



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

04/27/2009

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

**FROM:** Larry French, Plan Amendment Program Specialist

**SUBJECT:** City of Tigard Plan Amendment  
DLCD File Number 002-09

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:** Friday, May 08, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Gary Pagenstecher, City of Tigard  
Gloria Gardiner, DLCD Urban Planning Specialist  
Meg Fernekees, DLCD Regional Representative

<paa> YA

**Notice of Adoption**

APR 20 2009

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

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

Jurisdiction: **City of Tigard**

Local file number: **CPA2008-00013**

Date of Adoption: **4/14/09**

Date Mailed: **4/17/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **1/30/09**

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

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

The applicant proposes adjusting the common lot line to transfer 3,153 sq. ft. from the Durham Elementary School to the Jackson Business Center and changing the Medium-Density Residential (R-12) zone to Industrial Park (I-P) to accommodate the loss of parking to the business center when the school district condemned a portion of the site for a new access to the school.

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

Plan Map Changed from: **Medium Density Residential** to: **Industrial Park**

Zone Map Changed from: **R-12** to: **I-P**

Location: **Bounded by SW Durham Road, across from 79<sup>th</sup> Avenue** Acres Involved: **3,153 sq. ft.**

Specify Density: Previous: **N/A** New: **N/A**

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
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| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | 10                       | 11                       | 12                       | 13                       | 14                       | 15                       | 16                       | 17                       | 18                       | 19                       |
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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 file No. 002-09 (17348) [15486]

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

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Local Contact: **Gary Pagenstecher**

Phone: **(503) 718-2434** Extension:

Address: **13125 SW Hall Blvd.**

Fax Number: **503-718-2748**

City: **Tigard**

Zip: **97223**

E-mail Address: **garyp@tigard-or.gov**

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## **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.

**CITY OF TIGARD, OREGON**  
**TIGARD CITY COUNCIL**  
**ORDINANCE NO. 09-04**

AN ORDINANCE APPROVING A COMPREHENSIVE PLAN AMENDMENT (CPA2008-00013) AND ZONE AMENDMENT (ZON2008-00007), CHANGING THE COMPREHENSIVE PLAN DESIGNATION FROM PUBLIC INSTITUTION TO LIGHT INDUSTRIAL AND THE MEDIUM DENSITY RESIDENTIAL (R-12) ZONE TO INDUSTRIAL PARK (I-P); AND APPROVING A LOT LINE ADJUSTMENT (MIS2008-00016) OF THE SUBJECT 3,153 SQUARE FOOT AREA PROPOSED FOR TRANSFER FROM TIGARD-TUALATIN SCHOOL DISTRICT 23J TO THE JACKSON BUSINESS CENTER; AND A MINOR MODIFICATION (MMD2008-00026) OF THE SUBJECT AREA TO BE DEVELOPED WITH 10 PARKING SPACES AND ASSOCIATED LANDSCAPING AND SCREENING, SUBJECT TO CONDITIONS OF APPROVAL. THE SUBJECT LOTS INCLUDE WASHINGTON COUNTY TAX ASSESSOR'S MAP 2S113BA, TAX LOTS 00200 AND 00401.

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WHEREAS, Pursuant to the Oregon Circuit Court Immediate Possession Order (Case No. C074583CV), the Tigard-Tualatin School District 23J obtained an access easement across Tax Lot 200 for a new access drive to Durham Elementary school; and a settlement agreement between the School District and Mr. Metzger included the proposed request in this application; and

WHEREAS, Section 18.380.030.A of the City of Tigard Community Development Code requires quasi-judicial zoning map amendments to be undertaken by means of a Type III-PC procedure, as governed by Section 18.390.050, using standards of approval contained in Subsection 18.380.030.B; and

WHEREAS, Section 18.380.030.A.2 of the City of Tigard Community Development Code requires the Commission to make a recommendation to the Council on an application for a Comprehensive Plan Map Amendment; and

WHEREAS, Section 18.380.030.B.1 of the City of Tigard Community Development Code requires demonstration of compliance with all applicable Comprehensive Plan Policies and map designations; and

WHEREAS, Section 18.380.030.B.2 of the Tigard Development Community Development Code requires demonstration of compliance with all applicable standards of any provision of this code or other applicable implementing ordinances; and

WHEREAS, Section 18.380.030.B.3 of the City of Tigard Community Development Code requires evidence of change in the neighborhood or community, or a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application; and

WHEREAS, pursuant to Section 18.390.060G of the Tigard Development Code, a recommendation by the Commission, and a decision by the Council, shall be based on consideration of Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes; any federal or state statutes or regulations found applicable; and any applicable Metro regulations; and

WHEREAS, the Tigard Planning Commission held a public hearing on March 16, 2009, and recommended approval of CPA2008-00013/ZON2008-00007 and Lot Line Adjustment (MIS2008-00016) and Minor Modification (MMD2008-00026) by motion with a unanimous vote in favor; and

WHEREAS, the Tigard City Council held a public hearing on April 14, 2009, to consider the request for a quasi-judicial Comprehensive Plan and Zone Map Amendment, Lot Line Adjustment, and Minor Modification and determined that the amendments and development proposals will not adversely affect the health, safety and welfare of the City and meet all applicable review criteria.

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

SECTION 1: Comprehensive Plan Amendment (CPA2008-00013) and Zone Change (ZON2008-00007) are hereby approved by the City Council.

SECTION 2: Lot Line Adjustment (MIS2008-00016) and Minor Modification (MMD2008-00026) are hereby approved by the City Council, subject to the conditions of approval in the February 27, 2009 Staff Report to the Planning Commission.

SECTION 3: The attached findings in the February 27, 2009 Staff Report to the Planning Commission are hereby adopted in explanation of the Council's decision.

SECTION 4: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 14<sup>th</sup> day of April, 2009.

Carol A. Krager  
Carol A. Krager, Deputy City Recorder

APPROVED: By Tigard City Council this 14<sup>th</sup> day of April, 2009.

C. Dirksen  
Craig Dirksen, Mayor

Approved as to form:  
[Signature]  
City Attorney

4/14/2009  
Date

Noted to be a True Copy of Original on File

By: Carol A. Krager  
Deputy Recorder - City of Tigard

Date: April 15, 2009

Agenda Item: 5.1Hearing Date: March 16, 2009Time: 7:00 PM

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



120 DAYS = NA

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** JACKSON BUSINESS CENTER & DURHAM ELEMENTARY SCHOOL  
COMPREHENSIVE PLAN AND ZONE MAP AMENDMENT

**FILE NOS.:** Comprehensive Plan Amendment (CPA) CPA2008-00013  
Zone Change (ZON) ZON2008-00007  
Lot Line Adjustment (MIS) MIS2008-00016  
Minor Modification (MMD) MMD2008-00026

**PROPOSAL:** The applicant is requesting a Comprehensive Plan and Zoning Map Amendment, lot line adjustment, and a minor modification to the existing Jackson Business Center site to accommodate the loss of parking to the Business Center when the School District condemned a portion of the site for a new access to Durham Elementary. The applicant proposes adjusting the common lot line to transfer 3,153 square feet from the School District to the Business Center and changing the Medium Density Residential (R-12) zone to Industrial Park (I-P). The area will be developed with 10 parking spaces and associated landscaping and screening for the Business Center.

*Pursuant to the Oregon Circuit Court Immediate Possession Order (Case No. C074583CV), the School District obtained an access easement across Tax Lot 200 for a new access drive to Durham Elementary school. Access had been provided from SW Shaffer Lane under an easement agreement across Clean Water Services (CWS) property for a period of 20 years without an opportunity for renewal. A settlement agreement between the School District and Mr. Metzger included the proposed request in this application.*

**APPLICANT/  
OWNER:** Rob Saxton  
Tigard-Tualatin School District 23J  
6960 SW Sandburg Street  
Tigard, OR 97223

**OWNER:** David Metzger  
Metzger Ventures, LLC  
PO Box 400  
Sherwood, OR 97140

**APPLICANT'S  
REP:** WRG Design  
5415 SW Westgate Drive, Suite 100  
Portland, OR 97221

**LOCATION:** The property is located at 7800 and 7950 SW Durham Road. The site is bounded by SW Durham Road on the north and Fanno Creek on the south; Washington County Tax Assessor's Map 2S113BA, Tax Lots 200 and 401, respectively.

**CURRENT ZONE/  
COMP PLAN  
DESIGNATION:**

R-12(HD): Medium-Density Residential District. The R-12 zoning district is designed to accommodate a full range of housing types at a minimum lot size of 3,050 square feet. A wide range of civic and institutional-uses are also permitted conditionally. The purpose of the Historic District overlay is to facilitate the

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protection, enhancement and perpetuation of such improvements and of such districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history. The current Comprehensive Plan Designation is Public Institution.

**PROPOSED ZONE/  
COMP PLAN**

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

**APPLICABLE  
REVIEW  
CRITERIA:**

Community Development Code Chapters 18.380.020 Zoning Map and Text Amendments, 18.390.050/.060 Decision Making Procedures; 18.410 Lot Line Adjustments; 18.360 Site Development Review; 18.510, Residential Zoning Districts; 18.530, Industrial Zoning Districts; 18.705 Access, Egress and Circulation; 18.740, Historic Overlay; 18.745 Landscaping and Screening; 18.765, Off-Street Parking and Loading Requirements; 18.790, Tree Removal; 18.810, Street and Utility Improvement; Comprehensive Plan Goals, # 1, Citizen Involvement; Goal # 2, Land Use Planning; Goal # 9, Economic Development); and Goal # 10, Housing.

**SECTION II. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend **APPROVAL** to City Council of the proposed Comprehensive Plan Amendment and Zone Change. Also recommended for **APPROVAL** are the Lot Line Adjustment and Minor Modification, subject to proposed conditions of approval.

**CONDITIONS OF APPROVAL**

**THE FOLLOWING CONDITIONS APPLY TO THE PROPOSED LOT LINE ADJUSTMENT AND MINOR MODIFICATION AND SHALL BE SATISFIED PRIOR TO ISSUANCE OF ANY SITE PERMITS:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the **CURRENT PLANNING DIVISION, ATTN: Gary Pagenstecher 503-639-4171, EXT 2434**. The cover letter shall clearly identify where in the submittal the required information is found:

1. Upon approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Washington County and submit a copy of the recorded survey map to the City, to be incorporated into the record. The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and shall be completed prior to the issuance of any site permits on the re-configured lots.
2. The applicant shall either apply for a variance to the buffer standards, or submit a revised landscape plan that shows landscaping consistent with the standards for buffering and screening in Table 18.745.2 and Section 18.745.050.B.4, subject to review and approval by the City Arborist and the Project Arborist.

3. The applicant shall adhere to the tree protection guidelines 1-7 in the project arborist report dated 11/10/08 before, during, and after construction. As each step is completed, the project arborist shall prepare a documenting report that shall be submitted to the City.
4. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
5. The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

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**THE FOLLOWING CONDITIONS APPLY TO THE PROPOSED MINOR MODIFICATION AND SHALL BE SATISFIED PRIOR TO FINAL SITE INSPECTION:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: Gary Pagenstecher 503-639-4171, EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

6. Prior to final inspection, the applicant shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.
7. Prior to final inspection, the applicant shall contact the Planning Division (Gary Pagenstecher, 503-718-2434) for a final site review to ensure consistency with this land use decision.

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

#### **Site History**

Tax Lot 401 is mostly vacant land, improved with a playground and access to Tax Lot 300 to the west, which is the site of the Durham Elementary School and the historic Durham Center. Staff found the following land use decisions applicable to Tax Lot 401: CUP91-00001 allowed the placement and use of a portable classroom structure; CUP95-00006 allowed addition of 39,135 square feet to an existing school of 23,830 square feet; SLR2001-00001 allowed the use of a 1/3-acre parcel between Fanno Creek and Durham School as an outdoor nature investigation and observation site; MMD95-00001 allowed the portable classroom relocation; MMD2000-00011 allowed an educational structure; MMD2007-00019 allowed the construction of a replacement playground.

Tax Lot 200 to the east of the school site has been improved under the following permits: SDR98-00004 approved the construction of a 21,000 square foot office/warehouse/manufacturing building (Metzger Building). SDR2000-00016 approved new construction of a 10,320 square foot addition to the Metzger building (Jackson Business Center).



Pursuant to the Oregon Circuit Court Immediate Possession Order (Case No. C074583CV), the School District obtained an access easement across Tax Lot 200 for an access drive permitted under CUP2007-00004. An agreement between the parties resulted in this application to compensate the owners of Tax Lot 200 for the loss of 11 parking spaces.

#### Vicinity Information

The subject site is bounded by Clean Water Services facilities on the south and west, R-12 residential development to the north across SW Durham Road, and commercial/industrial uses on property zoned industrial park adjacent to ODOT railroad right-of-way and Fanno Creek on the east and south. Access to the site is limited to SW Durham Road.

#### Site Information and Proposal Description

The subject site is zoned R-12 and I-P, has a Comprehensive Plan Designation of Public Institution and Light Industrial, respectively, and is located south of Durham Road between SW Hall and SW 79<sup>th</sup> Avenue. The site contains the Durham Elementary School built in 1989 and the historic Durham Center. Since 1989, the access to the school was provided by SW Shaffer Lane under an easement agreement across CWS property for a period of 20 years without an opportunity for renewal.

The applicant is requesting a Comprehensive Plan and Zoning Map Amendment, lot line adjustment, and a minor modification to the existing Jackson Business Center site to accommodate the loss of parking to the Business Center when the School District condemned a portion of the site for a new access to Durham Elementary. The applicant proposes adjusting the common lot line to transfer 3,153 square feet from the School District to the Business Center and changing the Medium Density Residential (R-12) zone to Industrial Park (I-P). The zone change also involves a comprehensive plan map amendment from Public Institution to Light Industrial. The area will be developed with 10 parking spaces and associated landscaping and screening for the Business Center.

### SECTION IV. APPLICABLE REVIEW CRITERIA AND FINDINGS

#### **TIGARD DEVELOPMENT CODE CHAPTER 18.380:**

##### **18.380.030 Quasi-Judicial Amendments and Procedures to this Title and Map**

Quasi-judicial zoning map amendments shall be undertaken by means of a Type III-PC procedure, as governed by Section 18.390.050, using standards of approval contained in Subsection B below.

**A. The Commission shall make a recommendation to the Council on a zone change application which also involves a concurrent application for a comprehensive plan map amendment. The Council shall decide the applications on the record as provided by Section 18.390.**

The proposed zone change application to change the zoning on the subject lots from R-12 to I-P also involves a comprehensive plan map amendment from Public Institution to Light Industrial (the Light Industrial designation serves both the I-P and I-L zones). Therefore, the Planning Commission shall make a recommendation to Council on the proposed zone change application and comprehensive plan map amendment.

**B. Standards for making quasi-judicial decisions. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:**

##### **18.380.030. B.1**

**Demonstration of compliance with all applicable comprehensive plan policies and map designations:**

## COMPREHENSIVE PLAN POLICIES

### CITIZEN INVOLVEMENT

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

The applicant's representative sent out notices to surrounding property owners and neighborhood representatives, posted a sign on the property, and held a neighborhood meeting on October 24, 2008 in accordance with the City of Tigard's neighborhood meeting notification process. According to the minutes of the neighborhood meeting, no people attended.

In addition, the City has mailed notice of the Planning Commission and City Council hearings to property owners within 500 feet of the subject site, interested citizens, and agencies, published notice of the hearing in the newspaper, and posted the site pursuant to TDC 18.390.050 for Type III Procedures.

With these public involvement provisions and the applicant's documented participation, the proposed zone change is consistent with applicable Citizen Involvement policies.

### LAND USE PLANNING

**Goal 2.1 To establish a land use planning process and policy framework as a basis for all decision and action related to use of land and to assure an adequate factual base for such decisions and actions.**

The Tigard Comprehensive Plan is acknowledged by the State to be in compliance with the Statewide Planning Goals and provides goals, policies and procedures for reviewing and evaluating land use requests. The comprehensive plan amendment and zone change will be reviewed through the City's Type IV process and will be reviewed in relation to the methodology and intent of the plan, its applicable goals, policies, and the Comprehensive Plan and Zone Amendment criteria.

### ECONOMY

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

**Policy 3: The City's land use and other regulatory practices shall be flexible and adaptive to promote economic development opportunities, provided that required infrastructure is made available.**

The applicant is requesting a Comprehensive Plan and Zoning Map Amendment, lot line adjustment, and a minor modification to the existing Jackson Business Center site to accommodate the loss of parking to the Business Center when the School District condemned a portion of the site for a new access to Durham Elementary. The applicant proposes adjusting the common lot line to transfer 3,153 square feet from the School District to the Business Center and changing the Medium Density Residential (R-12) zone to Industrial Park (I-P). The area will be developed with 10 parking spaces for the Business Center.

Approving the request through this comprehensive plan amendment application demonstrates the flexibility of the City's land use practices to sustain the existing economic development activity in the Jackson Business Center.

### HOUSING

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

**Policy 5: The City shall provide for high and medium density housing in the areas such as town centers (Downtown), regional centers (Washington Square) and along transit corridors where employment opportunities, commercial services, transit, and other public services necessary to support higher population densities are either present or planned for in the future.**

The subject site is designated medium density and is located adjacent to SW Durham Road, an arterial street on the City's Transportation System Plan. However, historically the subject site has been used for schools as a conditional use in the residential zone. Recent improvements, including the new driveway access, playground, and parking lot improvements demonstrate continued use of the subject site for school purposes. In addition, the amount of land (3,153 square feet) proposed to be rezoned from R-12 to I-P is minimal, representing an area that would support only one single-family dwelling under the R-12 zone.

**Goal 10.2 Maintain a high level of residential livability.**

**Policy 8: The City shall require measures to mitigate the adverse impacts from differing or more intense land uses on residential living environments, such as:**

- A. orderly transitions from one residential density to another;**
- B. protection of existing vegetation, natural resources and provision of open space areas; and**
- C. installation of landscaping and effective buffering and screening.**

The existing development on Tax Lot 200 (Jackson Business Center) provides a D-2 buffer between the parking lot and the school field to the west in excess of the required C level buffer. The applicant proposes to replace this buffer and screening to the west of the proposed parking spaces.

**FINDING:** As demonstrated above, the proposed zone change is consistent with the applicable Comprehensive Plan policies. The change in the Comprehensive Plan Designation from Public Institution to Light Industrial would ensure consistency with the amended zone.

**18.380.030.B.2**

**Demonstration of compliance with all applicable standards of any provision of this code or other applicable implementing ordinance:**

The applicant proposes to adjust the lot line between Tax Lots 200 and 401 and to improve the lot line-adjusted area with 10 parking spaces and landscaping as a minor modification to the existing Jackson Business Center development. The following development standards of the Tigard Development Code apply to these proposed improvements.

**TIGARD DEVELOPMENT CODE**

**SITE DEVELOPMENT REVIEW (18.360)**

**Minor modifications of an approved plan or existing developments, as defined in Section 18.360.060, shall be processed as a Type I procedure, as governed by Section 18.390.030, using approval criteria contained in Section 18.360.060.**

Section 18.360.060 of the Tigard Development Code Site Development Review chapter, states; "any modification which is not within the description of a major modification as provided in section 18.360.050 shall be considered a minor modification."

Section 18.360.050 states that the Director shall determine that a major modification(s) has resulted if one (1) or more of the changes listed below have been proposed:

**An increase in dwelling unit density or lot coverage for residential development.**

The proposed change would replace ten parking spaces to the lot line adjusted Jackson Business Center property. The change would not involve any residential uses. This criterion for a major modification is not met.

**A change in the ratio or number of different types of dwelling units.**

The change would not involve any residential uses. This criterion for a major modification is not met.

**A change that requires additional on-site parking in accordance with Chapter 18.765.**

The proposed change of 10 parking spaces replaces eleven parking spaces removed as a consequence of the District's condemnation proceeding. No additional on-site parking is otherwise required. This criterion for a major modification is not met.

**A change in the type of commercial or industrial structures as defined by the Uniform Building Code.**

The proposed parking does not affect any commercial or industrial structures. This criterion for a major modification is not met.

**An increase in the height of the building(s) by more than 20 percent.**

The proposed parking does not affect any commercial or industrial structures. This criterion for a major modification is not met.

**A change in the type and location of accessways and parking areas where off-site traffic would be affected.**

Ten parking spaces are proposed for the western edge of the Jackson Business Center property located south of the new driveway to the Durham Elementary School. Construction of these spaces will not affect off-site traffic. This criterion for a major modification is not met.

**An increase in vehicular traffic to and from the site and the increase can be expected to exceed 100 vehicles per day.**

The proposed parking is replacement parking. No increase in vehicular traffic is expected as a result of the parking improvement. This criterion for a major modification is not met.

**An increase in the floor area proposed for a non-residential use by more than ten percent excluding expansions under 5,000 square feet.**

No floor area is proposed. This criterion for a major modification is not met.

**A reduction in the area reserved for common open space and/or usable open space that reduces the open space area below the minimum required by the code or reduces the open space areas by more than ten percent.**

The previous approval for expansion of the Jackson Business Center (SDR2000-00016) approved a reduction of the landscaping requirement from 25% to 20%. The site plan submitted for that expansion included 23% landscaping, thereby exceeding the modified requirement. The subsequent modification to the Durham Elementary School access approved through CUP2007-00004 increased the landscaping by an additional 108 square feet for a final landscape percentage of approximately 24%. This Minor Modification application further increases the amount of the landscaping on the Jackson Business Center property by 593 square feet. This criterion for a major modification is not met.

**A reduction of project amenities (recreational facilities, screening; and/or, landscaping provisions) below the minimum established by the code or by more than ten percent where specified in the site plan.**

As discussed in the previous finding, no reduction in open space would occur with the proposed lot line adjustment and parking improvements. In addition, the applicant proposes to reconstruct the required parking lot landscaped buffer and screening in the lot adjusted area west of the parking lot expansion maintaining the existing landscaping improvement. This criterion for a major modification is not met.

**A modification to the conditions imposed at the time of Site Development Review approval that is not the subject of criteria B1 through 10 above.**

On review of the original permits (SDR98-00004 and SDR2000-00016), the proposed improvements do not modify any of the conditions of approval that are not the subject of above criteria. This criterion for a major modification is not met.

A minor modification shall be approved, approved with conditions or denied following the Director's review based on the finding that 1) The proposed development is in compliance with all applicable requirements of this title, and 2) The modification is not a major modification.

**FINDING:** Pursuant to section 18.360.050 and the analysis above, the proposed parking improvement is a minor modification to the existing Jackson Business Center development. As reviewed below in this staff report the proposed development is in compliance with all the applicable requirements of this title and may be approved.

#### **LOT LINE ADJUSTMENTS (18.410)**

The Director shall approve or deny a request for a lot line adjustment in writing based on findings that the following criteria are satisfied:

**An additional parcel is not created by the lot line adjustment, and the existing parcel reduced in size by the adjustments is not reduced below the minimum lot size established by the zoning district;**

The applicant is requesting approval of a lot line adjustment between Tax Lot 200 (Jackson Business Center property) and Tax Lot 401 (School District property) on tax map 2S113BA. The area of the adjustment is 3,135 square feet. Tax Lot 200 is 2.5 acres and would be 2.57 acres after the adjustment. Tax Lot 401 is 2.79 acres and would be 2.72 acres after the adjustment. An additional parcel is not created by the proposed adjustment. The minimum lot size in the R-12 zone is 3,050 square feet. Therefore, the proposed reduction is consistent with this standard.

**By reducing the lot size, the lot or structures(s) on the lot will not be in violation of the site development or zoning district regulations for that district;**

Playground equipment is present in the vicinity of the proposed lot line adjustment on Tax Lot 401. The equipment would be approximately 28 feet from the adjusted line, consistent with the ten foot side yard setback requirement in the R-12 zone.

**The resulting parcels are in conformity with the dimensional standards of the zoning district, including: a) The minimum width of the building envelope area shall meet the lot requirement of the applicable zoning district; b) The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the accessway may not be included in the lot area calculation; c) Each lot created through the partition process shall front a public right-of-way by at least 15 feet or have a legally recorded minimum 15-foot wide access easement; and d) Setbacks shall be as required by the applicable zoning district.**

The width, area, and setbacks of the subject lots are consistent with the standards of their respective zoning districts as described below in the findings for Zoning Districts. Both lots front on SW Durham Road: Tax Lot 401 for approximately 240 lineal feet and Tax Lot 200 for approximately 380 lineal feet, consistent with this standard.

**The fire district may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on fire-fighting capabilities.**

The applicant does not propose additional access with the existing parking lot layout. Therefore, this standard does not apply.

**Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved partition map.**

A common drive is not proposed with this lot line adjustment. The common drive for Tax Lots 200 and 401, approved under CUP2007-00004, is consistent with this standard.

Any accessway shall comply with the standards set forth in Chapter 18.705, Access, Egress, and Circulation.

The common drive for Tax Lots 200 and 401, approved under CUP2007-00004, is consistent with the Access, Egress, and Circulation standards.

#### 18.410.050 Recording Lot Line Adjustments

**A. Recording requirements.** Upon the Director's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Washington County and submit a copy of the recorded survey map to the City, to be incorporated into the record.

**B. Time limit.** The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and shall be completed prior to the issuance of any building permits on the re-configured lots.

A condition of approval will ensure the applicant records the lot line adjustment with the County and provides the City with a copy of the survey map in a timely manner.

**FINDING:** As described above, the proposed lot line adjustment is consistent with the applicable lot line adjustments standards, subject to the following condition of approval.

**CONDITION:** Upon approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Washington County and submit a copy of the recorded survey map to the City, to be incorporated into the record. The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and shall be completed prior to the issuance of any building permits on the re-configured lots.

#### RESIDENTIAL ZONING DISTRICTS (18.510)

The list of permitted, limited, conditional and prohibited uses in residential zones presented in Table 18.510.1, includes "non-accessory parking" as a conditional use when associated with transit-related facilities.

The proposed use is replacement parking for the existing industrial development caused by the condemnation of a portion of Lot 401 for access to the Durham school. Non-accessory parking is not an allowed use in the R-12 zone; therefore, a lot line adjustment and zone change is sought with this application.

All development must comply with: 1) all of the applicable development standards contained in the underlying zoning district. Development standards in residential zoning districts are contained in Table 18.510.2, and 2) all other applicable standards and requirements contained in this title.

This table is combined with Table 18.530.2, below to show compliance with the applicable development standards.

#### INDUSTRIAL ZONING DISTRICTS (18.530)

A list of permitted, limited, conditional and prohibited uses in industrial zones is presented in Table 18.530.1.

Upon approval of the rezoning of the subject site from R-12 to I-P, the proposed parking lot expansion would be permitted outright in the I-P zone as an accessory use to the existing industrial development.

#### 18.530.040 Development Standards

All development must comply with: 1) all of the applicable development standards contained in the underlying zoning district. Development standards in residential zoning districts are contained in Table 18.530.2, and 2) all other applicable standards and requirements contained in this title.

STANDARD	I-P	R-12 MF/SF	PROPOSED I-P/R-12
Minimum Lot Size	None	3,050 sq. ft.	na / 2.72 acres
Minimum Lot Width	50 ft.	None	na
Minimum Setbacks			
Front yard	35	20/15 ft	na
Side facing street on corner & through lots	20	20/10 ft	na
Side yard	0/50	10/5 ft	na/28
Rear yard	0/50	20/15 ft	na
Maximum Height	45 ft.	35 ft.	na
Maximum Site Coverage [2]	75% [5]	80%	76%/ <80%
Minimum Landscape Requirement	25% [6]	20%	24%/ > 20%

[2] Includes all buildings and impervious surfaces.

[5] Maximum site coverage may be increased to 80% if the provisions of Section 18.530.050.B are satisfied.

[6] Except that a reduction to 20% of the site may be approved through the site development review process.

The R-12 zoned property is not currently used for multi-family or single-family housing, but includes the access drive and playground equipment for Durham Elementary School. The proposed adjustment of 3,153 feet does not alter the lot's compliance with the above criteria. The resulting parcel is 2.72 acres in size. Structures on the lot consists of playground equipment, which is located approximately 28 feet from the re-located property line, in compliance with the applicable side yard setback requirement. A majority of the site is used as a field for the elementary school. Therefore, the lot remains in compliance with the maximum lot coverage of 80% and the landscape requirements of 20%.

The I-P zoned property is increasing in size with this lot line adjustment to be 2.57 acres. There is no minimum lot size requirement; therefore, this lot is in compliance with the zone. The adjustment does not modify the width of the lot at the street. Therefore the lot remains in compliance with the minimum lot width standard. The structure on the lot remains consistent with the setback requirements of the zone as the adjustment moves the western lot line away from the building increasing the side yard setback.

The previous approval for expansion of the Jackson Business Center (SDR2000-00016) approved a reduction of the landscaping requirement from 25% to 20%. The site plan submitted for that expansion included 23% landscaping, thereby exceeding the modified requirement. The subsequent modification to the Durham Elementary School access approved through CUP2007-00004 increased the landscaping by an additional 108 square feet for a final landscape percentage of approximately 24%. This Minor Modification application further increases the amount of the landscaping on the Jackson Business center property by 593 square feet.

**FINDING:** As described in analysis above, the proposed project meets the applicable requirements of the respective zoning districts. Other applicable standards and requirements contained in this title are addressed further in this report.

#### **ACCESS, EGRESS AND CIRCULATION (18.705)**

**No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan.**

The applicant submitted a plan set (Exhibit A) and narrative that addresses the access and egress standards, consistent with this standard.

**Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: 1) Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and 2) Copies of the deeds, easements, leases or contracts are placed on permanent file with the City.**

The applicant provided a joint use and maintenance agreement between the School District and Mr. Metzger for the access over the Jackson Business Center property as a condition of approval of CUP2007-00004. Therefore, this standard has been met.

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

The site has frontage on SW Durham Road, a public street. The existing access provided through the condemnation proceeding, pursuant to CUP2007-00004, connects directly with this street at the intersection of SW 79<sup>th</sup> Avenue, consistent with this standard.

**FINDING:** The proposed parking lot expansion and associated buffer and landscaped screening are consistent with the applicable access, egress and circulation standards.

#### **HISTORIC OVERLAY (18.740)**

##### **18.740.020 Applicability of Provisions**

**Designated areas. The historic overlay district shall apply to the following sites and areas: Historic sites and areas; Cultural sites and areas; and Landmarks**

A portion of the subject site, Tax Lot 401, is designated R-12 with a Historic Overlay (HD) zone. The Historic District contains the historic Durham Elementary School on an adjacent tax lot approximately 400 lineal feet from the proposed parking lot improvements.

##### **Designated activities.**

**The provisions of this chapter apply to the demolition of structures within an historic overlay zone area, as governed by Section 18.740.030; and the exterior alteration or new construction within the historic overlay zone area, as governed by Section 18.740.030.**

**FINDING:** The proposed lot line adjustment would not affect the historic overlay zone. Upon approval of the lot line adjustment, the overlay zone would continue to apply to the property subsequently zoned I-P. The proposed improvements to the newly zoned site include the expanded parking lot and associated buffer and landscaped screening. Due to the distance from the historic resource and the nature of the improvements, as indicated in the applicant's plan set and narrative, the proposed new construction would not affect the architectural character of the resource, consistent with the purposes and standards of this chapter.

#### **LANDSCAPING AND SCREENING (18.745)**

##### **Land Use Buffering and Screening:**

**Buffering and Screening is required between different types of land uses.**

Pursuant to the Buffer Matrix in Table 18.745.1, the proposed parking requires C- Level buffering between parking lots and land zoned for residential use.

**A buffer consists of an area within a required setback adjacent to a property line and having a depth equal to the amount specified in the buffering and screening matrix and containing a length equal to the length of the property line of the abutting use or uses; A buffer area may only be occupied by utilities, screening, sidewalks and bikeways, and landscaping. No buildings, accessways or parking areas shall be allowed in a buffer area except where an accessway has been approved by the City;**

The applicant's Landscape Plan (Sheet L1.0) shows the proposed berm and landscape area within a 15-foot buffer, in excess of the 6 to 10 foot buffer requirement. A note on the plan states the applicant's intention to conform to the applicable landscape planting standards. However, the applicant's narrative states that required screening trees would not be planted within the buffer because of a perceived conflict with the existing sequoias. The City's Arborist has commented that the applicant apply for a variance to the buffer standards pursuant to Section 18.745.050.F.2. In addition, the City Arborist expressed concern that raising the grade behind the trees with a rock wall planter will be detrimental to the health of the already heavily impacted sequoias and suggests that the final landscape plan to be reviewed and approved by the project arborist and himself.



Screening of parking and loading areas is required. The specifications for this screening are as follows: Landscaped parking areas shall include special design features, which effectively screen the parking lot areas from view. These design features may include the use of landscaped berms, decorative walls and raised planters.

The applicant proposes to screen the ten additional parking spaces using a berm and raised planters by moving the existing walls and plantings 20 feet to the west of their current location. By protecting the existing sequoias per the project arborist's recommendations (Tree Care and Landscapes Unlimited, Tree Protection Plan, dated November 10, 2008) and incorporating them into the parking lot design as shown in the Grading Plan (Sheet C4.0) and Landscape Plan (Sheet L1.0), these standards are met.

**FINDING:** The proposal does not meet all of the requirements of the landscaping and screening chapter. With the following conditions of approval these standards can be met.

**CONDITIONS:**

- ◆ The applicant shall either apply for a variance to the buffer standards, or submit a revised landscape plan that shows landscaping consistent with the standards for buffering and screening in Table 18.745.2 and Section 18.745.050.B.4. subject to review and approval by the City Arborist and the Project Arborist.
- ◆ The applicant shall adhere to the tree protection guidelines 1-7 in the project arborist report dated 11/10/08 before, during, and after construction. As each step is completed, the project arborist shall prepare a documenting report that shall be submitted to the City.
- ◆ The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
- ◆ The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

**OFF-STREET PARKING AND LOADING (18.765)**

Vehicle parking plan requirements. No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan.

The applicant has submitted a narrative and site plan (Sheet C3.0) showing how access, egress, and circulation requirements are fulfilled, consistent with this standard.

**Location of vehicle parking:**

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

The proposed parking is replacement parking resulting from the School District's condemnation proceeding. The parking is proposed south and adjacent to where the original eleven spaces were removed for the school driveway. Upon adjustment of the proposed lot line, the location for the replacement parking will be on the Jackson Business Center site, consistent with this standard.

**Disabled-Accessible Parking:**

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

According to the applicant's narrative, the existing parking lot includes adequate ADA spaces. Pursuant to SDR2000-00016, a minimum of 41 parking spaces are required. Two existing ADA parking spaces are provided as indicated on the site plan (Sheet C.30), consistent with this standard.

**DEQ indirect source construction permit:**

All parking lots containing 250 spaces or parking structures containing two or more levels shall require review by the Oregon Department of Environmental Quality (DEQ) to: 1. Acquire an Indirect Source Construction Permit; or 2. Investigate the feasibility of installing oil and grease separators

According to the applicant's narrative, the proposed parking lot will contain a total of 102 spaces. Therefore, standard is not applicable.

Excluding single-family and duplex residences, except as provided by Subsection 18.810.030P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.

The parking spaces are serviced by a two-way private access drive. The proposed design allows room for vehicles to turn around and enter the street so that no backing movement will be required, consistent with this standard.

**Parking lot landscaping:** Parking lots shall be landscaped in accordance with the requirement of Chapter 18.745

This standard is addressed above in the Landscaping and Screening section of this report.

**Parking Lot Striping:**

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

The applicant's narrative states all areas and parking spaces are marked and signed to show direction of flow and maintain vehicular and pedestrian safety, consistent with this standard.

#### **Wheel Stops:**

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

The applicants site plan (Sheet C3.0) does not show any wheel stops in the proposed parking areas. According to the applicant's narrative, proposed parking spaces contain an area 3-feet deep to be landscaped beyond the curb. The plan set shows the space depth is 18.5 feet to the curb. Therefore, this standard has been met.

#### **Space and Aisle Dimensions:**

Section 18.765.040.N states that: "except as modified for angled parking in Figures 18.765.1 and 18.765.2 the minimum dimensions for parking spaces are: 8.5 feet x 18.5 feet for a standard space and 7.5 feet x 16.5 feet for a compact space"; aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width. No more than 50% of the required spaces may be compact spaces.

The applicant's plans dimension the proposed parking spaces to show that 10 spaces will conform to standard sized spaces. The applicant's site plan shows a 24-foot wide isle, consistent with this standard.

#### **Bicycle Parking Location and Access:**

Section 18.765.050 states bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures; bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways; outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to located the parking area; and bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

The proposal does not change the size of the floor area on which the number of bicycle spaces is determined. Therefore, this standard is not applicable.

#### **Minimum Off-Street Parking:**

Section 18.765.070.H states that the minimum and maximum parking shall be as required in Table 18.765.2.

The applicant states that, pursuant to SDR2000-00016, 41 parking spaces are required with no maximum limit for light manufacturing uses. The applicant states that the site has 101 parking spaces, consistent with this standard.

**FINDING:** As described above, the off-street parking and loading standards have been met.

#### **TREE REMOVAL (18.790)**

Section 18.790.030 requires that a tree plan for the planting, removal and protection of trees prepared by a certified arborist be provided for a conditional use application. The tree plan shall include identification of all existing trees, Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, identification of which trees are proposed to be removed, and a protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

As required, the applicant submitted a tree plan conducted by Kay Kinyon, a certified arborist. The report contains the four required components, and is therefore acceptable. The applicant identifies six sequoias in the vicinity of the proposed parking area. All six are proposed to be retained and protected under the terms set out in the applicant's arborist report.

Pursuant to 18.790.040, any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

A condition of approval will ensure that this standard is met.

**FINDING:** Not all of the standards of the Tree Removal Chapter have been met. However, with the following condition of approval, the standards can be met.

**CONDITION:** Prior to final inspection, the applicant shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

#### **STREET AND UTILITY IMPROVEMENT STANDARDS (18.810)**

##### **Storm Drainage:**

**General Provisions:** Section 18.810.100.A requires developers to make adequate provisions for storm water and flood water runoff.

**Accommodation of Upstream Drainage:** Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

The submitted drainage report shows that the existing drainage facilities have adequate capacity to accommodate the increased impermeable surface which would result from the proposed additional parking.

**Effect on Downstream Drainage:** Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

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

The proposed additional impermeable surface is adjacent to Fanno Creek, so the storm water runoff should be permitted to discharge without detention.

**Storm Water Quality:** The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 07-20) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

The submitted drainage reports shows that the existing water quality facility was installed with adequate capacity to accommodate the additional impermeable surface. No additional treatment is required.

**FINDING:** As discussed above, the applicable street and utility standards have been met

As reviewed above, the proposed lot line adjustment between Tax Lots 200 and 401, 10-space parking lot expansion, and landscaping and screening as a minor modification to the existing Jackson Business Center development is consistent with the applicable Tigard Development Code standards, consistent with Section 18.380.030.B.2.

### **18.380.030.B.3**

**Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.**

**FINDING:** The applicant is requesting a Comprehensive Plan and Zoning Map Amendment, lot line adjustment, and a minor modification to the existing Jackson Business Center site to accommodate the loss of parking to the Business Center when the School District condemned a portion of the site for a new access to Durham Elementary. Pursuant to the Oregon Circuit Court Immediate Possession Order (Case No. C074583CV), the School District obtained an access easement across Tax Lot 200 for a new access drive to Durham Elementary school. Access had been provided from SW Shaffer Lane under an easement agreement across CWS property for a period of 20 years without an opportunity for renewal. A settlement agreement between the District and Mr. Metzger included the proposed request in this application. The condemnation proceeding represents a change in the neighborhood, consistent with this standard.

**C. Conditions of approval. A quasi-judicial decision may be for denial, approval, or approval with conditions as provided by Section 18.390.050. A legislative decision may be approved or denied.**

**FINDING:** The land use action requested is quasi-judicial as it is limited to specific parcels and does not apply generally across the City. Therefore, the Planning Commission recommendation to Council may be for denial, approval, or approval with conditions.

## **SECTION V. ADDITIONAL CITY STAFF AND OUTSIDE AGENCY COMMENTS**

**The City of Tigard Arborist** reviewed the proposal and provided comments that have been incorporated in the findings of this report.

**Clean Water Services** reviewed the proposal and determined that the project will not significantly impact the existing or potentially existing sensitive areas found near the site.

SECTION VI. CONCLUSION AND RECOMMENDATION

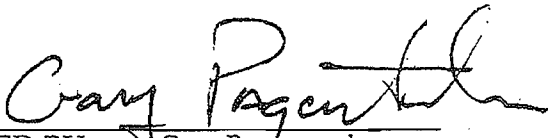
**CONCLUSION:**

Based on the foregoing findings, staff finds that the proposed Comprehensive Plan and Zoning Map Amendment is consistent with applicable provisions of the Tigard Comprehensive Plan, statewide planning goals, Tigard Development Code, and provides evidence of change in the neighborhood as it relates to the property which is the subject of the development application and may be approved.

In addition, based on the foregoing findings, staff finds that the proposed lot line adjustment and minor modification are consistent with the applicable standards of the Tigard Development Code and may be approved, subject to recommended conditions of approval.

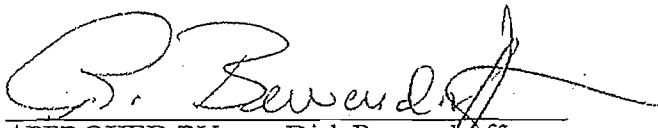
**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend APPROVAL to City Council of the proposed comprehensive plan amendment and zone change. Also recommended for APPROVAL are the lot line adjustment and minor modification, subject to proposed conditions of approval.



PREPARED BY: Gary Pagenstecher  
Associate Planner

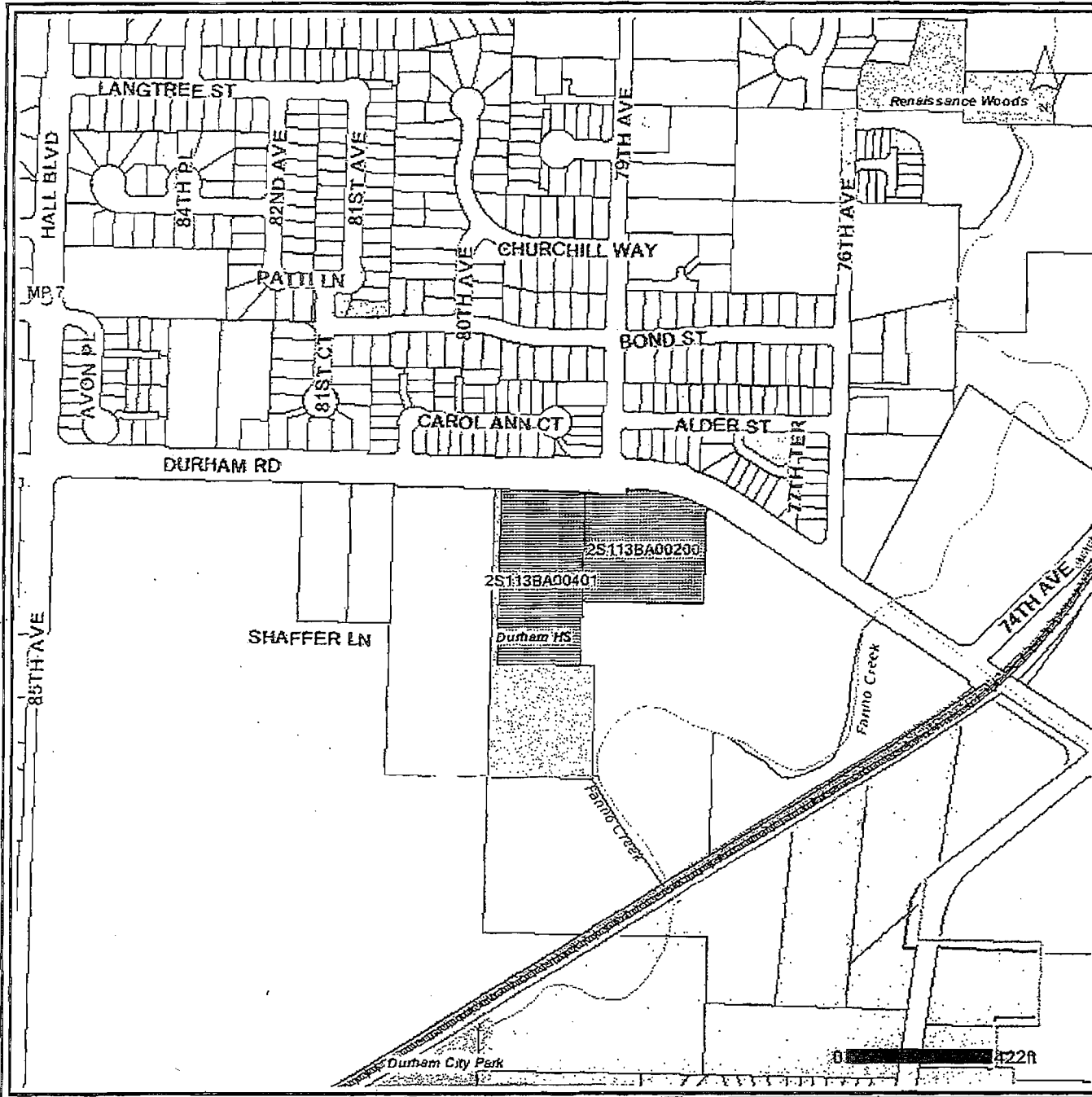
February 27, 2009  
DATE



APPROVED BY: Dick Bewersdorff  
Planning Manager


February 27, 2009  
DATE

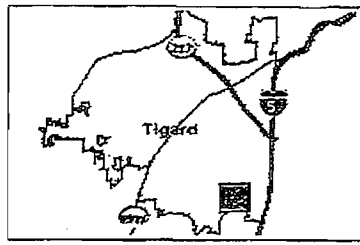
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**VICINITY MAP**

**CPA2008-00013/ZON2008-00007  
 JACKSON BUSINESS CTR. &  
 DURHAM ELEM. SCHOOL  
 PLAN & MAP AMENDMENT**

 **Subject Site**



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

Scale 1:5,066 - 1 in = 422 ft

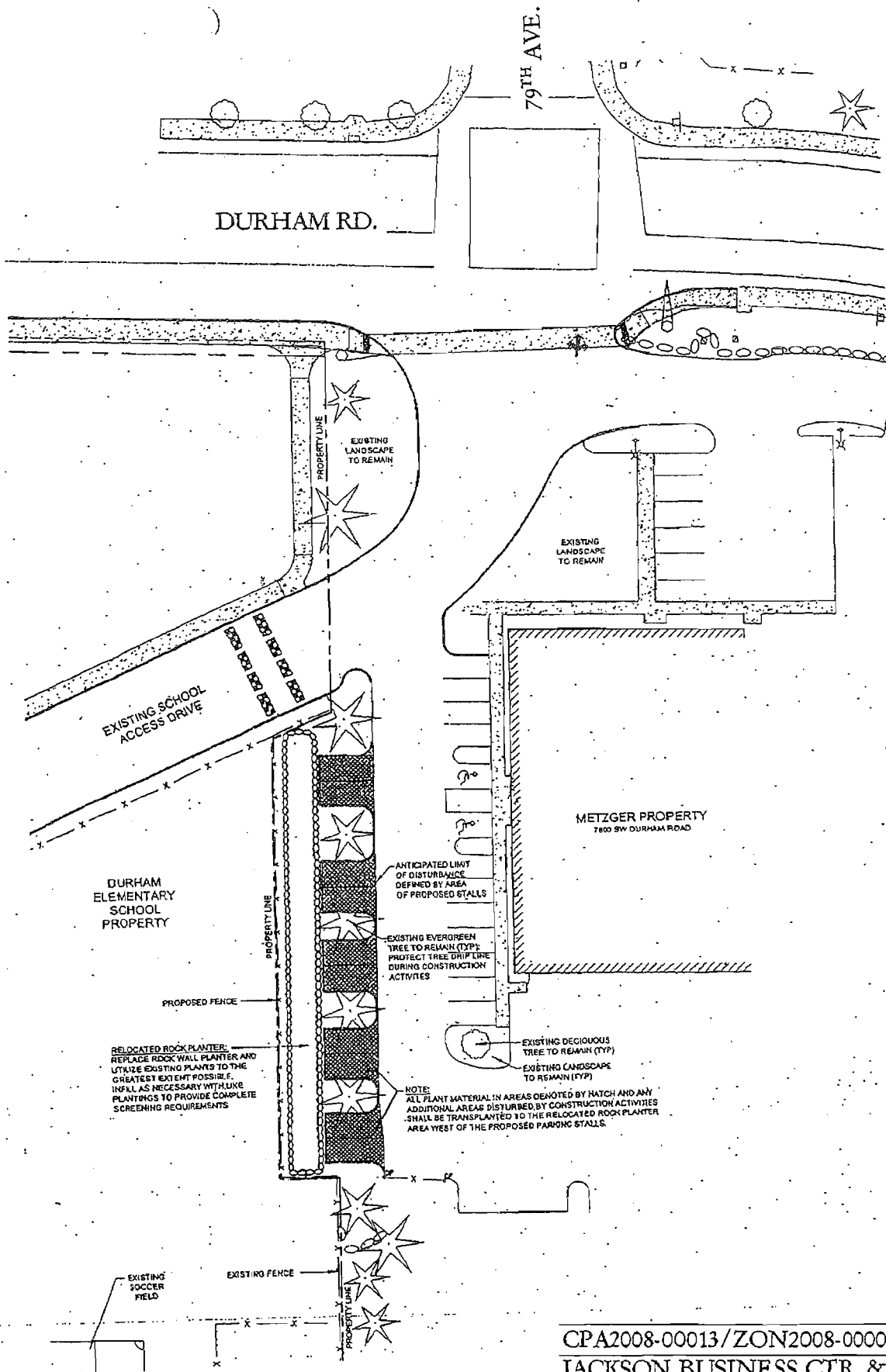
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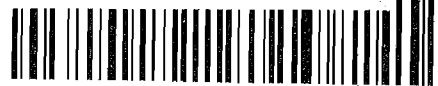
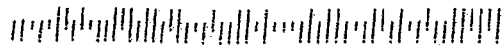




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