



# Oregon

Theodore R. Kubongoski, 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

06/24/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment  
DLCD File Number 009-08

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: Tuesday, July 07, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Cheryl Caines, City of Tigard  
Gloria Gardiner, DLCD Urban Planning Specialist  
Meg Fernekees, DLCD Regional Representative  
Thomas Hogue, DLCD Regional Representative  
Bill Holmstrom, DLCD Regional Representative  
Angela Lazarean, DLCD Regional Representative

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# Notice of Adoption

**DEPT OF**

**JUN 17 2009**

**LAND CONSERVATION  
AND DEVELOPMENT**

**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: **CPA2008-00008**

Date of Adoption: **6/9/09**

Date Mailed: **6/16/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **10/30/08**

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".

**Comprehensive Plan Map and Zoning Map amendments to rezone a 24.73 acre, vacant parcel from Light Industrial (I-L) to Medium High Density Residential (R-25).**

Does the Adoption differ from proposal? Yes, Please explain below:

**Both the Comprehensive Plan Map and the Zoning Map amendment are subject to conditions of approval limiting the development of the site to 352 PM peak hour trips and requiring revision of the Metro Employment and Industrial Area Map within 30 days after this decision becomes final, if lawfully required by Metro.**

Plan Map Changed from: **Light Industrial**

to: **Medium High Density Residential**

Zone Map Changed from: **I-L**

to: **R-25**

Location: **East side of SW Hall Blvd. at the dead end of SW Wall Street**

Acres Involved: **24.73**

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

New: **25 Units/Acre**

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>                            | <b>10</b>                           | <b>11</b>                           | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
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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. 009-08 (17227) [15567]

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

**Metro, ODOT, CWS, Oregon DEQ, TVF&R, ODF&W, ODSL, Portland Western R/R, Burlington Northern/Santa Fe R/R, Oregon Electric R/R, Southern Pacific Trans. Co. R/R, Tigard-Tualatin School District.**

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Local Contact: **Cheryl Caines, Associate Planner**

Phone: (503) 718-2437 Extension: 2437

Address: **13125 SW Hall Blvd.**

Fax Number: **503-624-3681**

City: **Tigard**

Zip: **97223**

E-mail Address: **cherylc@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. 09-08**

AN ORDINANCE APPROVING COMPREHENSIVE PLAN AMENDMENT, CPA2008-00008, AND ZONING MAP AMENDMENT, ZON2008-00002, WITH CONDITIONS, TO CHANGE THE COMPREHENSIVE PLAN DESIGNATION AND ZONING MAP CLASSIFICATION FOR ONE LOT TOTALING 24.51 ACRES FROM LIGHT INDUSTRIAL (I-L) TO MEDIUM-HIGH DENSITY RESIDENTIAL (R-25). BOTH THE COMPREHENSIVE PLAN MAP AND THE ZONING MAP AMENDMENT ARE SUBJECT TO CONDITIONS OF APPROVAL LIMITING THE DEVELOPMENT OF THE SITE TO 352 PM PEAK HOUR TRIPS AND REQUIRING REVISION OF THE METRO EMPLOYMENT AND INDUSTRIAL AREA MAP WITHIN 30 DAYS AFTER THIS DECISION BECOMES FINAL, IF LAWFULLY REQUIRED BY METRO.

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WHEREAS, Section 18.380.030 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 of the City of Tigard Community Development Code requires the Commission to make a recommendation to the Council on a Zoning Map Amendment application which also involves a concurrent application for a Comprehensive Plan Map Amendment; and

WHEREAS, Section 18.380.030.A of the City of Tigard Community Development Code requires the Council to decide the applications on record as provided by Chapter 18.390; 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 City of Tigard Community Development Code requires demonstration of compliance with all applicable standards of any provision of the code and 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, the Tigard City Council has considered applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

WHEREAS, the Tigard City Council has found the following to be the applicable review criteria: Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Policies 1, 2, 6, 7, 9 and 10 of the updated Comprehensive Plan, and Policies 3 and 8 of the previous Comprehensive Plan; Metro Functional Plan Titles 1, 3, 4 and 7; and Statewide Planning Goals 1, 2, 5, 6, 7, 9, 10, 11 and 12; and

WHEREAS, the Tigard Planning Commission held a public hearing on January 26, 2009 and recommended denial of both CPA2008-00008 and ZON2008-00002 by motion with a 7-1 vote in favor; and

WHEREAS, the Tigard City Council held public hearings on February 24, 2009 and March 10, 2009 and public meetings were held March 24, 2009 and June 9, 2009, to consider the request for a quasi-judicial Comprehensive Plan Amendment and Zoning Map Amendment and determined that the amendments will not adversely affect the health, safety and welfare of the City and meets all applicable review criteria.

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

SECTION 1: Comprehensive Plan Amendment, CPA2008-00008, is hereby approved with conditions by the City Council.

SECTION 2: Zoning Map Amendment, ZON2008-00002, is hereby approved with conditions by the City Council.

SECTION 2: The attached findings (**Exhibit A**) are hereby adopted in explanation of the Council's decision.

SECTION 3: The Comprehensive Plan map and Zoning Map shall be amended to represent the approved changes.

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 majority vote of all Council members present after being read by number and title only, this 9<sup>th</sup> day of June, 2009.

Catherine Wheatley  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 9<sup>th</sup> day of June, 2009.  
Craig Dirksen  
Craig Dirksen, Mayor

Approved as to form:  
Amitha V. Peem  
City Attorney

6.9.09  
Date

Certified to be a true copy of the original document  
on file at City of Tigard City Hall  
By Catherine Wheatley  
City Recorder, City of Tigard  
Date: 6.12.09



**TIGARD CITY COUNCIL FINDINGS  
FOR  
COMPREHENSIVE PLAN AND ZONING  
MAP AMENDMENT  
CPA2008-00008 AND ZON2008-00002  
(FIELDS)**

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** FIELDS COMPREHENSIVE PLAN AND ZONE MAP AMENDMENT  
**FILE NOS.:** Comprehensive Plan Amendment (CPA) CPA2008-00008  
Zone Change (ZON) ZON2008-00002

**PROPOSAL:** The applicant requested a Comprehensive Plan Map Amendment and Zoning Map Amendment to change the Comprehensive Plan Designation and Zoning Map Classification for one parcel (approximately 25 acres) from Light Industrial (I-L) to Medium-High Density Residential (R-25). The parcel is located east of Hall Boulevard across the Fanno Creek wetlands at the dead end of Wall Street. Surrounding properties are zoned I-L to the north and south, R-12 to the west, and I-P to the east across the railroad tracks.

**APPLICANT:** Fred Fields  
1149 SW Davenport Avenue  
Portland, OR 97201

**APPLICANT'S  
REP.:** Group Mackenzie  
Attn: Rhys Konrad  
P.O. Box 14310  
Portland, OR 97293

**LOCATION:** The site is vacant and has no address. It is located east of the Hall Boulevard and Wall Street intersection, east of Fanno Creek and west of the railroad tracks. Washington County Tax Assessor's Map 2S10100, Tax Lot 01200.

**CURRENT ZONE/  
COMP PLAN**

**DESIGNATION:** I-L: Light Industrial District. The I-L zoning district provides appropriate locations for general industrial uses including industrial service, manufacturing and production, research and development, warehousing and freight movement, and wholesale sales activities with few, if any, nuisance characteristics such as noise, glare, odor, and vibration.

**PROPOSED ZONE/  
COMP PLAN**

**DESIGNATION:** R-25: Medium High-Density Residential District. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A limited amount of neighborhood commercial uses is permitted outright and a wide range of civic and institutional uses are permitted conditionally.

**APPLICABLE  
REVIEW  
CRITERIA:**

Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals 1, 2, 6, 7, 9 & 10 of the updated Comprehensive Plan, and Policies 3 and 8 of the previous Comprehensive Plan; Metro Functional Plan Titles 1, 3, 4 and 7; and Statewide Planning Goals 1, 2, 5, 6, 7, 9, 10, 11 and 12.

**SECTION II. STAFF AND PLANNING COMMISSION RECOMMENDATIONS**

Staff recommended that the Planning Commission deny the proposed Comprehensive Plan Amendment and Zone Change. The Planning Commission recommended that the City Council deny the proposal.

**SECTION III. BACKGROUND INFORMATION**

**Site History**

The 1977 Land Use Map and Existing Comprehensive Plan Map show Tax Lot 1200 as M-3 (Light Industrial). All subsequent versions of the City's Comprehensive Plan Map and Zoning Classification show the subject lots designated I-L (Light Industrial). The site is vacant.

**Vicinity Information**

The subject site is near downtown, located east of Hall Boulevard across the Fanno Creek wetlands at the dead end of SW Wall Street. Railroad tracks run along the eastern boundary of the site. The adjacent properties are zoned R-12 (Medium Density Residential to the west, and I-L (Light Industrial) to the north and south. The sites are developed with the Tigard Public Library, a condominium project, and an apartment complex. The site to the south was recently acquired by Metro for open space and park purposes. Beyond the immediate area, properties to the south and west are developed with residences. Sites to the north and east are predominantly developed with industrial uses.

During the 30-plus years since Mr. Fields has owned this industrially-zoned property, the surrounding area has significantly changed. For example, the western portion of Wall Street, directly east of Hall Boulevard, has been built and is now developed with housing on one side and the library on the other. The adjacent Fanno Creek wetlands have been protected, and are developed with popular pedestrian trails that serve the surrounding community. Over the last 30 years, local, state, and federal environmental protections have grown, and now protect much more of the land in this area. As part of its open space program, Metro recently acquired the parcel directly south of the site for park and open space purposes. Over the last several years, a substantial amount of residential development has been built to the east, west, and south of the site, at a mix of zoning densities including R-25, R-12, and R-7. The new Westside Commuter Rail ("WES") is the newest addition to the neighborhood. WES recently began service to this area, creating an important light rail corridor along the northern edge of this site. The recent construction of the WES commuter rail along the site's northern border has eliminated freight access to the site. Recently, the railroad decided that it would not allow an at-grade crossing in this location. This practical inability to connect Wall Street to the industrial area to the north, combined with Metro's purchase of the industrial property to the south, and the other wetland areas to the west, effectively isolates this parcel from the surrounding industrial area. Because of these constraints, the site has become functionally isolated from other industrially-zoned property and is now surrounded by residential and civic uses, open space, and wetlands.

**Site Information and Proposal Description**

Tax Lot 1200 is vacant; about half of the site is an open field. A wooded area with dense trees is found along the western and southern boundaries. Sensitive lands exist on-site including the 100-year floodplain, drainageways (Fanno Creek & Red Rock Creek), wetlands, and Significant Habitat Area. The site currently has an unimproved access easement across City property to Wall Street. The applicant intends to extend Wall Street from the west in the future for access.

The applicant is requesting a Comprehensive Plan Map Amendment and Zoning Map Amendment to change the Comprehensive Plan Designations and Zoning Map Classifications for one parcel totaling 25 acres from Light Industrial (I-L) to Medium High Density Residential (R-25).

**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 as provided by Section 18.390.**

**Findings.** The proposed zone change application to change the zoning on the subject lot from I-L to R-25 also involves a comprehensive plan map amendment. The Planning Commission made a recommendation to Council on the proposed zone change application and comprehensive plan map amendment. City Council decided the application as provided in Section 18.390. This criterion is therefore met.

**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;**

**Findings.** As described below, the proposal complies with all applicable comprehensive plan policies and map designations. This criterion is therefore met.

**COMPREHENSIVE PLAN POLICIES**

The City has an acknowledged Comprehensive Plan consistent with the statewide planning goals. The applicable Comprehensive Plan goals and policies are addressed in this section.

**CITIZEN INVOLVEMENT**

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

**Policy 112 The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.**



**Goal 1.2 Ensure all citizens have access to:**

- A. opportunities to communicate directly to the City; and**
- B. information on issues in an understandable form.**

**Policy 1. The City shall ensure pertinent information is readily accessible to the community and presented in such a manner that even technical information is easy to understand.**

**Policy 2. The City shall utilize such communication methods as mailings, posters, newsletters, the internet, and any other available media to promote citizen involvement and continue to evaluate the effectiveness of methods used.**

**Policy 6. The City shall provide opportunities for citizens to communicate to Council, boards and commissions, and staff regarding issues that concern them.**

**Findings.** 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 June 2, 2008 in accordance with the City of Tigard's neighborhood meeting notification process. According to the minutes of the neighborhood meeting, 18 people attended. Discussion related to future development of the site, impacts on sensitive lands, the extension of Wall Street, and alternative access points to the site. The minutes of the neighborhood meeting reflect that the neighborhood was generally supportive of the proposed rezoning and comprehensive plan amendment.

In addition, the City has mailed notice of the Planning Commission hearing to property owners within 500 feet of the subject site, interested citizens, and agencies, published notice of the hearing and posted the site pursuant to TDC 18.390.050 for Type III Procedures. The City Council invited and took public testimony on this application at two separate dates.

With these public involvement provisions and the applicant's documented participation, this application is consistent with above-mentioned Citizen Involvement goals and policies. These criteria are therefore met.

**LAND USE PLANNING**

**Goal 2.1 Maintain an up-to-date Comprehensive Plan, implementing regulations and action plans as the legislative foundation of Tigard's land use planning program.**

**Policy 5. The City shall promote intense urban level development in Metro-designated Centers and Corridors, and employment and industrial areas.**

**Policy 6. The City shall promote the development and maintenance of a range of land use types which are of sufficient economic value to fund needed services and advance the community's social and fiscal stability.**

**Findings.** With regard to Goal 2.1, the City is in the process of updating its economic analysis under Goal 9 with regard to industrial and employment lands. The City's current "Economy Comprehensive Plan Report" was prepared in 1989 and is 20 years old. In that report, the site was included in the City's inventory of vacant light industrial (I-L) land. In that report, the City's comprehensive plan assumed that the site was buildable. However, that report acknowledges its own limitations. For example, the report provides that:

"In late-1989 the City conducted a tax lot by tax lot survey of vacant and underutilized land within the Tigard City limits. The characteristics researched in the survey included parcel size, existing use, zoning designation, and information on whether any portion of the parcel is within the floodplain. Characteristics that were not researched included the exact amount of land within the floodplain and the amount of acreage with slopes exceeding 25%. This vacant land survey is the only land inventory information currently available. It gives a rough indication of amount of buildable land designated for commercial and industrial use."  
(Economy Comprehensive Plan Report at I-143.)

At the time that report was prepared, it further acknowledged "the need to consider a more detailed, site specific inventory of the remaining inventory of vacant industrial (sic) in terms of slope and floodplain constraints in order to determine how much of this land is developable and to facilitate its availability for industrial use." (Economy Comprehensive Plan Report at I-148.)

In this case, the applicant has submitted more detailed, site-specific and up-to-date information concerning the suitability of this site for industrial use pursuant to the requirements under Statewide Planning Goal 9. This more detailed, site-specific, and up-to-date information has been used in this application to update the City's legislative foundation for its land use planning program with reference to this particular site and the changes to the surrounding area since the site was originally zoned for light industrial use. This new information and the City's related decision to change the comprehensive plan and zoning designation for this site is consistent with the City's goal of maintaining an up-to-date comprehensive plan and zoning map. Goal 2.1 is therefore met.

With regard to Policy 5, this site is currently designated as employment land on the Metro Title 4 map. Over the past 30 years since this was originally zoned for light industrial use, the site has not developed. Over those years, site constraints have increased, as explained more fully by the applicant in its testimony, and as described more fully below. Under Policy 5, the City is required to promote intense urban level development in employment lands. Given the unsuitability of the property for industrial uses, changing the comprehensive plan and zoning of the site to R-25 will enable the City to promote a more intense urban level development of the site. The City's R-25 zone is designed to accommodate all types of new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet and at a minimum density of R-20 (80 percent of the R-25 maximum density). A limited amount of neighborhood commercial uses are permitted outright, and a wide range of civic and institutional uses are permitted conditionally. This mix of uses will allow the site to be developed at a more intense urban level of development, consistent with Policy 5 and Metro Title 4. This policy is therefore met.

With regard to Policy 6, the testimony and evidence in the record indicate that extensive site constraints severely constrain industrial and employment development of this site. Because of these constraints, the applicant has demonstrated that the site is no longer suitable for industrial use. As the applicant and other witnesses testified to, industrial and employment uses of the site are severely constrained. These industrial and employment uses, by themselves, would not provide sufficient economic value to fund needed public facilities and services such as the extension of Wall Street, and other public facilities needed to serve the site. The evidence shows that the proposed rezoning to R-25 provides a range of land use types which are of sufficient economic value to fund needed public facilities and services needed to serve the site and advance the City's social and fiscal stability. This policy is therefore met.

**Policy 8. The City shall require appropriate public facilities are made available, or committed, prior to development approval and are constructed prior to, or concurrently with, development occupancy.**

**Findings.** Public facilities will be made available prior to or concurrent with development. There is a 16-inch sewer line that runs through the wetlands around Fanno Creek. Storm water can be treated and released into Fanno Creek. A public water line is found on the Metro property south of the site. The extension of Wall Street from the west into the site will be constructed prior to or concurrently with development, in the same way that other streets are extended and improved into a development site, namely through the land division process, site design review, or through a combination of other land use reviews. In this case, the applicant is presently preparing an application to obtain the required sensitive lands review and other development permits to construct the extension of Wall Street from the west to serve the site. As mentioned above, water, sewer, and other public facilities will be extended into the site as conditions of development approval, as is usually the case. In short, adequate public facilities are available to serve the site, and will be constructed to serve the site prior to or concurrent with development occupancy, as required by the City's development code. This policy is therefore met.

**Policy 14. Applicants shall bear the burden of proof to demonstrate that land use applications are consistent with applicable criteria and requirements of the Development Code, the Comprehensive Plan and, when necessary, those of the state and other agencies.**

**Findings.** The applicant has shown how the proposed zone change and comprehensive plan amendment is consistent with the relevant requirements of the Development Code and the Comprehensive Plan. In addition, the applicant has demonstrated that the proposal meets the requirements of Oregon Administrative Rule (OAR) 660, Division 9 – Economic Development and other applicable state and regional requirements as shown in the relevant sections below. This policy is therefore met.

**Policy 15. In addition to other Comprehensive Plan goals and policies deemed applicable, amendments to Tigard's Comprehensive Plan/Zone Map shall be subject to the following specific criteria:**

**A. Transportation and other public facilities and services shall be available, or committed to be made available, and of sufficient capacity to serve the land uses allowed by the proposed map designation;**

**Findings.** The applicant has demonstrated that transportation and other public facilities and services will be made available and are of sufficient capacity to serve the land uses allowed by the proposed map designation, as explained in the findings for Policy 8 above. This policy is therefore met.

**B. Development of land uses allowed by the new designation shall not negatively affect existing or planned transportation or other public facilities and services;**

**Findings.** A letter from the applicant's Traffic Engineer has been provided that shows the peak PM trips for residential uses allowed in the R-25 zone on this site will be lower than for industrial uses; therefore the amendment will have no significant impact on transportation facilities. This issue is discussed further under the Transportation Goal and is further implemented by Condition 1 attached to this decision. This policy is therefore met.

**C. The new land use designation shall fulfill a proven community need such as provision of needed commercial goods and services, employment, housing, public and community services, etc. in the particular location, versus other appropriately designated and developable properties;**

**D. Demonstration that there is an inadequate amount of developable, appropriately designated, land for the land uses that would be allowed by the new designation;**

**Findings.** With regard to Policies 15 C and D, the applicant has demonstrated that the proposed R-25 designation will fulfill a proven community need for medium-density housing, in a relatively large, 25-acre site, located near downtown, adjacent to commuter rail and other transit opportunities, that is near City Hall, the library, Fanno Creek trails, other medium- and lower-density housing, and jobs. This site is unique because it provides significant opportunities to create a substantial, well-planned medium-density housing site in a location that can significantly contribute to the synergy of this unique area, sensitively protect important habitat areas on the site, and provide important opportunities for workforce housing close to all of these existing features.

The evidence indicates that there is an inadequate amount of developable, appropriately designated land for a substantial, well-planned, medium-density housing site in close proximity to downtown and industrial uses, that can significantly contribute to the synergy of this unique area. The testimony shows that the development on the site that would likely result from the proposed R-25 zoning would be medium-density workforce housing. The evidence shows that such housing would likely be able to meet minimum density requirements for the R-25 zone, while still protecting Fanno Creek, the wetlands, the wetland buffer, and most of the forested area on the site by clustering development in the upland areas away from most of the trees. The evidence further shows that the style of housing that would result would likely be single-family attached units of two to three stories on individual lots, which would be compatible with the surrounding single-family residential neighborhood. This type of development would also support the City's Downtown Plan and be supportive of the nearby open space and trail networks by contributing to and extending public infrastructure into the site, including the public pathway and open space system along

Fanno Creek. For these reasons, and for other reasons contained in the record, this application meets Policies 15 C and D.

**E. Demonstration that land uses allowed in the proposed designation could be developed in compliance with all applicable regulations and the purposes of any overlay district would be fulfilled;**

**Findings.** All future development can and will be reviewed and will be developed in compliance with all applicable land use regulations and performance standards. Conformance with these regulations and performance standards will be ensured through subsequent land use reviews. No overlay districts are found on the site. This policy will therefore be met.

**F. Land uses permitted by the proposed designation would be compatible, or capable of being made compatible, with environmental conditions and surrounding land uses; and**

**Findings.** Redesignation of the site to R-25 will be compatible with environmental conditions and surrounding land uses. As the evidence shows, medium-density residential development can be clustered to reduce impacts to the existing natural conditions on the site and to help buffer the resulting development from surrounding land uses. The applicant provided an example of a site plan that could accommodate R-25 development in a way that was compatible or capable of being made compatible with the environmental conditions on the site. The City's development regulations further ensure that relevant environmental regulations will be met. With regard to compatibility with surrounding land uses, the evidence demonstrates that the land uses permitted by the proposed designation would be compatible with surrounding land uses, such as nearby residential development, civic uses such as the library and City Hall, the nearby downtown, and surrounding open space and wetland areas. While Portland & Western Railroad and the new WES commuter rail have generated some noise complaints, noise impacts from those activities are capable of being made compatible with residential development that would be permitted by the R-25 designation. For example, at the time of development review, noise levels can be measured, and if necessary, noise mitigation techniques can be used to reduce noise impacts to permitted levels, if needed. Tri-Met is also working with the City and the federal government to mitigate noise impacts from the WES horn that is blown at crossing locations. Overall, land uses permitted by the proposed designation will be compatible or capable of being made compatible with environmental conditions and surrounding land uses. This policy is therefore met.

**G. Demonstration that the amendment does not detract from the viability of the City's natural systems.**

**Findings.** The proposed amendment will not detract from the viability of the City's natural systems. The proposed redesignation to R-25 will continue to protect the City's natural systems, because any proposed development will be required to comply with all of the city, state, and federal natural resource protection requirements. As the testimony in the record indicates, redesignating the site to R-25 from I-L would create a greater opportunity to cluster development and thereby protect more of the natural resources on the site. This policy will therefore be met.

**Policy 16. The City may condition the approval of a Plan/Zoning map amendment to assure the development of a definite land use(s) and per specific design /development requirements.**

**Findings.** In order to ensure that development of the site under the R-25 designation does not produce peak hour vehicle trips in excess of what would be permitted by the existing I-L designation, a trip-cap condition has been included as part of this approval. There is substantial evidence in the record that development proposed under the R-25 designation can comply with this trip-cap. This policy is therefore met.

**Policy 22. The City shall identify, designate, and protect natural resources as part of its land use program.**

**Findings.** Fanno Creek runs through portions of the subject property. Wetlands and floodplain associated with the Fanno and Red Rock Creek also are on the site. The City has implemented standards for development in these areas through the Sensitive Lands chapter of the TDC (18.775). Any future development must show compliance with these standards. The City has therefore complied with this

policy through its planning and land use regulations. Because this application will comply with all relevant natural resource regulations, this policy will be met.

**Policy 23. The City shall require new development, including public infrastructure, to minimize conflicts by addressing the need for compatibility between it and adjacent existing and future land uses.**

**Findings.** No new development is proposed by this application. The proposed redesignation of the site to R-25, along with the trip-cap, minimize conflicts and increase compatibility between future developments on this site and existing and future land uses adjacent to this site. The evidence shows that the R-25 designation and related future development will be more compatible with adjacent residential, civic, and open space uses. The amount of traffic generated by future development on this site will be limited by the trip cap, and in doing so, will minimize conflicts between future development on this site and adjacent existing and future land uses, because the trip cap limits the amount of trips generated by future R-25 development to the number of trips that could be generated by development permitted in the existing I-L zone. To the extent this policy applies to future development of the site, this policy will therefore be met.

## ENVIRONMENTAL QUALITY

**Goal 6.1 Reduce air pollution and improve air quality in the community and region.**

**Policy 1. The City shall require that all development complies with or exceeds regional, state, and federal standards for air quality.**

**Findings.** Any proposed development will be required to comply with or exceed regional, state, and federal air quality standards. Also, because the R-25 designation allows residential use and prohibits industrial use, it is reasonable to expect that there will be few air quality impacts from residential, rather than industrial development of the site. This policy will therefore be met.

**Policy 3. The City shall promote land use patterns which reduce dependency on the automobile, are compatible with existing neighborhoods, and increase opportunities for walking, biking, and/or public transit.**

**Findings.** Redesignation of this particular site to R-25 helps promote a land use pattern that reduces dependency on the automobile, is compatible with existing neighborhoods, and increases opportunities for walking, biking, and transit. As the evidence indicates, there are currently more jobs in Tigard than people in the workforce living within the City. The comprehensive plan recognizes the need to create workforce housing opportunities close to downtown, close to jobs, and close to transit and trail systems. As explained elsewhere in these findings, and as explained extensively by the applicant in its materials, this property's proximity to transit, trails, jobs, the downtown, and nearby civic and open space uses creates an important opportunity to reduce dependency on the automobile in a way that is compatible with existing neighborhoods surrounding the site, and in doing so, creates opportunities for walking, biking, and increasing public transit use. This policy is therefore met.

**Goal 6.2 Ensure land use activities protect and enhance the community's water quality.**

**Policy 1. The City shall require that all development complies with or exceeds regional, state, and federal standards for water quality.**

**Findings.** Any future development of the site must comply with standards to protect Fanno Creek and associated wetlands on-site. Review of future development applications by the City, state agencies, and Clean Water Services will ensure compliance with regional, state and federal standards. This policy is therefore met.

## HAZARDS

**Goal 7.1 Protect people and property from flood, landslide, earthquake, wildfire, and severe weather hazards.**

**Findings.** The site contains areas of the 100-year floodplain. The Tigard Development Code protects people and property from flood hazards by limiting development in these areas and requiring structures to be designed for placement in these areas. All future development must comply with the standards outlined in the Tigard Development Code. Through compliance with standards in the Tigard Development Code, the building code, and other relevant regulations, this policy will therefore be met.

## **ECONOMIC DEVELOPMENT**

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

**Policy 2.** The City shall actively encourage businesses that provide family-wage jobs to start up, expand, or locate in Tigard.

**Policy 5.** The City shall promote well-designed and efficient development and redevelopment of vacant and underutilized industrial and commercial lands.

**Policy 6.** The City shall promote actions that result in greater, more efficient, utilization of its Metro-designated Employment and Industrial Areas.

**Policy 11.** The City shall develop industry clusters by encouraging the retention, expansion, and recruitment of industries that already have a presence in Tigard.

**Policy 12.** The City shall assure economic development promotes other community qualities, such as livability and environmental quality that are necessary for a sustainable economic future.

**Goal 9.2 Make Tigard a center and incubator for innovative businesses, including those that focus on environmental sustainability.**

**Policy 1.** The City shall institute appropriate land use regulations to accommodate a contemporary mix of economic activities.

**Policy 2.** The City shall periodically review and update its policies, land use regulations, and other efforts to ensure the City's land use program is responsive to changes in the economic structure, and is adaptable to businesses changing development needs.

**Policy 3.** The City shall engage with state and regional economical development organizations and agencies to sustain and expand its current economic activities and be prepared for future economic trends.

**Goal 9.3 Make Tigard a prosperous and desirable place to live and do business.**

**Policy 3.** The City shall commit to improving and maintaining the quality of community life (public safety, education, transportation, community design, housing, parks and recreation, etc.) to promote a vibrant and sustainable economy.

**Findings.** The above-mentioned economic development goals and policies have been carefully considered by the applicant in its written materials and in the oral testimony at the hearing.

The primary substantive issue raised by both City staff and DLCD staff during the course of these proceedings was their concern that the City has a limited amount of vacant land zoned for light industrial use, and has a limited potential for expanding into new areas that could be designated for industrial use. They are concerned that by rezoning the site from I-L to R-25, the City may lose the opportunity for additional job creation in the City.

Council agrees that the City has a limited amount of vacant land zoned for light industrial use and has a limited potential for expanding into new areas that could be designated for industrial use. However, Council agrees with the applicant that even though this site was originally zoned for industrial use in 1979, it has not developed for industrial use and is unlikely to do so in the foreseeable future, because over time the site has become unsuitable for industrial use. Because the site has become unsuitable for industrial

use, the site does not have any industrial job capacity. Rather, the site is most suitable for medium-density housing and related neighborhood commercial and civic uses, and jobs related to these uses, as explained in this decision.

The evidence shows that during the 30-plus years since this site was zoned for industrial use, it has remained vacant. During that period, the surrounding area has significantly changed. For example, the western portion of Wall Street, directly east of Hall Boulevard, has been built and is now developed with housing on one side and the library on the other. The library is a wonderful addition to the neighborhood and an important asset to the City as a whole. The adjacent Fanno Creek wetlands have been protected, and sensitively developed with popular pedestrian trails that serve the surrounding community. Over the last 30 years, local, state, and federal environmental protections have grown, and now protect much more of the land in this area. As part of its open space program, Metro recently acquired the parcel directly south of the site for park and open space purposes. Over the last several years, a substantial amount of residential development has been built to the east, west, and south of the site, at a mix of zoning densities including R-25, R-12, and R-7. The new Westside Commuter Rail ("WES") is the newest addition to the neighborhood. WES recently began service to this area, creating an important light rail corridor along the northern edge of this site.

Overall, these changes have made the site increasingly unsuitable for industrial use. For example, one of the Goal 9 factors related to industrial land is proximity to rail. The recent construction of the WES commuter rail along the site's northern border has eliminated freight access to the site. Recently, the railroad decided that it would not allow an at-grade crossing in this location. This practical inability to connect Wall Street to the industrial area to the north, combined with Metro's purchase of the industrial property to the south, and the other wetland areas to the west, effectively isolates this parcel from the surrounding industrial area. In addition, environmental legislation enacted over the past 30 years further constrains the property and makes it even more unsuitable for industrial use. Because of these constraints, this property has become functionally isolated from other industrially-zoned property and is now surrounded by residential and civic uses, open space, and wetlands.

On the other hand, this property's proximity to City Hall, the library, Fanno Creek, WES, and nearby medium- and lower-density residential neighborhoods, and the City's emerging downtown, creates important opportunities to use this site for medium-density workforce housing. A substantial, well-planned, medium-density housing site in this location would significantly contribute to the synergy of the area and would sensitively protect the important habitat areas on the site in a way that industrial use could not. The provision of workforce housing encourages businesses to locate nearby, consistent with the City's comprehensive plan.

The applicant's testimony explained in detail why the site does not meet the relevant site suitability factors for industrial use, listed under OAR 660-009 (Goal 9), and is no longer suitable for industrial use. Council agrees with the applicant's testimony in that regard and specifically finds as follows:

- Rail access to this site has been eliminated by WES. Industrial freight shipment to and from this site would therefore be limited to trucks.
- Conflicts from increased truck traffic on Wall Street would create safety, noise, and maintenance problems and would not enhance the new library, residential, and open space uses located along that street.
- The parcel is isolated from other industrial development to the north and east by the railroad, to the west by residential development and wetlands, and to the south by the Metro park parcel and its substantial stand of trees.

- Environmental constraints significantly limit industrial development of the site. There is substantial evidence in the record that industrial development typically requires larger parking and maneuvering areas and larger building footprints than residential development would. Residential development can be more flexible and is better able to cluster development that can better respond to the environmental constraints presented, and is often able to use these environmental constraints as an amenity, rather than as a constraint.
- Industrial development is not able to economically offset the high cost of extending Wall Street and other public infrastructure to the site. Residential rates of return would allow the high infrastructure costs associated with the development of this property to be financed by the development itself. Conversely, zoning the site for industrial use does not produce sufficient economic value to fund needed public infrastructure to serve the site, and development therefore acts as a significant development constraint, prohibiting industrial use of the site.
- The site lacks visibility from Hall Boulevard or Wall Street. Without adequate street visibility, this property is not suitable for office use, commercial use, or apartments. Single-family attached units of two to three stories, which are typically the building form used for medium-density workforce housing, do not require visibility from major streets and benefit from being near open space and other residential development.
- The triangular shape of the parcel is not conducive to industrial development and significantly limits site design options.

Because of these and other constraints discussed during the hearing and in the applicant's materials, the site has become unsuitable for industrial use, even though as staff points out, a large portion of the site is "buildable." It is important to understand, however, that "buildability" is not the relevant legal or practical standard for analyzing whether a particular site is appropriate for industrial use. Both under Goal 9 and from a market standpoint, a site can be "buildable" and still not be suitable for industrial use. The fact that a site may be "buildable" is not the controlling factor as to whether the site is appropriately zoned for industrial use. As the evidence in the record shows, site suitability requires the consideration of a number of factors, such as multimodal freight access, environmental constraints, isolation from other industrial development, and conflicts with other nearby uses. In this case, even though a large portion of this site is "buildable," other factors listed in OAR 660-009-0010 make the site unsuitable for industrial use. As the applicant pointed out in its testimony, the following site characteristics and development constraints make the property unsuitable for industrial use.

### SITE CHARACTERISTICS

Site Characteristics (OAR 660-009-0005(11))	Subject Property Condition
Site configuration including shape	Triangular shape not conducive to industrial development.
Acreage	Most of the site's acreage is impacted by industrial development constraints.
Topography	Slopes around Fanno Creek pose a minor constraint on industrial development.



Site Characteristics (OAR 660-009-0005(11))	Subject Property Condition
Visibility	No visibility. Site not visible from Hall Boulevard or Wall Street.
Specific types or levels of public facilities	Industrial access to roads, water, and sewer is very difficult at best.
Proximity to a particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes	Very poor. Zero-modal access, as opposed to multimodal. Site is adjacent to railway, but WES commuter rail precludes industrial rail access. Significant residential use of Wall Street.

### DEVELOPMENT CONSTRAINTS

Development Constraints (OAR 660-009-0005(2))	Subject Property Condition
Wetlands	Significant wetlands on site reduce buildable area and complicate industrial access.
Environmentally sensitive areas such as habitat	Most of site is covered by Significant Habitat areas.
Environmental contamination	No known contamination.
Slope/topography	Slopes around Fanno Creek put a minor constraint on industrial development.
Cultural and archaeological resources	Industrial site may conflict with adjacent library resource.
Infrastructure deficiencies	Significant complications with access to roads, sewer, and water.
Parcel fragmentation	Parcel is isolated from industrial development to north and east by railroad, and to the south by the Metro park parcel.
Natural hazards	Significantly present. The western boundary of the site is impacted by the floodplain.

The above discussion is relevant to all of the above-mentioned goals and policies in the City's comprehensive plan related to the economy. It is important that the City rely on accurate information for purposes of reaching its economic development goals and for purposes of updating its land use plan. Because this site is no longer suitable for industrial use, it should be removed from the City's inventory of

vacant industrial land and should be rezoned to R-25, for the reasons explained in this decision. With regard to each of the economic development goals and policies mentioned above, the following additional findings are made:

**Goal 9.1.** This redesignation supports the City's goal of developing and maintaining a strong, diversified, and sustainable local economy. It is critical that the City base its economic strategy on accurate information. The evidence shows that despite relatively high demand for light industrial land and low supply, this site has not developed for light industrial use and is unlikely to do so in the future, because of its unsuitable site characteristics and development constraints. R-25 zoning allows the site to be developed for medium-density workforce housing, and allows the site to be developed in a more flexible way, so that residential development and related neighborhood commercial uses can be clustered to avoid natural resource areas. Development allowed under the R-25 zone will help create a stronger, more diversified, and sustainable development on this site, which in turn will help the local economy. This goal is therefore met.

**Policy 2.** One of the key considerations for businesses seeking to expand or locate in Tigard is the availability of family-wage, or workforce, housing. As explained by the applicant, many Tigard workers cannot currently afford to live in the City. The comprehensive plan shows that there are substantially more jobs in Tigard than workers. R-25 zoning, in this particular location, will help encourage businesses that provide family-wage jobs to start up, expand, or locate in Tigard, because this site helps expand opportunities for workers to obtain housing close to jobs, transit, and the downtown. This policy is therefore met.

**Policy 5.** As explained by the applicant, this particular site is not suitable for industrial or most commercial uses, except for a limited amount of neighborhood commercial use. R-25 zoning allows both medium-density workforce housing and a limited amount of neighborhood commercial use. Neighborhood commercial uses will be well designed and efficiently used, as required by the City's development regulations. To the extent this policy applies, it will therefore be met.

**Policy 6.** This site is designed by Metro as an Employment Area. The proposed redesignation of the site to R-25 promotes a greater and more efficient utilization of the site by creating neighborhood commercial employment opportunities, and at the same time, allowing the site to be developed for medium-density housing, thereby creating a more viable local market for neighborhood commercial use on this site. Also, as explained by the applicant, nearby industrial and commercial designated lands will benefit from the redesignation of this site from an unsuitable industrial designation to R-25, because the increase in medium-density housing so close to transit, the downtown, nearby civic uses, and jobs will allow workforce housing to be located closer to industrial and other employment lands within the City. For all of these reasons, Policy 6 is therefore met.

**Policy 11.** This is an aspirational policy that does not apply directly to this application. The City's overall economic development policies already encourage the retention, expansion, and recruitment of industry clusters that have a presence in Tigard. Because this land is not suitable for industrial use, it is not feasible to implement this policy on this particular site. Therefore, to the extent this aspirational policy applies, it has already been met through the City's comprehensive plan and implementing regulations. This policy will therefore continue to be met.

**Policy 12.** The economic development that will occur on this site when it is rezoned to R-25 will promote livability and environmental quality that are necessary for a sustainable economic future, because by replacing the unviable and unsuitable I-L zoning with the more suitable R-25 zoning, needed medium-density workforce housing can be developed on this site in a way that promotes livability and environmental quality. On the other hand, continuing to zone the site I-L will not promote a sustainable economic future, because the site is no longer suitable for industrial use. Policy 12 will therefore be met.

**Goal 9.2.** This is an aspirational policy that does not directly apply to this application. Even if it did, the City's overall economic development policies and development regulations implement this goal by providing opportunities for the City to become a center and incubator for innovative businesses, including those that focus on sustainability. It should also be noted that many innovative small businesses and small business incubators, particularly those that focus on sustainability, often begin in home-office locations. The R-25 zone allows home occupation uses and live-work arrangements, thereby creating opportunities

for incubator and innovative businesses to begin and grow. Therefore, to the extent that Goal 9.2 applies, it is met.

**Policy 1.** Through its comprehensive plan and land use regulations, the City accommodates a contemporary mix of economic activities. For the reasons described in this decision, this application complies with the City's comprehensive plan and land use regulations, and in doing so, helps accommodate a contemporary mix of economic activities, in this case, including workforce housing and other uses allowed in the R-25 zone. This policy is therefore met.

**Policy 2.** As explained by the applicant and elsewhere in this decision, this PAPA has allowed the City to review and update its land use regulations to ensure that the City's land use program is responsive to changes in the economy and to changing development needs. Because this site is no longer suitable for industrial use, and because it is an appropriate site for medium-density workforce housing, it is appropriate to update the zoning from I-L to R-25 to reflect the development needs and economic realities of the market and this site. This policy is therefore met.

**Policy 3.** As part of its overall planning process, the City has and will continue to engage with state and regional economic development organizations and agencies to sustain and expand its current economic activities and prepare for future economic trends. For example, one of the trends identified in the City's new comprehensive plan is that a significant number of workers who are employed in the City do not live in the City and cannot afford to do so. By providing opportunities for a substantial, well-planned, medium-density workforce housing site in this location, so close to downtown, jobs, and transit, the proposed redesignation provides an important opportunity to sustain and expand economic activity in response to an existing economic trend, namely the need for a well-located and well-placed workforce housing site that can provide synergy to downtown, transit, and nearby job opportunities. This policy is therefore met.

**Goal 9.3.** The redesignation of this site from I-L to R-25 will help make Tigard a more prosperous and desirable place to live and do business, because this rezoning removes an unsuitable zoning designation from the site that has prevented the site from developing over the past 30 years, and will likely prevent it from developing in the foreseeable future, and has replaced the I-L zoning with an R-25 zoning designation that will encourage medium-density housing and limited neighborhood uses that will be compatible with the surrounding development. This goal is therefore met.

**Policy 3.** The proposed rezoning will improve and maintain the quality of community life and will promote a vibrant and sustainable economy for the reasons described above. This property's proximity to City Hall, the library, Fanno Creek, WES, nearby housing, and the emerging downtown will improve the quality of community life and will help promote a vibrant and sustainable local economy by locating medium-density, two- to three-story homes close to these facilities and nearby jobs. This policy is therefore met.

## 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 1.** The City shall adopt and maintain land use policies, codes, and standards that provide opportunities to develop a variety of housing types that meet the needs, preferences, and financial capabilities of Tigard's present and future residents.

**Policy 2.** The City's land use program shall be consistent with applicable state and federal laws.

**Policy 3.** The City shall support housing affordability, special-needs housing, ownership opportunities, and housing rehabilitation through programs administered by the state, Washington County, nonprofit agencies, and Metro.

**Policy 4.** The City shall adopt and maintain land use regulations that provide opportunities to develop housing for persons with special needs. The scale, design, intensity, and operation of

these housing types shall be compatible with other land uses and located in proximity to supporting community services and activities.

**Findings.** Overall, the City's housing goal and policies described above are met by the proposed redesignation of this site from I-L to R-25, because this redesignation creates an important opportunity to increase the variety of more affordable workforce housing to meet the diverse housing needs of current and future city residents, in a location that is close to downtown, nearby civic uses, transit opportunities, open space, and a wide variety of job opportunities.

City staff has indicated that the City is currently in compliance with the Metro Housing Rule (OAR 660-007), because even though the City's 2007 residential density is 7.09, it can provide an overall density of 10.42 units per net buildable acre (2,979 potential units divided by 286 net buildable acres). The applicant indicates and Council finds that the proposed redesignation of this site to R-25 will help the City meet its target density of 10 units per acre as required by the Metro Housing Rule. There is substantial evidence in the record that based on the above-mentioned projection, that the City is in compliance with the Metro Housing Rule and can achieve its target residential density of 10 units per acre. Rezoning this site to accommodate medium-density housing (R-25) will make it even more likely that the City will meet its target density of 10 units per acre, because the minimum density in this zone (.80 x 25 units per acre = 20 units per acre) will tend to increase the overall residential density in the City, thereby helping to ensure compliance with the City's target residential density of 10 units per acre, and thereby continue to satisfy the requirements of the Metro Housing Rule.

With regard to the specific comprehensive plan goals and policies set forth above, the City further finds that:

**Goal 10.1.** Redesignating this site for medium-density residential use will help the City provide additional opportunities for a variety of housing types to be built to meet the diverse housing needs of current and future City residents. As the applicant pointed out in its testimony, changes in demographics, high gas prices and longer commutes on congested roads are generating more interest in smaller homes in both urban and suburban settings. With this relatively large site being located so close to the City's downtown, directly adjacent to WES and other transit options, surrounded by employment opportunities, civic uses, open space, recreational opportunities, and residential development, it presents the City with an extremely important opportunity to add a substantial amount of medium-density workforce housing to the City's residential housing mix, in a synergistic way. The City has a demonstrated need for moderate-density workforce housing that is affordable to family-wage workers and their families, many of whom cannot afford to live in the City of Tigard, near their jobs. The City's new comprehensive plan clearly recognizes that there is a demonstrated need for workforce housing in the City of Tigard, especially when it can be located close to downtown, close to light rail and employment centers as is the case with this site. This fact is true regardless of whether or not the City meets its target residential density. While the City can address part of its need for workforce housing through higher-density apartment-type dwellings, and through economic assistance for affordable housing, a substantial portion of the market wishes to own its own home. Workforce housing helps provide this needed housing option, particularly on a site like this, located so close to downtown. This goal is therefore met.

**Policy 2.** The City's comprehensive plan and land use regulations have been acknowledged and therefore comply with applicable state and federal laws. The proposed redesignation of the site does not negatively affect such compliance. As explained above, redesignation of the site from I-L to R-25 will enhance the City's ability to comply with applicable housing laws. This policy is therefore met.

**Policy 3.** The City has acknowledged comprehensive plan goals and policies that support housing affordability, special needs housing, ownership opportunities, and housing rehabilitation. The proposed redesignation of this site to R-25 will provide additional opportunities for medium-density workforce housing and in doing so will help support the City's policies in that regard. Furthermore, by creating this opportunity for medium-density workforce housing, the City provides more ownership opportunities in Tigard. This policy is therefore met.

**Policy 4.** This policy directs the City to adopt and maintain land use regulations that provide opportunities to develop housing for persons with special needs, and for this type of housing to be located in proximity to supporting community services and activities. The proposed redesignation of this site from I-L to R-25 will provide additional opportunities to develop housing in close proximity to supporting

community services and activities, as described above. Since the R-25 zone allows housing to be constructed for persons with special needs, this redesignation will provide additional opportunities to develop housing for persons with special needs. This policy is therefore met.

#### **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.**

**Findings.** The proposed redesignation of the site from I-L to R-25 will maintain a high level of residential livability in the surrounding area. For example, the proposed residential zoning will reduce negative impacts to established residential areas nearby because the proposed zoning is more compatible with the surrounding residential uses than the existing industrial zoning. The range of industrial uses permitted in the I-L zone are less compatible with nearby residential, civic, and open space uses than the range of residential, neighborhood commercial, and other uses permitted in the R-25 zone are.

The trip-cap that will be imposed on future development of this site through the condition of approval adopted as part of this decision will ensure that the number of peak hour trips will not exceed the number allowed under the current zoning. Furthermore, testimony in the record indicates that redesignating the site from I-L to R-25 reduces the likelihood that significant truck traffic will occur on Wall Street, as would likely be the case if the site developed under the I-L zone.

It should also be noted that existing vegetation, natural resources, and open space along Fanno Creek will be protected pursuant to city, state, and federal regulations, which will further enhance residential livability in the area. Metro's acquisition of the property immediately south of the site substantially adds to the livability in the area. Well-planned development of this site for medium-density residential development will allow dwellings to be clustered to help protect existing vegetation and natural resources, and create even more open space in the area. At the time the site develops, it will be required to comply with relevant City landscaping, buffering, and screening requirements. For all of the above reasons, and based on the other reasons noted in the applicant's testimony, this policy is therefore met.

### **NATURAL FEATURES AND OPEN SPACE**

#### **Policy 3.2.4**

**The City shall prohibit development within areas designated as significant wetlands on the Floodplain and Wetlands map. No development shall occur on property adjacent to areas designated as significant wetlands on the floodplain and wetlands map within twenty five (25) feet of the designated wetlands area. Development on property adjacent to significant wetlands shall be allowed under the planned development section of the code.**

**Findings.** This policy is carried out by the Sensitive Lands chapter (18.775) of the Tigard Development Code. No development is proposed in this application. All future development must comply with the standards of the TDC. This policy is therefore met.

### **TRANSPORTATION SYSTEM**

**Policy 8.1.4: Set and maintain transportation performance measures that set a minimum intersection level of service standard for the city of Tigard and requires all public facilities to be designed to meet this standard.**

**Findings.** The City has already established transportation performance measures in compliance with this policy. Pursuant to those standards, the City must make findings that the proposed zone change/comprehensive plan amendment complies with the Transportation Planning Rule (TPR) OAR 660-012-0060. Under that rule, there must be substantial evidence in the record to either make the finding

of "no significant effect" on the transportation system, or if there is a significant effect assurance that the allowed land uses are consistent with the identified function, capacity, and performance standard of the transportation facility within the plan horizon of the local Transportation System Plan or 15 years whichever is greater. Specifically, OAR 660-012-0060 provides:

"1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ration, etc.) of the facility.

"A plan or land use regulation amendment significantly affects a transportation facility if it would:

"(c) As measured at the end of the planning period identified in the adopted transportation system plan:

"(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan."

The applicant's traffic engineer provided PM Peak Hour trips for both Light Industrial uses (352 trips) and Residential uses (261 trips). Comments received from DLCD indicate that while the TPR analysis appears adequate, there was a question about the number of residential trips. The Institute of Traffic Engineers (ITE) code used in the traffic analysis is based on ownership units and not rental units, which are permitted within the R-25 zone. City staff reviewed the ITE and calculated the number of trips for rental units at 310. This is still lower than the 352 for an industrial use; therefore the proposed amendment will not significantly impact transportation facilities. These numbers are based on a 20 acre site. The applicant's engineer deducted 15% from the total site area for public right-of-way dedication. Since the site has less buildable area than this, the number of trips would actually be lower than estimated. DLCD suggests placing a cap of 352 PM peak hour trips on the site, which represents the number of trips that occur if the site was developed for industrial use. This trip-cap condition will ensure that the proposed R-25 zoning will not significantly affect a transportation facility under OAR 660-012-0060. Based upon all of the evidence in the record, and with the addition of a trip-cap condition of 352 PM peak hour trips, Policy 8.1.4 and OAR 660-012-0060 are therefore met because the proposed redesignation will not significantly affect any transportation facilities, since the peak hour trips will be no greater than what is allowed by the existing I-L zone.

### **Policy 8.2.3**

**The city shall require as a precondition to development approval that:**

- A. Development abuts a publicly dedicated street or has adequate access approved by the appropriate approval authority;**
- B. Street right-of-way be dedicated where the street is substandard in width;**
- C. The developer commit to the construction of the streets, curbs and sidewalks to city standards within the development;**
- D. Individual developers participate in the improvement of existing streets, curbs and sidewalks to the extent of the development's impacts;**
- E. Street improvements be made and street signs or signals be provided when the development is found to create or intensify a traffic hazard;**
- F. Transit stops, bus turnout lanes and shelters be provided when the proposed use of a type which generates transit ridership;**
- G. Parking spaces be set aside and marked for cars operated by disabled persons and that the spaces be located as close as possible to the entrance designed for disabled persons; and**
- H. Land be dedicated to implement the bicycle/pedestrian corridor in accordance with the adopted plan.**

**Findings.** The applicant has not proposed a specific development plan at this time, only a re-designation from I-L to R-25. Prior to the construction of any development on-site, the applicant must obtain land use approval and will be required to construct street and other related improvements to serve the

development, as required by the City's land use regulations. This policy will therefore be met.

#### **18.380.030.B.2**

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

**Findings.** The applicant has demonstrated compliance with all of the relevant comprehensive plan goals and policies as described above. The applicant has also demonstrated compliance with TDC 18.380.030(B)(1), (2), and (3) and TDC 18.380.030(C) as described below. No other provision of this code or other applicable implementing ordinances have been raised by any party as being relevant, and the City finds that no other code provisions or ordinances are applicable. This criteria is therefore met.

#### **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.**

**Findings.** The City Council agrees with the applicant's testimony and finds that there is substantial evidence in the record of a change in the neighborhood or community as it relates to the property. In this case, the relevant neighborhood or community is the area bounded by Hall Boulevard on the east, Hunziker Street on the north, 72<sup>nd</sup> Avenue on the west, and Bonita Road on the south.

During the 30-plus years since the applicant has owned this industrially-zoned property, the above-mentioned area has significantly changed. For example, the western portion of Wall Street, directly east of Hall Boulevard, has been built and is now developed with housing on one side and the library on the other. The library is a new addition to the neighborhood and an important asset to the City as a whole. The adjacent Fanno Creek wetlands have been protected, and sensitively developed with popular pedestrian trails that serve the surrounding community. Over the last 30 years, local, state, and federal environmental protections have grown, and now protect much more of the land in this area. As part of its open space program, Metro recently acquired the parcel directly south of the site for park and open space purposes. Over the last several years, a substantial amount of residential development has been built to the east, west, and south of the site, at a mix of zoning densities including R-25, R-12, and R-7. The new Westside Commuter Rail ("WES") is the newest addition to the neighborhood. WES recently began service to this area, creating an important light rail corridor along the northern edge of this site.

Overall, these changes have made the site increasingly unsuitable for industrial use. As the applicant pointed out in its testimony, one of the Goal 9 factors related to industrial land is proximity to rail. The recent construction of the WES commuter rail along the site's northern border has eliminated freight access to the site. Recently, the railroad decided that it would not allow an at-grade crossing in this location. This practical inability to connect Wall Street to the industrial area to the north, combined with Metro's purchase of the industrial property to the south, and the other wetland areas to the west, effectively isolates this parcel from the surrounding industrial area. In addition, environmental legislation enacted over the past 30 years further constrains the property and makes it even more unsuitable for industrial use. Because of these changes, the subject property has become functionally isolated from other industrially-zoned property and is now surrounded by residential and civic uses, open space, and wetlands.

On the other hand, this property's proximity to City Hall, the library, Fanno Creek, WES, and nearby medium- and lower-density residential neighborhoods, and the City's emerging downtown, creates important opportunities to use this site for medium-density workforce housing. A substantial, well-planned, medium-density housing site in this location would significantly contribute to the synergy of the area and would sensitively protect the important habitat areas on the site in a way that industrial use could not. For all of these reasons, and the other reasons described in the record, the City finds that there have been a significant number of changes in the neighborhood or community as it relates to the property, and that these changes have made the site unsuitable for industrial use. These changes, on the other hand, support a change in the zoning from light industrial (I-L) to medium-density residential (R-25). This criterion is therefore met.

18.380.030

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.

This is a quasi-judicial decision approving the proposed application, with conditions, as provided by TDC 18.390.050. This criteria is therefore met.

## SECTION V. COMPLIANCE WITH THE RELEVANT STATEWIDE PLANNING GOALS

The following Statewide Planning Goals apply to this application. Each of these goals are met, as explained in the findings below.

**Goal 1 (Citizen Participation).** The City's comprehensive plan and land use regulations are acknowledged to be in compliance with the Statewide Planning Goals, including Goal 1. The City complied with the relevant Citizen Involvement Provisions in its comprehensive plan and zoning code, and held hearings before both the Planning Commission and City Council on this matter. Goal 1 is therefore met.

**Goal 2 (Land Use Planning).** The City's comprehensive plan and land use regulations are acknowledged to be in compliance with the Statewide Planning Goals, including Goal 2. Goal 2 requires that the City's land use decisions have an adequate factual base. In this case, there is substantial evidence in the record that this particular site is no longer suitable for industrial use, and that based upon the evidence in the record and the relevant approval criteria, the site should instead be zoned R-25. Goal 2 is therefore met by the proposed redesignation.

**Goal 5 (Natural Resources).** The City's comprehensive plan and land use regulations are acknowledged to be in compliance with the Statewide Planning Goals, including Goal 5. Goal 5 requires that natural resources be protected. The site is currently zoned I-L. Any development of the site, whether it is zoned I-L or R-25, is subject to city, state, and federal natural resource protection requirements. Goal 5 will therefore be met.

**Goal 6 (Air, Water and Land Quality).** The City's comprehensive plan and land use regulations are acknowledged to be in compliance with the Statewide Planning Goals, including Goal 6. Goal 6 requires that the quality of the air, water, and land resources of the state be maintained and improved. The City, CWS, Metro, and the state and federal governments have enacted regulations that implement this Goal. All of those relevant regulations will be complied with prior to development of this site, regardless of whether the site is zoned I-L or R-25. This goal will therefore be met.

**Goal 7 (Natural Hazards).** The City's comprehensive plan and land use regulations have been acknowledged to be in compliance with the Statewide Planning Goals, including Goal 7. Goal 7 requires the protection of people and property from natural hazards. The City, the state, and the federal government have enacted regulations to reduce the risk to people and property from natural hazards. These regulations will continue to be met regardless of whether the site is zoned I-L or R-25. This goal is therefore met.

**Goal 9 (Economic Development).** The City's comprehensive plan and land use regulations have been acknowledged to be in compliance with Statewide Planning Goal 9. Goal 9 requires that adequate opportunities be provided throughout the state for a variety of economic activities. As the applicant



pointed out in its testimony, Goal 9 requires the City to base its economic analysis on up-to-date information. The economic analysis in the City's comprehensive plan was performed in 1989 and is now 20 years old. In that report, the City's economic analysis assumed that the site was suitable for industrial use. As explained in this decision, the evidence shows that the site is no longer suitable for industrial use. The City will be revising this economic analysis during periodic review, which is already under way. In such cases, OAR 660-009-0010 allows the applicant to request a post-acknowledgement plan amendment (PAPA) prior to periodic review as a means of rezoning the site. Specifically, OAR 660-009-0010(4) provides the applicant with the following three options:

"(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

"(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

"(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

"(c) Adopt a combination of the above, consistent with the requirements of this division."

The applicant in this case is proceeding under option 4(b), which allows the City to amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division. Council finds that the applicant's request to amend the City's comprehensive plan to change the designation of this site from I-L to R-25 is consistent with the requirements of OAR 660-009, because the property's site characteristics and development constraints make the site unsuitable for industrial use. The applicant has shown that this site is no longer suitable for industrial or other employment uses and that its designation should therefore be changed. The proposed change in designation from I-L to R-25 is consistent with OAR 660-009, for the reasons described by the applicant and other witnesses who testified in support of this application, and as detailed in the applicant's written testimony, particularly the letters from the applicant's attorney, dated January 26 and March 17, 2009, both of which address the relevant Goal 9 rules in detail. That testimony is adopted and incorporated by reference here. For all of the above reasons, Goal 9 is therefore met.

**Goal 10 (Housing).** The City's comprehensive plan and land use regulations have been acknowledged to be in compliance with the Statewide Planning Goals, including Goal 10. The City's land use regulations implement these goals and will continue to do so whether the site is designated I-L or R-25. As described elsewhere in this decision, the proposed redesignation of this site to a medium-density R-25 zoning designation will help provide for the housing needs of the citizens of the state in general, and the citizens of the City of Tigard in particular by providing an opportunity for workforce housing in a key location near downtown, transit, and important nearby job centers. As noted below, the City's comprehensive plan reinforces the need to expand the opportunities for residents to work closer to where they live, and in doing so, further explains the existing situation within the City. Specifically, the City's comprehensive plan provides that:

"Tigard is sometimes perceived as a bedroom community for nearby cities. This is not accurate. Tigard businesses provide 38,628 full and part time jobs in 2005 (State of Oregon Employment Department). This number is greater than the number of Tigard residents over the age of 16 in the workforce: 25,537 (O.E.D, 2006). Seventy percent of Tigard residents work outside the City, so thousands of workers from throughout the region are regularly commuting to Tigard jobs (2000 Census). The City shall seek to expand the opportunities for residents to work closer to where they live. This will require

promoting a mix of high quality housing opportunities for households with varying incomes." (See Tigard Comprehensive Plan at 9-1 – 9-2.)

This comprehensive plan provision clearly recognizes that there is a demonstrated need for workforce housing in the City of Tigard, especially when it can be located close to downtown, close to light rail, and close to employment centers, as is the case here. For all of the above reasons, the proposed amendment complies with Goal 10.

**Goal 11 (Public Facilities and Services).** The City's comprehensive plan and land use regulations have been acknowledged to be in compliance with the Statewide Planning Goals, including Goal 11. Goal 11 requires the City to plan and develop timely, orderly, and efficient public facilities and services to serve as a framework for urban and rural development. The proposed redesignation of the site from I-L to R-25 is consistent with the City's plan to develop timely, orderly, and efficient public facilities and services, because it will extend Wall Street into the site as shown in the City's existing TSP and will ensure that other needed public facilities and services are provided concurrent with development of the site. Goal 11 will therefore be met.

**Goal 12 (Transportation).** The City's comprehensive plan and land use regulations have been acknowledged to be in compliance with the Statewide Planning Goals, including Goal 12. Goal 12 requires the City to provide and encourage a safe, convenient, and economic transportation system. The proposed redesignation of the site from I-L to R-25 is consistent with Goal 12 because the number of permitted peak hour trips will be limited to the number of trips permitted by the existing I-L zone, because of the trip-cap imposed as a condition of approval. Furthermore, because the R-25 zone will produce less truck traffic than the I-L zone, the redesignation will reduce potential conflicts between trucks, cars, pedestrians, and bikes along Wall Street and in the surrounding neighborhood. As discussed above, under Policy 8.1.4, because the proposed redesignation will not significantly affect any transportation facilities the provisions of OAR 660-012-0060 have been met. Overall, the relevant provisions of Goal 12 have therefore been met.

## SECTION VI. COMPLIANCE WITH THE RELEVANT METRO FUNCTIONAL PLAN TITLES

**Metro Title 1 (Requirements for Housing and Employment Accommodation).** Metro Title 1 requires the city to determine its capacity for housing and employment and to continue to provide at least the job capacity specified in Metro Table 3.07-1. (Table 1.) The city's job capacity in Table 1 is 17,801. With regard to Metro Title 1 and Table 1, Tim O'Brien, AICP, Principal Regional Planner with Metro, testified that:

"The City of Tigard was deemed in compliance with Title 1 in 1999. The Title 1 job capacity level is not differentiated between types of jobs. Thus, as long as Tigard's job capacity is not below the level indicated in Title 1, Table 1 (17,801) as a result of this application, there is no conflict with Functional Plan Title 1." (See O'Brien letter of February 24, 2009, to City of Tigard, in reference to this application, included in the record of this case.)

Council agrees with Mr. O'Brien's testimony and further finds that rezoning this site from IL to R-25 will not cause the city fall below the 17,801 job capacity level specified in Table 1. As explained extensively above, this site has become unsuitable for industrial use. For over 30 years, this site has been zoned for

industrial use. During that time, the site has not developed and has not generated any jobs. Because development constraints have made the site unsuitable for industrial use, the IL zone limits the site's ability to contribute to the city's job capacity. Because the site is unsuitable for industrial use, Council finds that it will not contribute to the city's job capacity so long as it is zoned for industrial use.

On the other hand, because uses allowed in the R-25 zone allow the site to be developed in a more flexible way, the R-25 zone enhances the site's ability to contribute to the city's job capacity. The R-25 district is a mixed-use zone that allows medium density housing and a limited amount of neighborhood commercial use, along with a wide range of civic and institutional uses, such as schools, colleges, public support facilities, and medical centers. As previously discussed, wetlands, sensitive lands, and other development constraints have made the site unsuitable for industrial development. Evidence in the record indicates, however, that uses allowed in the R-25 zone, such as medium-density residential dwellings, neighborhood commercial, and civic and institutional uses can be developed on this site in a more flexible way than industrial uses could be. For example, there is substantial evidence in the record indicating that industrial uses tend to need larger building footprints, larger parking areas, larger outdoor storage and maneuvering areas, and better visibility and access than residential, civic, and institutional uses do. Council notes that other sites located nearby along Fanno Creek have already developed for civic and institutional uses and medium-density housing, such as city hall, the library, various public support facilities, and a nearby condominium project. The R-25 designation on this site enhances the site's ability to contribute to the city's job capacity, because the uses allowed in this zone can be developed in a more flexible way that better respond to the development constraints presented by this site. Council finds that the uses allowed in the R-25 zone will therefore enhance the site's ability to contribute to the city's job capacity.

Council also finds Title 1's job capacity level does not differentiate between job types. As Mr. O'Brien pointed out in his letter referenced above, "The Title 1 job capacity level is not differentiated between types of jobs." Council agrees and further finds that the Title 1 job capacity level is expressed as city-wide number, not a site-specific number. Even if the job capacity level in Title 1, Table 1 could be interpreted to be site-specific, Council finds that changing the zoning from IL to R-25 on this particular site will not affect the ability of the city to meet its job capacity level in Table 1, because both zones allow uses that create jobs, and neither the IL zone nor the R-25 zone require that a minimum, maximum, or a specific number of jobs be created by uses allowed in those zones. As explained above, uses allowed in the R-25 zone allow the site to be developed in a more flexible way, thereby enhancing the site's ability to contribute to the city's job capacity.

Finally, Council notes that in Ms. Caines' memo to Council dated February 24, she indicates that in 1999, Metro determined that Tigard was in compliance with its Title 1 job capacity level of 17,801 jobs by 2017. Ms. Caines also stated in her memo that according to Tigard Periodic Review Evaluation performed in January 2009, Tigard added approximately 3,800 new jobs between 1997 and 2004. Ms. Caines stated that if that rate of growth continues, Tigard will not meet its assigned job capacity by 2017. Council finds that although the overall number of jobs added between 1997 and 2004 is not on par with the rate needed for the City to reach its assigned job capacity by 2017, the evidence in the record indicates that redesignating this particular site from I-L to R-25 does not cause the City to lose job capacity, nor will this redesignation cause the City to not meet its assigned job capacity by 2017. As indicated above, this particular site has become unsuitable for industrial use, and therefore does not contribute to the City's job capacity as it is zoned now. The proposed R-25 mixed-use designation, on the other hand, allows a wide range of civic and institutional uses along with a limited amount of neighborhood commercial uses, in addition to medium-density residential development. The mixed-use R-25 zone will therefore contribute to the City's job capacity. Because this application will not reduce the City's job capacity level and will not cause the

City to not meet its assigned job capacity by 2017, this application is therefore not in conflict with, and is consistent with, Title 1 of the Metro Functional Plan. Title 1 is therefore met.

**Metro Title 3 (Water Quality and Flood Management).** Metro Title 3 regulates water quality and flood management. The City's land use regulations and comprehensive plan already comply with Metro Title 3. Any development proposed will be required to comply with all applicable city, Metro, CWS, state, and federal water quality and flood management regulations, regardless of whether the site is zoned I-L or R-25. Title 3 is therefore met.

**Metro Title 4 (Industrial and Other Employment Areas).** Title 4 protects areas designated as industrial and employment areas on Metro's Employment and Industrial Areas map. This site is designated as an employment area on Metro's Employment and Industrial Areas map. In this proposed redesignation of the site from I-L to R-25, the City is not allowing any uses that are not allowed by Title 4 in employment-designated areas. As Metro planner Tim O'Brien stated in his February 24, 2009, letter:

"Title 4 does not prohibit residential uses on Title 4 designated lands, thus a proposal to change the zoning of this employment-designated land to residential use is not in conflict with Title 4 of the Functional Plan."

Council agrees and further finds that because the city's R-25 zone provides opportunities for employment on the site, including a wide range of civic and institutional uses and a limited amount of neighborhood commercial use, in addition to medium-density residential use, the R-25 designation is consistent with the parcels' employment designation under Title 4, because housing is allowed on Metro Title 4 employment lands, as are civic, institutional, and neighborhood commercial uses. In order to further ensure compliance with Metro Title 4, a condition of approval has been added to ensure that the Metro designation for the site and the City's designation of the site remain consistent. Title 4 is therefore met.

**Metro Title 7 (Housing Choice).** Metro Title 7 calls for the establishment of voluntary affordable housing goals and for local governments to ensure that their plans and implementing regulations provide for a diverse range of housing types within the city. This city's plan and zoning code already comply with Title 7. As discussed throughout this decision, the redesignation of this site to R-25 will increase opportunities within the City for workforce housing that would be located close to downtown, close to transit, and close to nearby employment centers. There is a demonstrated need within the City for workforce housing opportunities. This site provides an important opportunity for workforce housing to be built in a location that would significantly contribute to the synergy of the area, in a way that industrial use could not. For these reasons, this redesignation is consistent with Metro Title 7. Metro Title 7 is therefore met.

## **SECTION VII. CONCLUSION**

Based on the above-mentioned findings and conclusions and the testimony and evidence in the record, City Council concludes that the proposed comprehensive plan and zoning map amendment complies with all of the relevant approval criteria and is therefore APPROVED, subject to the following conditions:

1. Development of this site shall be subject to a PM peak hour trip cap of 352 trips, as proposed by DLCD and agreed to by the applicant.
2. Metro has indicated, and the City has found, that Metro Title 4 does not prohibit residential uses on Title 4 designated employment lands, and that this action to change the zoning of Metro designated

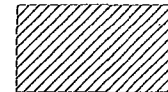
employment land to a residential mixed-use zone (R-25) complies with Title 4 of the Metro Growth Management Functional Plan. In order to further ensure compliance with Metro's Functional Plan, if lawfully required by Metro within 30 days after this decision becomes final, the applicant shall request that Metro's Employment and Industrial Area Map be revised to conform with this decision.

GEOGRAPHIC INFORMATION SYSTEM  
VICINITY MAP

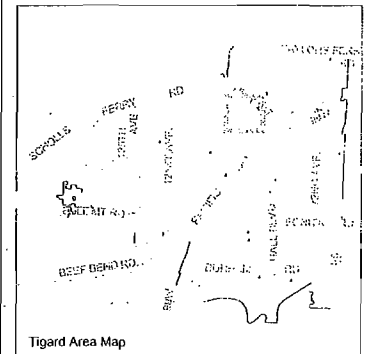
CPA2008-00008  
ZON2008-00002

FIELDS ZONE  
CHANGE

LEGEND:



SUBJECT  
SITE



Tigard Area Map



0 100 200 300 400 500 Feet



1" = 484 feet

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

13125 SW Hall Blvd  
Tigard, OR 97223

(503) 639-4171  
<http://www.ci.tigard.or.us>



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City of Tigard  
Current Planning Division  
13125 SW Hall Blvd.  
Tigard, OR 97223

ATTN: PLAN AMENDMENT SPECIALIST  
OR. Dept. of Land Conservation & Development  
635 Capital Street NE, Suite 150  
Salem, OR 97301-2540