enables a wider variety of housing types within the City of Durham and will encourage multi-family development which are high quality and which provide amenities to residents and the community. The amendment is consistent with Statewide Planning Goal 10.”

(Source: Page 8, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The applicant is correct in stating that the proposed amendment will enable a wider variety of housing types in Durham than presently allowed. For example, the current MF density standard is 16 dwelling units per gross acre. The subject site occupies 4.61 acres and would be allowed to develop 74 dwellings (16x4.61) under the current base density.

The MD Overlay District would allow a maximum density bonus of 44 dwelling units per gross acre. When combined with the base density, the total density standard could amount to 60 dwellings per gross acre. This would allow a maximum density of 277 dwellings (60x4.61) that could be developed on the site and result in a very different housing type than would be developed under the base density alone.

In any event, the planning staff concurs with the applicant’s comments regarding Goal 10.

Goal 11 – Public Facilities and Services

“Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. No existing City of Durham owned public facilities are impacted by the map amendment. As described in Exhibit B, water, sanitary sewer and storm sewer services will be provided by the city of Tualatin, and are adequate to serve the type of developments permitted by the proposed MF-MD zone. The applicant and the City of Tualatin have also been coordinating with police and fire officials regarding future redevelopment of this site. In addition, the proposed amendment enables multi-family developments which are potentially higher density and which therefore make more efficient use of public facilities and services. The amendment is consistent with Statewide Planning Goal 11.”

(Source: Page 9, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The necessary public facilities and services would appear to be available from the City of Tualatin, which has indicated a definite interest in doing so through an Intergovernmental Agreement. The response from the City Engineer (Exhibit B) also supports the IGA with Tualatin for providing the necessary public facilities. Therefore, the planning staff concurs with the applicant's comments regarding Goal 11.

Goal 12 – Transportation

“The goal aims to provide “a safe, convenient and economic transportation system,” and is implemented by the Transportation Planning Rule (OAR 660-012-0060). As described in Exhibit A, transportation facilities are adequate because they will continue to operate at acceptable levels under the reasonable maximum development scenario permitted by the proposed MF-MD zone. The proposed amendment enables multi-family development which are potentially higher density and which therefore make more efficient use of public transportation. In addition, the proposed amendments provide bonuses for “green” developments which provide good bicycle parking and access to transit. The amendment complies with Statewide Planning Goal 12.”

(Source: Page 9, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The City received written comments from the DLCD staff regarding the proposed zone change (See correspondence dated September 17, 2007 from DLCD attached as Exhibit C.). DLCD has submitted the following three comments for the City's consideration in order to fully address the TPR requirements:

- *“The applicant's analysis and conclusions need to be reviewed in coordination with affected road agencies, including ODOT, Washington County and the city of Tualatin. Each affected agency should agree with the conclusions of the TIA.”*
- *“The applicant should resolve the apparent inconsistency in the TIA about the extent of development allowed under proposed zoning. In several places the applicant indicates the zoning would allow 205 units, but on pages 4 and 5 of the Public Facilities Analysis, the applicant indicates the zoning would permit up to 276*

units. The city and the applicant need to decide which figure is correct and adjust the findings and conclusions of the TIA as appropriate.”

- *“The city should adopt a trip cap that limits development consistent with the conclusions of the TIA. Most communities choose to address this requirement as a condition of approval. A trip cap needs to be adopted as a part of the approval so a change or modification of the trip cap would require another zone change, including the necessary steps to address the TPR. We have enclosed a copy of a trip cap recently adopted by the City of Albany which you may wish to use as an example.”*

(Source: Page 3, correspondence dated September 17, 2007 from DLCD.)

The applicant and City staff will be addressing the above DLCD comments.

Goal 13 – Energy

“Goal 13 declares that “land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.” By applying the MD Overlay, the proposed amendment provides bonuses for “green” developments which implement ecologically sensitive and sustainable principles and practices. The amendment is consistent with Statewide Planning Goal 13.”

(Source: Page 9, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The planning staff concurs with the applicant’s comments pertaining to Goal 13.

Goal 14 – Urbanization

“This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. The proposed amendment enables multi-family developments, which are potentially higher density, and which, therefore make more efficient use of urban lands and encourages a compact urban form. The amendment is consistent with Statewide Planning Goal 14.”

(Source: Page 9, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The City has adopted a land use plan to meet its MF residential land needs. Nevertheless, one of the primary objectives of Goal 14 is to encourage an efficient land use pattern. The proposed amendment would accommodate higher density multi-family developments that would result in a more efficient use of land, i.e., compact urban form, that would be consistent with Goal 14. Therefore, the planning staff concurs with the applicant's comments pertaining to Goal 14.

Chapter VI, Article 2, Section 2B. specifies that the applicant's request for a zone change shall demonstrate that the proposal can comply with the development standards prescribed in the requested zoning district. The applicant's response is provided in part as follows:

"The 4.6 acre site is sufficiently large and has adequate frontage on SW Lower Boones Ferry to meet the development standards of the MF zone. As described in Exhibit B, water, sanitary sewer, and storm sewer services will be provided by the City of Tualatin, and are adequate to serve the type of developments permitted by the proposed MF-MD zone. Given the mix of retail, office and commercial uses in the area and the excellent access to transit in the vicinity, the subject property is a highly suitable location for the types of uses allowed by the MF-MD designation."

(Source: Page 10, Quasi-Judicial Plan and Zone Map Amendment Application, submitted by TCR Pacific Northwest Acquisitions L.P., August 2007.)

The planning staff agrees with the applicant that the requested zone change will allow future development of the site to comply with the prescribed development standards. In addition, it is noted that the applicant has also addressed the comments raised by the City Attorney (See memorandum dated September 19, 2007 from Angelo Planning Group and attached as Exhibit D.).

III. RECOMMENDATION

In conclusion, the applicant has demonstrated compliance with the required approval criteria, except for the transportation issues raised by the City Transportation Engineer and DLCD. These issues need to be resolved prior to the City making a decision regarding the proposed amendments.

However, in the interest of facilitating the review process, the Planning Commission may consider approving the proposed amendments and referring the matter to City Council, subject to these issues being resolved first to the City staff's satisfaction. Otherwise, it is recommended that the Planning Commission should continue the public hearing until the next regular meeting date on November 6th.



City of Durham

17160 SW Upper Boones Ferry Rd.

email:

cityofdurham@comcast.net

Durham, Oregon 97281 (503) 639-6851

Fax (503) 598-8595

Roland Signett – City Administrator Linda Smith – Administrative Assistant

STAFF MEMORANDUM

TO: City Council

FROM: K.J. Won, AICP
City Planner

DATE: October 18, 2007

RE: **Planning Commission Referral to Adopt a Proposed Zone Change and Plan Map Amendment from IP to MF-MD for Property Located at 18055 SW Lower Boones Ferry Road, Durham File No. 579-07.**

Planning Commission Public Hearing

On October 2, 2007, the Planning Commission held a public hearing to consider a proposed comprehensive plan map amendment and zone change application submitted by Trammel Crow, Northwest. The proposal would amend the land use and zoning designation on the 4.61-acre site from Industrial Park (IP) to Multiple Family Residential District with the Multi-Family Design Overlay District (MF-MD).

No verbal or written citizen testimony in favor of or in opposition to the proposal was submitted during the hearing.

The city planner summarized the staff report with particular reference to the comments received from the City's transportation engineer and correspondence dated September 17, 2007 from DLCD staff. The City's transportation engineer was concerned that the traffic impact analysis (TIA) performed for the proposal should also account for the traffic generation of adjoining parcels in Tualatin that would be developed with the Durham property. The DLCD correspondence raised the following transportation issues:

- *"The applicant's analysis and conclusions need to be reviewed in coordination with affected road agencies, including ODOT, Washington County and the city of Tualatin. Each affected agency should agree with the conclusions of the TIA."*

- *“The applicant should resolve the apparent inconsistency in the TIA about the extent of development allowed under proposed zoning. In several places the applicant indicates the zoning would allow 205 units, but on pages 4 and 5 of the Public Facilities Analysis, the applicant indicates the zoning would permit up to 276 units. The city and the applicant need to decide which figure is correct and adjust the findings and conclusions of the TIA as appropriate.”*
- *“The city should adopt a trip cap that limits development consistent with the conclusions of the TIA. Most communities choose to address this requirement as a condition of approval. A trip cap needs to be adopted as a part of the approval so a change or modification of the trip cap would require another zone change, including the necessary steps to address the TPR. We have enclosed a copy of a trip cap recently adopted by the City of Albany which you may wish to use as an example.”*

(Source: Page 3, correspondence dated September 17, 2007 from DLCDD.)

The applicant’s representative made a presentation that generally agreed with the staff report and responded to questions from Commission members.

Planning Commission Decision

Following the applicant’s presentation, the Commission deliberated the proposed plan map amendment/zone change and determined that the request would satisfy the required approval criteria as explained in the staff report and the applicant’s written statement, except for the transportation issues raised by the City’s transportation engineer and DLCDD. These issues need to be resolved prior to the City making a final decision regarding the proposed amendments. (It is noted that the applicant’s representative had earlier submitted a supplemental memorandum dated September 24, 2007 addressing these issues, and the City staff had not been able to review the submittal information prior to the Commission hearing.)

However, in the interest of facilitating the review process, the Planning Commission decided to approve the applicant’s request and voted unanimously in favor of a motion referring the matter to City Council, subject to the aforementioned transportation issues being resolved first to the City staff’s satisfaction.

Staff Recommendation

After the Planning Commission hearing, the City staff reviewed the applicant’s supplemental memorandum and addressed the transportation issues as follows:

- Full Accounting of Trips

The City's transportation engineer provided the following assessment regarding this issue:

"The supplemental materials provided by the applicant include a traffic impact analysis memorandum prepared by Kittelson and Associates and dated July 20, 2007. This analysis was performed in support of the proposed zone change of the Tualatin parcels from Light Manufacturing to General Commercial with a MUCOD overlay. In response to my comments, the applicant stated that the July 20 traffic analysis assumed that the Tualatin development would occur after the Durham development. Therefore, the Durham site generated trips were included in the background volumes. My review of the memorandum confirms this claim. The applicant has demonstrated to my satisfaction that the two study area intersections inside Durham are expected to operate adequately under full site buildout conditions."

(Source: Correspondence dated October 3, 2007 from David Evans and Associates, Inc.)

□ Agency Concurrence

The DLCD correspondence requested that the affected road agencies including ODOT, Washington County and the city of Tualatin. The City received a response from ODOT as follows:

"ODOT staff has reviewed the proposed zone change from Industrial Park to Multi Family Overlay District. The subject site is adjacent to Lower Boones Ferry Rd and in the vicinity of the I-5/Bridgeport Rd interchange. The following intersections have ODOT facilities: SW 72nd Ave/SW Bridgeport Rd, SW Bridgeport Rd/SW Upper Boones Ferry Rd, and SW Lower Boones Ferry Rd/SW Upper Boones Ferry Rd intersections. Kate Freitag PE, ODOT Traffic Analyst has reviewed the traffic impact study submitted with the land use application. Ms Freitag has determined that ODOT performance measures for the planning horizon are met. All ODOT intersections are operating below the mobility standards. Therefore, ODOT has concluded that the proposed zone change will not have a significant affect on State transportation facilities."

(Source: Correspondence dated October 1, 2007 from ODOT.)

The city staffs of Durham and Tualatin have been coordinating a joint review effort regarding the subject properties. As explained by the applicant:

“As you know, we have been working closely with the City of Tualatin on a concurrent application for the two small Tualatin parcels (Tax Lots 1800 and 1900). The TIA for this application, which includes the trips from the Durham parcel as part of the background traffic volume, was submitted to the City of Tualatin and forwarded to Washington County and ODOT as well. In addition, Kittelson & Associates has been working closely with Washington County regarding access on this site and TCR has been coordinating with Phil Whitmore at Metro.”

(Source: Page 2, memorandum dated September 24, 2007 from Angelo Planning Group.)

The Tualatin staff has indicated agreement with the TIA conclusions as stated in a staff memorandum from Tualatin’s city project engineer dated September 4, 2007. The city staff had contacted Washington County for a response, and none was received. In view of the comments provided by ODOT and Tualatin, it is presumed that the County would also accept the Kittelson TIA conclusions.

□ Apparent TIA Inconsistency

The applicant has clarified this issue as follows:

“Mr. Holmstrom noted an apparent inconsistency in the potential buildout of the Durham parcel. The confusion is a result of how the units might be attributed to the four parcels within the site in a future development. The 205-unit scenario was based on a preliminary site plan for the combined 8.95-acre project site; the 276-unit scenario reflects a maximum potential buildout of 60 dwelling units per acre on the Durham parcel. In the attached memorandum Kittelson & Associates clarifies that even with the highest number of dwelling units (maximum buildout) on the Durham parcel the study intersections will continue to operate acceptably. Therefore, a trip cap for future development on the site is not needed. Further, because the redeveloped site will include a blend of Tualatin and Durham trips, a trip cap would be difficult to implement. During the development review process each city will review the traffic generated from the site to ensure that traffic volumes remain at acceptable levels, and we encourage the cities to work together in this analysis.”

(Source: Page 2, memorandum dated September 24, 2007 from Angelo Planning Group.)

□ Trip Cap

The city's transportation engineer has addressed this issue as follows:

"Mr. Holmstrom notes an inconsistency in the TIA about the extent of development allowed under the proposed zoning. The TIA states that the proposed zoning would allow 205 residential units, but the Public Facilities Analysis states that the zoning would allow up to 276 units. Mr. Holmstrom recommends implementation of a trip cap that limits the number of PM peak hour trips to that which would be generated by 205 residential units.

The applicant explained the reason for this inconsistency as follows: "The 205-unit scenario was based on a preliminary site plan for the combined 8.95-acre project site; the 276-unit scenario reflects a maximum potential buildout of 60 dwelling units per acre on the Durham parcel." The applicant has also provided revised traffic analysis that accounts for the more intensive development and corresponding higher trip generation. The applicant's revised analysis shows that the transportation system is adequate to accommodate the project site traffic resulting from the proposed zone change. In light of the applicant's explanation and updated analysis, I do not believe a trip cap is appropriate in this case."

Thus, as explained in the above paragraphs, the planning staff believes that the transportation issues have been resolved.

In conclusion, the Planning Commission has referred the proposed comprehensive plan map amendment and zone change application for City Council review and adoption. If the Council concurs with the Planning Commission recommendation, it should direct the City Attorney to draft an ordinance for Council adoption that will enact the proposal.

City of Durham
Planning Commission Minutes
October 2, 2007

1-2. ROLL CALL. Chairman Pat Saab brought the meeting to order at approximately 7:30 p.m. at the Tualatin/Durham Senior Center. Present were Chair Pat Saab and Commissioners Robert Plame, Bill Gilham, Chuck Van Meter, Theresa Eisenberg, Brian Goddard and new member James Feild. Commissioners Mary Taylor and Tom Kyle had advised staff in advance they would be unable to attend. City Administrator Roland Signett, City Planner K. J. Won and Administrative Assistant Linda Smith represented staff.

As the newest member of the Commission, James Feild was asked to introduce himself. He said he has lived on Willowbottom in Kingsgate for the past five years and that he is a hydrogeologist and project manager at AMEC Earth and Environmental. The Commission welcomed him aboard

3. Minutes of September 4, 2007 Commission Meeting. Commissioner Plame moved to approve the Minutes of September 4, 2007. Commissioner Van Meter seconded the motion and it passed by unanimous vote (6 – 0, Commissioner Feild abstained). **MO 1002.1-07**

4. PUBLIC FORUM – No comments.

5. TREE REMOVAL APPLICATION – Clark, 7883 SW Kingfisher. Roland reviewed his recommendation to the Commission, noting that the trees were planted too close together and recommending removal with mitigation.

Commissioner Plame agreed and recommended a conifer be used as mitigation. Commissioner Van Meter blamed Commissioner Goddard for setting a precedent. The applicant said she would prefer to mitigate with an aspen similar to other properties in the area. It was suggested that she could do that but also donate a conifer as mitigation to be planted elsewhere on City property to satisfy the mitigation requirement.

Commissioner Plame moved that the tree approval be accepted with the mitigation to be provided as coordinated with staff. Commissioner Van Meter seconded the motion and it passed by unanimous vote (7-0). **MO 1002.2-07**

6. TREE REMOVAL APPLICATION – Kroessin, 7875 SW Ellman. Roland explained that this was a large Douglas Fir that showed a significant lean and evidence of woodpecker activity (indicating the tree was in decline). He said he was also aware of another tree in the vicinity that had fallen last year which had been the victim of root rot. Mr. Kroessin recited the inventory of trees on his property, which included 55 Douglas Firs, most of which were over 100 years old.

Commissioner Van Meter moved that the Kroessin tree application for the removal of the Douglas Fir be approved with no mitigation required. Commissioner Eisenberg seconded the motion and it passed by unanimous vote. (7-0) **MO 1002.3-07**

7. TREE REMOVAL APPLICATION – Smyth, 8246 SW Kingfisher. Roland reviewed his memorandum on the five Leland Spruce trees, stating that the trees appear diseased. The owner stated that they had been difficult to maintain in their location next to the house. Roland further recommended that there be some mitigation in another location. Mr. Smyth said he would like to mitigate with an aspen tree as well.

Commissioner Plame said he had not been able to view the trees and asked staff to have future applicants mark the trees under consideration. Commissioner Gilham moved that the

application be approved with the mitigation of two trees as coordinated with City staff. Commissioner Van Meter seconded the motion and it passed by unanimous vote. (7-0)

MO 1002.4-07

8. **TREE REMOVAL APPLICATION – Lorenz, 8125 SW Kingfisher.** Roland reviewed his memorandum, stating that this application was for three trees in a grove in the front yard and that the rest of the trees in the grove would benefit from the thinning of these trees. It is another case of poor foresight on the part of the developer. He further recommended the removal of the large maple in the back yard that is putting a structure at risk. No mitigation is recommended.

Commissioner Eisenberg moved that the trees be removed as recommended by staff with no mitigation. Commissioner Van Meter seconded the motion and it passed by unanimous vote (7-0).

MO 1002.5-07

9. **PUBLIC HEARING. Quasi-Judicial Plan and Zone Map Amendment Application.** Chairman Saab read the public hearing script and polled the Commission on conflicts of interest and ex-parte contact. Mr. Feild declared that his company AMEC had done the environmental impact work on the Schneider property but he was not on the project. No other conflicts were declared. Chairman Saab then opened the hearing and asked for a report from staff.

City Planner K. J. Won presented his staff report, stating that this was the map amendment in accordance with the recently created zone by the text amendment in the Land Use Code. The applicant would like the designated property on Lower Boones be re-zoned to the MF-MD zone with a density bonus. Tualatin will provide services to the entire development, which will be primarily located in Tualatin, and an IGA between the cities will be necessary.

The Traffic Impact Analysis was of particular concern though the two intersections primarily affected are actually located in Tualatin. The Oregon Department of Land Conservation and Development (DLCD) had raised the question as to if there was an agreement between the road authorities (ODOT, Tualatin and Durham). ODOT has registered their approval of the Traffic Impact Analysis report but the City Engineer had some questions, which have since been answered by the applicant, however the Engineer's report is incomplete at this time and that report will need to be completed and reviewed by staff prior to final approval of the Map Amendment.

K. J. said his recommendation was that the Plan Zone Map Amendment be approved subject to staff approval of the Traffic Impact Analysis.

Commissioner Van Meter said he would like to see the big picture beyond the Durham city limits in the Traffic Impact Analysis. Commissioner Plame asked if this area had a Master Plan and said he thought the fault lay in the city's processes. K. J. said that Tualatin does have a Master Plan for the area and most of the area in this project is located in the City of Tualatin. Commissioner Plame asked if there had been any coordination between two cities.

Commissioner Goddard noted that this region is a focal point in the U.S. because of the development of green buildings and provision for greenspaces and he concurred with Commissioner Plame's comments that there should be a plan and Durham should be included in that plan.

Roland said that all the application under consideration deals with is the map amendment in accordance with the text amendment previously approved. He agreed that the Comprehensive Land Use Plan probably needed updating but that process would take longer than a year and this zone change is being applied for under the existing Code as amended last month. Commissioner Plame contended that the project area should not be done

piecemeal. Commissioner Goddard agreed and asked how this area would blend into the area in Tualatin. He was informed that Tualatin has approved a CMU zone that is comparable to the MF-MD. Both Cities had previously zoned the property as Industrial.

Roland Signett noted that the requisite for the IGA does necessitate some interaction between the cities. Commissioner Van Meter asked about the process with regard to Metro, DLCD and the Council. Roland noted that comments had been received from both Metro and DLCD and that the Council would get a copy of the Commission Minutes in its monthly agenda packet.

Commissioner Saab then opened the hearing up to the applicant's testimony. Noel Johnson from TCR introduced the other members of his team: Catherine Corliss (Angelo Planning Group), Judith Gray (Kittelson & Associates), and Dana Krawczuk (Ball Janek Attorneys).

Mr. Johnson said that they had been to both Tualatin and Durham's Councils for approval on the zone change designations and had received those approvals. With regard to the IGA, talks with the two jurisdictions have outlined the process and a joint meeting between Tualatin and Durham is proposed prior to initiating the 120 day clock. There will definitely be individual hearings and then possibly a joint hearing, if needed.

Besides working on the IGA, Mr. Johnson said that he had been working on getting at least some pedestrian connection easement and some public facility sharing. One hang-up is with a utilities easement. A handout entitled "Zone and Plan Map Amendment from IP to MF-MD was distributed to the Commission.

Ms. Corliss submitted into the record a lengthy memorandum, dated September 24, 2007, Re: Follow up on the Proposed Plan and Zone Map Amendment Application. Ms. Corliss said that the transportation questions posed and answered in a general way are in actuality quite technical. Ms. Gray (Kittelson) explained accepted traffic models relative to real life scenarios. Commissioner Goddard disputed the peak hours data from ODOT and said he was skeptical that the situation would not get worse. Mr. Johnson referenced the science of traffic engineering and the accepted models.

Mr. Johnson acknowledged that he has experience in the development of other master plans and that this area on Lower Boones was sort of a de-facto plan. Commissioner Plame said he would liked to have seen how the whole area was to be developed before getting this proposal.

Ms. Krawczuk noted that a jurisdiction cannot force development on existing properties but development tends to happen incrementally. Mr. Johnson noted that neither of the cities intends to build a through road for this development to have direct access to Bridgeport Village. Ms. Krawczuk stated that from the legal standpoint, land use law looks at what is proportional to the development.

Mr. Johnson said that the parameters are already laid out in the text amendment and that the proposed project will be a sustainable, quality project. He therefore asked that the overlay be applied to the project.

Commissioner Van Meter asked if Lower Boones would need to be widened to four lanes. Ms. Gray said that it would not be required. Roland added that the project will not necessitate any major traffic changes.

City Planner K. J. Won asked about the trip cap as cited by DLCD. Ms. Krawczuk said that a trip cap is actually a legal question and that there was no reason that it should be applied since the project meets the current operational needs.

Chairman Saab asked for any other testimony, for or against. It was noted that the ODOT letter could be considered and that it was neither for nor against the proposal.

Hearing no further request to be heard, the hearing was closing to further public testimony on the advice of staff who stated that it should not be necessary to extend the hearing.

Commissioner Plame moved that the application be approved and include the overlay district subject to staff consideration and approval of the project in light of the City Engineer's forthcoming comments. Commissioner Van Meter seconded the motion and it passed by unanimous vote. (7-0). **MO 1002.6-07**

Cathy Corliss thanked the Commission and said that she would look forward to their input at the proposed pre-design meeting.

- 10. COMMISSIONER COMMENTS/REPORTS.** Roland advised the Council that Councilwoman Sundstrom had resigned from the Council and moved from the area. The Council had wanted the Commission advised about the vacancy since all of the current Council members have had Planning Commission experience and believed such experience to be particularly beneficial on the Council.

Commissioner Gilham said that the staff approval of partitions process should be amended, citing the instance of an "entire forest" that had been "wiped out" next to his property. Roland responded that the applications can be brought before the Commission for informational purposes but that state law trumps city land use regulations in the approval of partitions by staff. Commissioner Gilham further suggested adding a requirement for a neighborhood meeting. Commissioner Van Meter asked that staff draft a report on this issue for an upcoming meeting.

Commissioner Gilham further stated a number of trees had been removed for no reason since the utilities had changed the original proposal. Roland said that if a tree has to come out for construction, the City cannot prevent the owner from using his land to its financial use. The only trees that have been removed so far have to do with the public right-of-way and utility right-of-way. No building plans have been presented to remove trees for the buildings. The consensus of the Commission was that they wanted move oversight of the process. Even if they did not have the right to prevent a tree removal, they wanted the opportunity to make recommendations.

- 11. ADJOURN.** A motion was made by Commissioner Van Meter that the meeting be adjourned; there were many seconds and the vote was unanimous in favor. At approximately 9:30 PM, Chairman Saab adjourned the meeting.

MO 1002.7-07

Approved:

Patricia Saab, Chair

Attest:

Roland Signett, City Administrator/Recorder

DURHAM CITY COUNCIL MINUTES

October 23, 2007

Mayor Gery Schirado brought the meeting to order at approximately 7:30 p.m. at the Tualatin Durham Senior Center. Present were Mayor Schirado, Council President Hadfield, and Councilor Patrick Carroll. Councilor Leslie Gifford arrived after the approval of the Minutes. City Administrator Roland Signett, City Attorney Bill Scheiderich, City Planner K. J. Won and Administrative Assistant Linda Smith represented staff.

C. September 25, 2007 COUNCIL MINUTES. Councilor Carroll moved that the Minutes of September 25, 2007 be adopted as presented. The motion was seconded by Council President Hadfield and passed by unanimous vote (3-0). **MO 1023.1-07**

D. Mayor Schirado read the **Calendar of Meetings** from the agenda.

E. Public Forum. No comments.

F. Planning Commission Update. No comments.

G. ORDINANCE 240-07, AMENDING THE ZONING PLAN TEXT. Second Reading Roland advised the Council that though this Ordinance had come about due to the development plans for the ex-Schneider property, the Ordinance affects the entire city. K. J. was asked for comments and had none to make.

Mayor Schirado read Ordinance 240-07, An Ordinance Amending the City of Durham Comprehensive Land Use Code Chapter II, Article 2, Section 1 – Definitions and Article 3, Section 2 – Multiple Family Residential District and entertained a motion that it be recognized as read for the second time by title only and adopted. Councilor Carroll so moved and Councilor Gifford seconded the motion, which passed by unanimous vote (4-0). **MO 1023.2-07**

H. PUBLIC HEARING QUASI-JUDICIAL PLAN AND ZONE MAP AMENDMENT APPLICATION.

City Planner K. J. Won reviewed his staff report of October 18, 2007, Re: Planning Commission Referral to Adopt a Proposed Zone Change and Plan Map Amendment from IP to MF-MD for Property Located at 18055 SW Lower Boones Ferry Road, Durham File No. 579-07. He said that at the time of the Planning Commission hearing, the final report from the City Engineer had not been received. He had some initial reservations about the overall traffic impact, including that in Tualatin:

1. The DLCD requirement that the road agencies concur with the report. ODOT and the cities responded in the affirmative but no response was received from Washington County, though they had been notified.
2. The DLCD question of the amount of units to be developed due to different numbers being submitted. The applicant has addressed this issue satisfactorily.
3. The DLCD recommended trip cap. The information supplied by the applicant shows that the intersection could handle the traffic with no need for a trip cap.

K. J. concluded his report, noting that both he and the Planning Commission recommend approval of the application.

Mayor Schirado asked if the traffic on the south side of the street where the new medical building was to be located had been taken into account and was told by K. J. and the applicant's traffic

engineer that it had been taken into account. Roland added that the total bundle of the new developments had been considered.

Councilor Gifford asked some questions about the intersections and the current level of service and was directed to data presented on pages 54 and 55 of K. J.'s report.

Mayor Schirado then reviewed the public hearing procedure and polled the Council for bias or ex-parte contact. None was declared and the mayor opened the hearing to testimony from the applicant.

Noel Johnson from TCR introduced the other members of his team: Catherine Corliss (Angelo Planning Group), Judith Gray (Kittelson & Associates), and Dana Krawczuk (Ball Janek Attorneys).

Cathy Corliss passed out a printed power point presentation entitled Plan and Zone Map Amendment from IP to MF-MD and referenced the draft IGA. She concluded that both the Planning Commission and the City Planner had endorsed this application.

Council President Hadfield noted that there seemed to be insufficient parking noted on the map presentation. He was told that there would be a parking structure that would be wrapped by the building. There would only be one entry to the facility due to the constraints levied by the Washington County Transportation authority. The project entrance will be located across from the medical entrance and there will probably eventually be a traffic light there.

Councilor Carroll asked about pedestrian access through the complex and was told that was being expedited by Mr. Johnson with Verizon and REI easements that are in the works.

Councilor Gifford addressed Ms. Gray regarding the LOC rating of D on intersections and was told it equaled at 55 second wait. Ms. Gray briefly explained the process of determining a model and that the model had expectations of being effective 15 years in the future. It was also noted that the IGA will cover some elements of the traffic on Lower Boones and that it was not unusual that Washington County had not responded since their main issue is controlling access rather than the actual traffic on the road.

Mayor Schirado said he was concerned that Tualatin may not be as concerned about the traffic generated at this site because it directly affects a minority of Tualatin residents though it does affect a majority of Durham residents.

Hearing no further requests to be heard, Mayor Schirado closed the public hearing.

- I. **ORDINANCE 241-07 AMENDING COMPREHENSIVE PLAN AND ZONING MAP. First Reading.** Bill Scheiderich advised the TCR team and the Council that he had made some changes to the draft presented by Cathy Corliss. Most of the changes were minor or clerical in nature however the omission of the phrase *All of the density and height bonuses in Table 3 of MD overlay district are available to the subject site* in Section 1 of the recitals generated some discussion. The TCR representative Noel Johnson and their attorney, Dana Krawczuk, argued that it should be included to give a better degree of certainty to the developer. Councilor Carroll and City Attorney Scheiderich contended that the bonuses were only a potential as presented in Table 3 (page 6 of the Ordinance) and not a guarantee. Any application will still have to go through the designated land use process to be granted approval of the bonuses. Bill Scheiderich argued that including the phrase as presented by the applicant would amount to pre-judging an application. The consensus of the Council was that the phrase should remain deleted.

Although Table 3, referred to as the "tool chest," would allow for a theoretical 71 residential units per acre, the actual number cited by the applicant is 44. Councilor Carroll also asked the applicant to be realistic in their planning for sufficient parking rather than adhering to the Metro model. Cathy Corliss added that parking structures, such as that planned by TCR, are exempt from the Metro parameters.

Councilor Carroll moved that Ordinance 241-07, An Ordinance Applying the Multiple-Family Residential (MF) District and Multi-Family Design (MD) Overlay District to One Parcel Currently Designated Industrial Park (IP) be recognized as read as amended for the first time. Councilor Gifford seconded the motion and it passed by unanimous vote (4-0). **MO 1023.3-07**

- J. DRAFT IGA URBAN SERVICES AGREEMENT.** Roland noted that there had been a number of talks with Tualatin on this document and that it was still in draft form; however, the Tualatin City Council is scheduled to act on the approval on November 26, prior to the Durham City Council meeting and consideration. He therefore requested the Council to carefully review the document and let him know if there were any areas of concern so that they could be addressed either individually or with an extra meeting in November prior to that adoption.

Dana Krawczuk acknowledged that although she had drafted most of the IGA, the agreement itself is between Tualatin and Durham. TCR is not a party to that agreement, only a beneficiary. Roland further noted that if TCR walks away from the project, the IGA, if adopted, will stand. There were several comments from the Council indicating their skepticism of working with Tualatin after the issues that had arisen with the construction of the pedestrian bridge. Roland assured them that Durham would have full input on the approval of the building permits to be in accord to what is approved by the Planning Commission.

Councilor Gifford noted that according to the map in the handout, it appeared that the parking would be more in Durham and the buildings more in Tualatin, leaving Durham on the low side of the assessed tax value. Noel Johnson said that had been an early map and that the newest layout shows that it will be about equal in each of the cities.

Cathy Corliss noted that a joint meeting of the Planning Commissions of Tualatin and Durham is planned for mid-November to facilitate the design path of TCR and asked the Council's approval of such a meeting.

- K. ORDINANCE 238-07, AN ORDINANCE ESTABLISHING A FEE IN-LIEU OF DEDICATION OF PUBLIC OPEN SPACE AS A CONDITION OF LAND USE APPROVAL. Second Reading.**

Councilor Carroll moved that Ordinance 238-07, An Ordinance Establishing A Fee In-Lieu Of Dedication Of Public Open Space As A Condition Of Land Use Approval be read for the second time by title only and that it be adopted. Council President Hadfield seconded the motion and it passed by unanimous vote (4-0). **MO 1023.4-07**

- L. ORDINANCE 239-07, AN ORDINANCE AMENDING ORDINANCE 165-91 AND 205-00 AND REPEALING ORDINANCE 119-83. Second Reading.** Roland advised the Council that this was a clean-up of the Ordinances to conform with state law.

Councilor Carroll moved to read Ordinance 239, An Ordinance Amending Ordinances 165-91 And 205-00 And Repealing Ordinance 119-83 for the second time by title only and that it be adopted. Council President Hadfield seconded the motion and it passed by unanimous vote (4-0). **MO 1023.5-07**

M. PUBLIC HEARING, ORDINANCE 242-07, AN ORDINANCE AMENDING THE LAND USE CODE BY ADDING NEW PROVISIONS RELATING TO CONDITIONAL USES AND RELIGIOUS LAND USES.

Mayor Schirado opened the public hearing and asked for the staff report. Bill Scheiderich said that he had drafted this Ordinance to comply with state regulations giving allowances for religious activities and institutionalized persons. Councilor Carroll questioned the application to the MF district and it was directed that reference be deleted for the second reading. Councilor Gifford asked about the referenced blank Type. Bill said that that would also be filled in before the second reading.

No members of the public were present to give testimony either for or against the proposed Ordinance. The mayor then closed the public hearing.

N. ORDINANCE 242-07, AN ORDINANCE AMENDING THE LAND USE CODE BY ADDING NEW PROVISIONS RELATING TO CONDITIONAL USES AND RELIGIOUS LAND USES. First Reading.

Councilor Carroll moved that Ordinance 242-07, An Ordinance Amending The Land Use Code By Adding New Provisions Relating To Conditional Uses And Religious Land Uses be recognized as read for the first time. Council President Hadfield seconded the motion and it passed by unanimous vote (4-0). MO 1023.6-07

O. APPOINTMENT TO THE CITY COUNCIL. Roland advised the Council that he had sent a letter to the three candidates about a potential interview process but that Mr. Pahl and Mr. Barton would be out of town during November. The new application of Chuck Van Meter was discussed and he was deemed to be the better candidate due to his experience on the Planning Commission and time availability. Both Mayor Schirado and Councilor Gifford vouched for his abilities since Council President Hadfield and Councilor Carroll did not know Commissioner VanMeter. The consensus of the Council was that Commissioner Van Meter be appointed to the Council at this time rather than going through an interview process.

Since this appointment will leave a vacancy on the Commission, Councilor Gifford moved that Keith Jehnke be appointed to the Planning Commission. Councilor Carroll seconded the motion and it passed by unanimous vote. MO 1023.7-07

P. ADMINISTRATOR MISCELLANEOUS UPDATES.

Update on log jam. Roland said CWS had done some further work but that it was not what he had hoped.

“Dog Park” complaint. Roland referenced the letter in the packet. No action was deemed necessary at this time.

Cambridge Addressing. Roland advised the Council that this will probably necessitate another hearing but that he had deferred this due to the length of the agenda.

Recycle Bins. Roland advised the Council that he had several residents asking about the bins in use in neighboring cities. The consensus of the Council was to not change to the additional bins due to the additional required space in garages and additional cost.

Verizon. Roland said the Verizon had completed the punch list including Councilor Gifford’s mailbox. A recent repair on Rivendell was due to an emergency gas line break repair.

Q. Financial Report. No comments.

R. Tualatin Police Report. No comments.

S. Council Comments. No comments

T. Adjournment. Councilor Gifford moved to adjourn the meeting and Councilor Carroll seconded the motion. The motion was approved by unanimous vote (4-0). Mayor Schirado adjourned the meeting at approximately 9:35 p.m.

MO 1023.7-07

Approved:

Gery Schirado, Mayor

Attest:

Roland D. Signett, City Administrator/Recorder