



Oregon

Theodore R. Kubongski, 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

6/28/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Tualatin Plan Amendment  
DLCD File Number 003-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, July 09, 2010

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 Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Colin Cortes, City of Tualatin  
Gloria Gardiner, DLCD Urban Planning Specialist  
Jennifer Donnelly, DLCD Regional Representative

<paa> YA





FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

**DATE STAMP**

**DEPT OF**

**JUN 21 2010**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **City of Tualatin**

Local file number: **PTA-09-07**

Date of Adoption: **6/14/2010**

Date Mailed: **6/18/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 3/09/10

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".

**Increases minimum mailing notification area from 300 to 1,000 ft from subject prop; req that if area overlaps lots within platted res subdiv that area extend to include entire subdiv. Creates standard land use action sign of 18x24 w/ text at least 2 in. tall; requires applicants to both provide and post; and requires a sign per frontage rather than per subject prop and that for prop on dead-end street that there be additional sign along nearest thru street. Applies to almost all land use app types.**

Does the Adoption differ from proposal? Yes.

Plan Map Changed from: **n/a**

to:

Zone Map Changed from: **n/a**

to:

Location: **n/a**

Acres Involved:

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

New:

Applicable statewide planning goals:

<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>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** 003-10 (18174) [16177]

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

None other than City of Tualatin.



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Local Contact: **Colin Cortes, Assistant Planner**

Phone: (503) 691-3024 Extension:

Address: 18876 SW Martinazzi Ave

Fax Number: 503-692-0417

City: Tualatin

Zip: 97062

E-mail Address: [ccortes@ci.tualatin.or.us](mailto:ccortes@ci.tualatin.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD** 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009



ORDINANCE NO. 1304-10

AN ORDINANCE INCREASING LAND USE PUBLIC NOTIFICATION REQUIREMENTS; AND AMENDING TUALATIN DEVELOPMENT CODE (TDC) 1.031, 31.063, 31.067, 31.071, 31.072, 31.074, 31.076, 31.077, 32.060, 33.010, 33.024, 33.030, 34.013, 34.185, 34.186, 34.200, 34.210, 34.260, 34.310, 36.120, 36.140, 36.220, 36.230, 36.340, 37.020, 68.020, 68.050, 68.080, 68.090; AND ADDING TDC 31.064 (PTA-09-07)

WHEREAS upon the application of the City of Tualatin, a public hearing was held before the City Council of the City of Tualatin on May 24, 2010, related to a Plan Text Amendment of the TDC; and amending TDC 1.031, 31.063, 31.067, 31.071, 31.072, 31.074, 31.076, 31.077, 32.060, 33.010, 33.024, 33.030, 34.013, 34.185, 34.186, 34.200, 34.210, 34.260, 34.310, 36.120, 36.140, 36.220, 36.230, 36.340, 37.020, 68.020, 68.050, 68.080, 68.090; and adding TDC 31.064 (PTA-09-07); and

WHEREAS notice of public hearing was given as required under the TDC by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on May 24, 2010, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [5-0] with Mayor Ogden and councilors Harris, Beikman, Barhyte, and Davis voting in favor; and councilors Maddux and Truax absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated May 24, 2010, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 1.031 is amended to read:

(1) Notice of the public hearing at which the Council shall consider the proposed amendments shall be given by publication in a newspaper of general circulation within the City not less than ten (10) City business days prior to the hearing and by posting in two (2) public and conspicuous places within the City not less than ten (10) City business days prior to the hearing. In the case of quasi-judicial text or map amendments, additional notice shall be given as follows: notice of the proposed amendment shall be mailed by ~~regular first class mail~~ to property owners of property and recognized neighborhood associations located within ~~300~~ 1,000 feet of the subject property. If the 1,000-foot area includes lots within a platted residential subdivision, the notice area shall extend to include the entire subdivision of which the lots are a part, and the applicant shall identify these subdivisions for staff as part of the mailing notification list. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include additional phases. Notice of the public hearing for an amendment, either legislative or quasi-judicial, which affects the transportation system, shall be provided to ODOT and to Metro.

(2) Sign Posting: The applicant shall as follows both provide and post on the subject property a sign that conforms to the standard design established by the City for signs notifying the public of land use actions:

(a) Minimum Design Requirements: The sign shall be waterproof, and the face size shall be eighteen (18) by twenty-four (24) inches (18 x 24) with text being at least two (2) inches tall.

(b) On-site Placement: Prior to plan amendment submittal, the applicant shall place a sign along the public street frontage of the subject property or, if there is no public street frontage, along the public right-of-way (ROW) of the street nearest the subject property. A subject property having more than one public street frontage shall have at least one posted sign per frontage with each frontage having one sign. For a subject property that has a single frontage that is along a dead-end street, the applicant shall post an additional sign along the public ROW of the nearest through street. The applicant shall not place the sign within public ROW; however, for a subject property that has no public street frontage or that has a single frontage that is along a dead-end street, the applicant may place the sign within the public ROW of the nearest street.

(c) Proof of Posting: The applicant shall submit as part of the plan amendment submittal, an affidavit of posting to the Community Development Director or when applicable, the City Engineer.

(d) Removal: If the sign disappears prior to the final decision date of the plan amendment, the applicant shall replace it within forty-eight (48) hours. The

applicant shall remove the sign no later than fourteen (14) calendar days after the City makes a final decision on the subject land use application.

(3) For purposes of identifying the property owners to receive notification of hearing, the names and addresses of the owner or owners of record as shown in the current, or within thirty (30) days of a completed application, computer roll of the County Assessor shall be used. Preparation of the list of property owners shall be the applicant's responsibility and shall be prepared by one of the following persons: a land title company, a land use planning consultant authorized by the State of Oregon to conduct business in the State, registered architect, landscape architect, engineer, surveyor, or attorney, or where the City is the applicant, the Planning Community Development Director. The list of property owners shall be updated not less than every ninety (90) days by the applicant, until a final decision is rendered.

(34) The City shall provide written notice to the Tigard-Tualatin School District not lessfewer than ten (10) City business days prior to the hearing when considering a plan amendment or land use regulation amendment that significantly impacts school capacity.

Section 2. TDC 31.063 is amended to read:

(1) This section applies to the following types of Land Use applications: Annexations; Architectural Reviews, except Level I (Clear and Objective) Single-family Architectural Review; Conditional Uses; Historic Landmark actions, including designation, removal of designation, demolition, relocation, or alteration or new construction; Industrial Master Plans; Partitions; Plan Map Amendments for a specific property; Plan Text Amendments for a specific property; Subdivisions; Tree Removal Permit; Transitional Use Permit; and Variances, except for variances to existing single family residences.

(2) Prior to the submittal of an application listed in TDC 31.063(1) and following a pre-application meeting held with the City, the developer shall host a meeting for the surrounding property owners. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(3) The Neighborhood/Developer Meeting shall be held on a weekday evening, or weekend no earlier than 10:00 a.m. and no later than 6:00 p.m., at a location within the City of Tualatin.

(4) The applicant shall at least 14 calendar days and no more than 28 calendar days prior to the meeting mail notice of the meeting pursuant to TDC 31.064(1) stating

the date, time and location of the meeting and briefly discussing the nature and location of the proposal.~~mail notice of meeting:~~

~~(a) at least 14 days and no more than 28 days prior to the meeting.~~

~~(b) to owners of properties within 300 feet of the subject property, any City recognized Neighborhood Associations under TDC 31.065 whose boundaries are within 300 feet of the subject property, and to the Community Development and City Engineer of Tualatin; and~~

~~(c) that states the date, time and location of the meeting and briefly discusses the nature and location of the proposal.~~

(5) Failure of a property owner to receive notice shall not invalidate the Neighborhood/Developer Meeting proceedings.

(6) The applicant shall at least 14 calendar days before the meeting post notice a sign pursuant to TDC 31.064(2). If the sign disappears prior to the meeting date, the applicant shall replace it within forty-eight (48) hours. The applicant shall remove the sign no later than fourteen (14) calendar days after the meeting date of the meeting by posting a waterproof sign on the subject property at least 14 days before the meeting. This sign shall be supplied by the applicant.

(7) The applicant shall prepare meeting notes identifying the persons attending and the major points that were discussed and expressed.

(8) The applicant is required to hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.

(9) If an applicant fails to hold a neighborhood meeting, the application shall be deemed incomplete.

(10) The application shall include the following materials related to the Neighborhood/Developer meeting:

(a) the mailing list for the notice;

(b) a copy of the notice;

(c) an affidavit of the mailing and posting;

(d) the original sign-in sheet of participants;

(e) the meeting notes described in TDC 31.063(7).

(11) Applications shall be submitted to the City within 180 days of the Neighborhood/Developer meeting. If an application is not submitted in this time frame, the Developer shall be required to hold a new Neighborhood/Developer meeting.

Section 3. TDC 31.067 is amended to read:

(1) The purpose of this Section is to establish a procedure to be used in conjunction with Metro Code 3.09 and Oregon Revised Statutes for annexing territory to the City Limits.

(2) An applicant for an annexation to the City Limits shall discuss the proposed annexation with the Community Development Director, or designee, and City Engineer, or designee, in a pre-application conference prior to submitting an application. An applicant for an annexation shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063.

(3) Sign Posting: The applicant shall post a sign pursuant to TDC 31.064(2).

(4) After the pre-application conference, the applicant shall submit to the Community Development Department an Annexation Application which shall contain:

- (a) The Application For Annexation form;
- (b) The Petition To Annex To The City of Tualatin form;
- (c) A legal description of the subject territory including any abutting public street right-of-way that is not yet in the City Limits;
- (d) The Certification of Legal Description and Map form;
- (e) The Certification of Property Ownership form;
- (f) The Certification of Registered Voters form;
- (g) The Property Owner Information Sheet form;
- (h) The City application fee, and the Metro application fee in a separate check made payable to Metro;
- (i) The 3 column by 10 row matrix sheet listing the Assessors Map Number and Tax Lot Number, name and mailing address for:
  - (i) the owner (fee title) of the subject territory, and



(ii) ~~the owners (fee title) of the lots within 300 feet of the subject territory recipients pursuant to TDC 31.064(1) and the governing jurisdiction of~~, including any public street right-of-way to be annexed;

(j) The Request For Expedited Procedure form if the expedited process is desired by the applicant;

(k) The Annexation Property Information Sheet form;

(l) A copy of the County Assessors Maps showing the subject territory, any public street right-of-way to be annexed and the lots within ~~300~~1,000 feet of the subject territory including any public street right-of-way. The subject territory and right-of-way to be annexed shall be outlined with a wide, light colored ink marker;

(m) If necessary, a letter from the County or State Road Authority stating its consent to annex the right-of-way described in the legal description; and

(n) The Community Development Director may require information in addition to the above.

(o) The information on the Neighborhood/Developer meeting specified in TDC 31.063(10).

(p) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application and the City must notify ODOT Rail Division and the railroad company that the application has been received.

(45) The Community Development Director shall set the City Council public hearing date.

(a) For an Expedited Application the hearing shall be at least 20 days after the application is complete to allow for the Metro Code 3.09.045 comment period.

(b) For a Nonexpedited Application the hearing shall be at least 45 days after the application is complete to allow for the Metro Code 3.09.030 comment period and the date shall be determined within 30 days after the application is complete.

(56) The City Council shall conduct a quasi-judicial public hearing, or a legislative public hearing if the proposed annexation is a legislative action, and before granting the

annexation shall find the application conforms to TDC Objectives 4.050(20) and (21) and the applicable criteria in Metro Code 3.09 and Oregon Revised Statutes.

(67) For quasi-judicial and legislative Expedited Annexation Applications public hearing notice shall be provided as follows:

(a) Mail notice at least 20 calendar days prior to the hearing to property owners (fee title) in accordance with TDC 31.077, City recognized neighborhood associations whose boundaries are within ~~300~~1,000 feet of the subject territory and to Necessary Parties as defined in Metro Code 3.09, and

(b) Post notice in two public and conspicuous places.

(78) For quasi-judicial and legislative Nonexpedited Annexation Applications public hearing notice shall be provided as follows:

(a) Mail notice at least 45 calendar days prior to the hearing to property owners (fee title) in accordance with TDC 31.077, City recognized neighborhood associations whose boundaries are within ~~300~~1,000 feet of the subject territory and to Necessary Parties as defined in Metro Code 3.09;

(b) Post notice in two public and conspicuous places and post 2 weatherproof notices at least 45 calendar days prior to the hearing along the subject territory's public street frontage, or if there is no public street frontage, along a public street right-of-way near the subject territory, and

(c) Publish one notice at least 17 calendar days prior to the hearing in a newspaper of general circulation in the affected territory.

(d) For quasi-judicial and legislative Nonexpedited Annexation Applications initiated by less than 100% of the owners and less than 50% of the electors in the territory, notice shall be provided in accordance with Oregon Revised Statutes, Chapter 222.

Section 4. TDC 31.071 is amended to read:

(1) An applicant for a building or other permit subject to architectural review, except Level I (Clear and Objective) Single-family Architectural Review, shall discuss preliminary plans with the Community Development Director and City Engineer in a pre-application conference prior to submitting an application. An applicant for Architectural Review of a development in the Central Design District shall conduct a Neighborhood Meeting subject to TDC ~~73.071(5)~~31.071(5). An applicant for Architectural Review of a development in other parts of the City shall conduct a Neighborhood/Developer Meeting



subject to TDC 31.063. An applicant for Single-family Architectural Review shall follow Level I (Clear and Objective) or Level II (Discretionary) Single-family Architectural Review procedures subject to TDC 31.071(7). Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall submit to the Community Development Director an Architectural Review Plan application which shall contain:

- (a) The project title;
- (b) The names, addresses and telephone numbers of the property owners, applicants, architect, landscape architect and engineer;
- (c) The signatures of the property owners and applicants;
- (d) The site address and the assessor's map number and tax lot number;
- (e) A Service Provider Letter from the ~~Unified Sewerage Agency~~ Clean Water Services indicating a "Stormwater Connection Permit Authorization Letter" will likely be issued;
- (f) Any necessary wetland delineations applicable to the site;
- (g) Any Fill/Removal Permit issued by the Oregon Division of State Lands and the Army Corps of Engineers;
- (h) The application fee as established by City Council resolution;
- (i) A site plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the proposed layout of all structures and other improvements including, where appropriate, driveways, pedestrian walks, landscaped greenways, mixed solid waste and recyclables storage and railroad tracks. A site plan at a scale of 1":40' or 1":50' for larger developments may be substituted for the above stated scales as directed by the Community Development Director. The site plan shall illustrate the location of existing structures, existing facility utilities, and whether they will be retained as part of the project. The site plan shall indicate the location of entrances and exits, pedestrian walkways and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth, and areas of turning and maneuvering vehicles. The site plan shall indicate how utility service and drainage are to be provided. The site plan shall also indicate conditions and structures on adjacent properties sufficient to demonstrate that the proposed development is coordinated with existing or proposed developments on adjacent properties. Where the applicant proposes to change the existing topography, then a proposed grading plan shall be submitted drawn at a scale of 1":10', 1":20' or 1":30'. Trees having a trunk diameter of eight inches or greater, as

measured at a point four feet above ground level, proposed to be removed and to be retained on site shall be indicated on the grading plan.

(j) A landscape plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the location of existing trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties and size of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.

(k) Architectural drawings or sketches, drawn at a scale of 1/16":1', 1/8":1' or 1/4":1', including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction. Building perspectives may also be needed.

(l) Specifications as to type, color and texture of exterior surfaces of proposed structures.

(m) A public utility facilities plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the location, size and grade of all existing and proposed utility facilities, including but not limited to sanitary and storm sewers; water lines and fire hydrants; streets and sidewalks; water quality swales, traffic study information as required by the City Engineer per TDC 74.440 and other utility facilities as required by the City Engineer. A grading plan at a scale of 1":40' or 1":50' for larger developments may be substituted for the above stated scales as directed by the City Engineer.

(n) Developments in the Central Design District shall provide the Neighborhood Meeting notes and evidence of the notice and posting required in TDC 31.071(5) and shall provide narrative statements considering each of the Design Guidelines in TDC 73.610.

(o) A completed City fact sheet on the project.

(p) An 8 1/2" x 11" black and white site plan suitable for reproduction.

(q) A letter from the franchise solid waste and recycling hauler reviewing the proposed solid waste and recyclables method and facility.

(r) A Clean Water Services Service Provider Letter or Pre-screen for the proposed development.

(s) An acoustical engineer's report as required by the Community Development Director.



(t) The information on the Neighborhood/Developer meeting specified in TDC 31.063(10).

(u) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify ODOT Rail Division and the railroad company that the application has been received.

(2) Excepting Level I (Clear and Objective) Single-family Architectural Review, ~~the applicant shall provide a list of mailing recipients pursuant to TDC 31.064(1), submit a verified statement showing the sign has been posted on the property in a conspicuous location which indicates that a development proposal has been submitted to the City and the name of the person or persons who may be contacted in order to inquire about specific aspects of the proposal. The sign size, copy size, copy content, height, location and maintenance shall be determined by the Community Development Director with the objects of providing members of the public passing the site with reasonable notice, such that an interested person would have an opportunity to inquire further.~~

(3) ~~For purposes of identifying property owners to receive notification of decisions and hearings, if any, the names and addresses of the owner or owners of record (fee title) as shown in the current, or within 30 days of the completed application, computer roll of the County Assessor shall be used. Preparation of the list of property owners shall be the applicant's responsibility and shall be prepared by one of the following persons: a land title company, a land use planning consultant authorized by the State of Oregon to conduct business in the State, or registered architect, landscape architect, engineer, surveyor, attorney, or where the City is the applicant, the Community Development Director. The list of property owners shall be updated not less than every 90 days by the applicant, until a final decision is rendered. Excepting Level I (Clear and Objective) Single-family Architectural Review, the applicant shall post a sign pursuant to TDC 31.064(2).~~

(4) For an application to be approved, it shall first be established by the applicant that the proposal conforms to the Tualatin Development Code, and applicable City ordinances and regulations. For Expedited Architectural Review Plan Applications the application shall describe the manner in which the proposal complies with each of the expedited criterion for an Expedited Application. Failure to conform is sufficient reason to deny the application.

(5) ~~The purpose of the Neighborhood Meeting in TDC 31.071(1) is to provide a means for the applicant and surrounding neighbors to meet to review a development proposal and identify issues regarding the proposal so they can be addressed prior to the application submittal. The Neighborhood Meeting shall be held in the Central Design District and the meeting shall be held on a weekday evening or weekend at a reasonable time. The applicant shall mail notice of the meeting at least 14 days prior to~~

~~the meeting to owners of properties within 300 feet of the subject property. The applicant shall post notice of the meeting by posting a sign on the subject property at least 14 days before the meeting. The applicant shall prepare meeting notes identifying the persons attending and the major points that were discussed and submit them with the application. The applicant shall hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.~~ Excepting Level I (Clear and Objective) Single-family Architectural Review, the applicant shall hold a Neighborhood/Developer meeting pursuant to TDC 31.063 and meet the additional requirement that the Neighborhood/Developer Meeting shall be held within the Central Design District.

(6) The Community Development Director may require information in addition to that stated in this section.

(7) An applicant for a new Single-family dwelling or an addition or alteration to an existing Single-family dwelling when it results in a 35% or more expansion of the structure's existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling) shall follow Level I (Clear and Objective) or Level II (Discretionary) Single-family Architectural Review procedures subject to this section. An application for Level I (Clear and Objective) or Level II (Discretionary) Single-family Architectural Review shall be filed on form(s) provided by the Community Development Director, shall be accompanied by a filing fee established by Council resolution, and shall be accompanied by the following information and submittals:

(a) Level I (Clear and Objective) Single-family Architectural Review application:

(i) A completed City fact sheet;

(ii) The names, addresses, and telephone numbers of the property owners and applicants;

(iii) The signatures of the property owners and applicants;

(iv) The site address and the assessor's map number and tax lot number;

(v) Three copies of a plot plan (minimum size 8.5"x11") drawn to a legible scale, which includes north arrow, scale, property lines or lot lines, public and/or private easements, lot dimensions, setbacks, structure footprint, roof lines, deck/porch/balcony lines, impervious ground surfaces, driveway location and driveway slope, and trees 8" or greater in diameter; and



(vi) Three copies of building elevations, drawn to scale, for all sides of the dwelling and including a calculation of the percentage of window coverage (glazing) for each elevation.

(b) Level II (Discretionary) Single-family Architectural Review application:

(i) All information required for Level I Single-family Architectural Review in TDC 31.071(7)(a);

(ii) One black and white copy (no larger than 11"x17") of each submittal, of a size suitable for reproduction and distribution;

(iii) A narrative statement that describes the manner in which the proposed development meets each of the approval criteria set forth in TDC 73.190;

(iv) Neighborhood/Developer Meeting information specified in TDC 31.063(10);

(v) A verified statement showing that required signage, as described in TDC 31.071(2), has been posted on the property in a conspicuous location; and

(vi) Current notification information for all owners of properties described within 300 feet of subject property as specified in pursuant to in TDC 73.071(3)31.064(1).

Section 5. TDC 31.072 is amended to read:

The Architectural Review Plan shall consist of utility facilities and architectural features. Prior to the processing of the Architectural Review Plan, the following shall be completed:

(1) The applicant shall obtain any required use approvals, including but not limited to plan amendments, variances, conditional use permits, ~~Unified Sewerage Agency~~ Clean Water Services Service Provider Letter, partitions, historic preservation certificate of appropriateness, property line adjustments and preliminary subdivision approvals.

(2) The City Engineer shall verify and advise the Community Development Director whether the utility facilities portion of the Architectural Review Plan is complete and addresses all applicable ordinances, resolutions, rules and regulations.

(3) The Community Development Director shall verify that the architectural features portion of the Architectural Review Plan is complete and addresses all applicable ordinances, resolutions, rules and regulations.

(4) If the Architectural Review Plan, submitted by the applicant is not complete or does not adequately comply with the applicable requirements of (1), (2) and (3) of this Section, the Community Development Director or City Engineer shall identify in writing the reasons for which the application is not complete or does not comply with particular requirements. A copy of the Community Development Director's and City Engineer's comments, if any, shall be mailed to the applicant at the address shown on the application.

(5) Except as provided herein the Architectural Review Plan, submitted by the applicant, shall be deemed complete when it is determined that the applicable requirements of (1), (2), and (3) of this Section have been satisfied. Where the applicant fails or refuses to submit information which has been requested by the Community Development Director or the City Engineer, then the application shall be deemed complete when submittal of application is received, whichever is earlier. The application shall be date stamped by the Community Development Director as of the date the application is deemed complete.

(6) Revisions or alterations of an application may be made following the determination that an application is complete, provided such revisions or alterations do not render the application incomplete and do address applicable requirements. When revisions or alterations are desired by the applicant or required by the City, the applicant shall be responsible for providing fully revised application materials and for clearly identifying those application materials which are revised.

Section 6. TDC 31.074 is amended to read:

(1) Architectural Review shall be conducted as a limited land use decision in accordance with this section and other applicable sections.

(2) Once the Architectural Features and Utility Facilities portions of an Architectural Review application are deemed complete by the Community Development Director and the City Engineer respectively, written notice of the application shall be provided to:

(a) ~~recipients pursuant to TDC 31.064(1); the applicant and owner of the subject property; and~~

~~(b) owners of property (fee title) within 300 feet of the entire contiguous site. The list of property owners shall be compiled from the most recent property tax assessment roll, and this shall be deemed met by an affidavit or other certification that such notice was given.~~

~~(c) neighborhood associations recognized in accordance with TDC 31.065 and whose boundaries include the site; and~~

(db) potentially affected governmental agencies such as: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a County road or otherwise be subject to review by the County, then the County, and Clean Water Services.

(ec) ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property.

(3) The notice provided in TDC 31.074(2) shall:

(a) state the nature of the application and the proposed use, if known;

(b) state the applicable decision criteria by TDC section for the decision;

(c) state the street address or other easily understood geographical reference to the subject property;

(d) state the date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

(e) state that issues which may provide the basis for a request for review to the Architectural Review Board, City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail and clarity to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;

(f) state that notice of the decision will be provided only to those persons who submitted written comments in accordance with this section;

(g) state the name of a City representative to contact and the telephone number where additional information may be obtained;

(h) state that copies of all evidence submitted by the applicant are available for review and can be obtained at cost ; and

(i) briefly summarize the local decision making process for the limited land use decision being made.



(j) state a railroad-highway grade crossing provides or will provide the only access to the subject property.

(4) Failure of a person or agency identified in TDC 31.074(2) to receive the notice required in TDC 31.074(2) shall not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(5) Parties who received notice of application in accordance with TDC 31.074(2) shall submit written comments to City offices no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(6) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that:

- (a) explains the criteria and standards considered relevant to the decision;
- (b) states the facts relied upon in issuing the decision; and
- (c) explains the justification for the decision based on the criteria, standards and facts set forth.

(7) Notice of the decision shall be provided to the property owner, applicant and any person who submitted written comments in accordance with TDC 31.074(5) when the decision is made by staff. If the Architectural Review Board makes the initial decision, then anyone who testified orally or in writing at the public hearing shall be provided the notice of decision, in addition to those persons listed above. The notice shall include an explanation of rights to request a review of the decision.

(8) Requests for reviews can be filed as specified in TDC 31.075, and shall follow TDC 31.076.

Section 7. TDC 31.076 is amended to read:

(1) Upon receipt of a request for review, the Community Development Director shall indicate the date of receipt, determine the appropriate hearing body to conduct review, schedule the hearing and give notice of the hearing in accordance with this section. A request for review shall be accompanied by a fee as established by City Council resolution.

(2) The Community Development Director shall determine the appropriate hearing body to conduct review as follows:

- (a) If the request for review raises issues regarding the design or conditions in the Architectural Features decision or an application of

standards relating to preservation of a historic structure and the Architectural Review Board has not already held a hearing and issued a decision on the matter, then the Architectural Review Board is the appropriate hearing body for such subject matter.

(b) If the request for review raises issues regarding the design or conditions for both the Architectural Features and Utility Facilities, and if the Architectural Review Board has not already conducted a hearing and issued a decision on the matter, then the Architectural Review Board is the appropriate hearing body for the Architectural Features decision and the City Council is the appropriate hearing body for the Utility Facilities review; otherwise the City Council is the appropriate hearing body for both.

(c) If the request for review raises issues regarding the design or conditions relating to the Utility Facilities Decision then the City Council is the appropriate hearing body.

(d) If the request for review involves a final decision by the Architectural Review Board, an interpretation of Code provisions under TDC 31.070, a decision of the Community Development Director with regard to a minor variance (TDC Chapter 33), tree removal (TDC Chapter 34), temporary use (TDC Chapter 34), a decision on demolition, relocation, alteration or new construction of a landmark (TDC Chapter 68), a decision of the City Engineer on a minor variance (TDC Chapter 33), partition or subdivision (TDC Chapter 36), property line adjustment with a minor variance (TDC Chapter 36), request for access onto an arterial street (TDC Chapter 75), an application for development within the flood plain (TDC Chapter 70), a decision on a permit within the Wetlands Protection District (TDC Chapter 71), or other application not listed in this subsection, then the City Council is the appropriate hearing body.

(3) Where a request for review is directed to the Architectural Review Board, a meeting of the Board shall be scheduled for a meeting date which is not less than seven nor more than 21 days from the expiration date of the request for review period. Except as provided herein, the Architectural Review Board shall conduct a hearing in accordance with TDC 31.077. The review conducted by the Board shall be limited to the applicable criteria, i.e. architectural features. The decision of the Architectural Review Board shall be adopted by a majority of the Board following the conclusion of the hearing. Within 14 calendar days of the decision, the Planning Department ~~Division~~ shall place the Architectural Review Board decision together with findings in support of the decision and other necessary information in a written form. The written materials prepared by the Planning Department shall be approved and signed by the Chair or Acting Chair of the Board, and thereafter such materials shall be the final decision of the Board. The written decision of the Architectural Review Board shall become final 14 calendar days after notice of the decision is given, unless within the 14 calendar days a

written request for review to the City Council is received at the City offices by 5:00 p.m. on the 14th day. Notice of the final decision of the Architectural Review Board decision may be provided to any person, but shall be mailed by first class mail to:

(a) recipients pursuant to TDC 31.064(1) and those owners of property within the vicinity of the subject property as described in TDC 31.064(1)(c) who commented on the proposal~~the applicant and the owner of the subject property;~~

~~(b) owners of property (fee title) within 300 feet of the entire contiguous site who commented on the proposal;~~

~~(c) recognized neighborhood associations whose boundaries include the site;~~

~~(d) City Council members;~~

~~(e) potentially affected governmental agencies such as: school districts, fire district, Clean Water Services, where the project site either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a county road or otherwise be subject to review by the county, then the County; and~~

~~(f) members of the Architectural Review Board.~~

(4) Where a request for review is directed only to the City Council, the review hearing shall be scheduled for a Council meeting date. The City Council shall conduct a hearing in accordance with quasi-judicial evidentiary hearing procedures in TDC 31.077.

(5) Where a request for review is directed by the Community Development Director to both the City Council on a Utility Facilities decision and the Architectural Review Board for an Architectural Features decision, the review hearing conducted by the City Council shall be stayed pending a final decision of the Architectural Review Board. The Council may consolidate evidentiary hearings on matters subject to direct review by the Council with related matters appealed to the Council from the Architectural Review Board. Quasi-judicial evidentiary hearing procedures shall be followed.

(6) Upon review, the decision shall be to approve, approve with conditions or deny the application under review. The decision shall be in writing and include findings of fact and conclusions for the particular aspects of the decision, which shall be based upon applicable criteria. At a minimum, the decision shall identify the Architectural Review Plan, if any, the applicant or a person to be contacted on behalf of the applicant, the date of the decision, the decision, an explanation of the rights to request a review of the decision, and any time frame or conditions to which the decision is subject.



Section 8. TDC 31.077 is amended to read:

(1) A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons. Except as otherwise provided, the procedures set out in this section shall be followed when the subject matter of the evidentiary hearing would result in a quasi-judicial decision, including, but not limited to an annexation to the City Limits per TDC 31.067, an interpretation of a Code provision per TDC 31.070, a conditional use application ( TDC Chapter 32), a variance or minor variance application (TDC Chapter 33), a transitional use application (TDC 34.180-34.186), a conditional use permit for a small lot subdivision application (TDC 40.030(3), 41.030(2)), a nonconforming use, or reinstatement of a nonconforming use application ( TDC Chapter 35), a quasi-judicial amendment to the Tualatin Community Plan or Map, a decision by staff whether or not to extend approval of an Architectural Review decision, a request for review of a final decision by the City staff on a partition, subdivision, property line adjustment with a minor variance, arterial access decision or the Utility Facility portion of an Architectural Review, or a request for review of a decision of the Architectural Review Board on an Architectural Review Plan.

(2) Notice of hearing shall be provided by regular first class mail to the following:

(a) for requests for review of a decision following the limited land use process:

(i) the applicant and owner of the subject property;

~~(ii) owners of property (fee title) within 300 feet of the entire contiguous site written comments in accordance with TDC 31.074;~~

~~(iii) recognized neighborhood associations whose boundaries include the siterecipients pursuant to TDC 31.064(1) and those owners of property within the vicinity of the subject property described in TDC 31.064(1)(c) who commented on the proposal pursuant to TDC 31.074(5);~~

(iv) members of the hearing body; and

~~(iii)v) potentially affected government agencies such as school districts, fire district, Clean Water Services, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and the county if the project site would access a county road or otherwise be subject to review by the county.~~

(b) for all other requests for review:

~~(i) the applicant and owner of the subject property;~~

~~(ii) owners of property (fee title) within 300 feet of the subject property;~~

~~(iii) recognized neighborhood associations, whose boundaries are within 300 feet of the subject property~~(i) recipients pursuant to TDC 31.064(1);

~~(iv)~~ members of the hearing body;

~~(v)~~ the following government agencies: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a county road or otherwise be subject to review by the county, then the county; and

~~(vi)~~ persons who have indicated in writing their desire to participate in the process on a particular application, and

~~(vii)~~ for annexation, Necessary Parties as defined in Metro Code 3.09.

(3) For purposes of identifying property owners to receive notification of hearing, the names and addresses of the owner or owners of record (fee title) as shown in the current, or within 30 days of a completed application, computer roll of the County Assessor shall be used. Preparation of the list of property owners shall be the applicant's responsibility and shall be prepared by one of the following persons: a land title company, a land use planning consultant authorized by the State of Oregon to conduct business in the State, a registered architect, landscape architect, engineer, surveyor or attorney, or where the City is the applicant, the Community Development Director. The list of property owners shall be updated not less than every 90 days by the applicant, until a final decision is rendered.

(4) Failure of a person or agency to receive a notice, shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(5) Notice of a hearing shall:

(a) Explain the nature of the application and the proposed use or uses which could be authorized;

(b) list the applicable criteria from the TDC and other ordinances that apply to the application at issue;

(c) set forth the street address or other easily understood geographical reference to the subject property;

(d) state the date, time and location of the hearing;

(e) state that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient detail and clarity to enable a decision maker to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;

(f) include the name of the particular City representative to contact and the telephone number where additional information may be obtained;

(g) state that a copy of the application, all evidence submitted by the applicant documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(h) state that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;

(i) include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

(j) if the development application includes another request or application , clearly state and describe the type of request or application.

(6) The person chairing the hearing shall follow the order of proceedings set forth in subsection (7) of this section. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing shall be addressed to the chair with a request for a ruling. Rulings from the chair shall, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the hearing body present and eligible to vote on the application before the body.

(7) The procedures to be followed by the chair in the conduct of the hearing are as follows:

(a) A statement by or on behalf of the chair of the nature of the application, a general summary of these procedures, whether the decision of the body is a final decision, and the nature of the available appeal procedures within the City, if any. In addition to the foregoing and for hearings



conducted before the City Council only, the statement shall include the list of the applicable substantive criteria, the requirement that testimony and evidence must be directed toward the criteria or other plan or land use regulations which the person believes to apply and that failure to raise an issue with sufficient detail and clarity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

(b) A request that all hearing body members announce any potential conflict of interest, bias or ex parte contacts.

(c) Allow for consideration of challenges to a hearing body member's right to sit in the consideration of the application. Any such challenge shall be entertained only if the person making the challenge has delivered to the member challenged and the hearing, a statement of intent to challenged and the hearing body "chair," at least 48 hours prior to the hearing, a statement of intent to challenge the person setting forth with particularity the reasons and authority for such challenge. A copy of the statement of intent to challenge with proof that the "chair" and challenged member have been served shall be served upon the City Recorder at least 24 hours prior to the hearing. If due to information made public in accordance with subsection (7)(b) of this section, a person wishes to challenge a member's right to sit notwithstanding their failure to properly file, the hearing body, by majority vote, may decide to entertain such challenge.

(d) Presentation of the City staff report.

(e) Proponent's case.

(f) Other testimony or evidence in support of the application.

(g) Opponent's case.

(h) Other testimony or evidence against the application.

(i) Testimony or evidence concerning the application which by its nature is neither in favor nor against.

(j) Rebuttal, limited to comments on evidence in the record.

(k) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.

(l) If additional documents or evidence is provided in support of the application less than seven days prior to the hearing, any party shall be entitled to a continuance of the hearing.

(m) Close of hearing and deliberation. The body's deliberations may include questions directed to City staff, comments from City staff, or inquiries in paragraph (1) of this subsection, if new evidence, conditions or modifications not presented in the staff report or raised during the public hearing are raised after the close of the hearing, the hearing can be reopened and an opportunity shall be presented for any person to comment on or rebut that evidence or information.

(n) Except as provided in TDC 31.076(3) for the Architectural Review Plan decisions, the hearing body shall make a tentative oral decision or *continue the matter to a time certain*. If the body deems it necessary or advisable it may at any time prior to the adoption of a written order reopen the hearing and direct that additional evidence be presented on the entire application or only on certain stated issues. Notice of such reopened hearing shall be given in the manner provided by the original notice of hearing. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.

(o) Except as otherwise provided, the hearing body shall, within a reasonable time after making a tentative decision, but not more than ten City business days or the next regular meeting adopt a written order which sets forth with particularity the basis for that decision. The decision shall be based upon the record of the proceeding. A proposed order or report submitted by the City Manager or designee or any other person may be adopted by the hearing body as its written order or findings. Where an application is approved, the terms of the approval shall be specified, including any restrictions and conditions. The written order is the final decision on the application and the date of the order is the date it is signed by the chairperson certifying its approval by the hearing body. No publication or other notice of the final City Council decision shall be required, however in the case of the Architectural Review Board decision, notice shall be given in accordance with TDC 31.074(3).

(8) The chair may admit and the hearing body may rely on all oral, documentary, physical, and mechanically recorded evidence if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Documentary, physical and mechanically recorded evidence may be admitted in the form of copies or excerpts or incorporated by reference. Evidence that is irrelevant, immaterial or unduly repetitious may be excluded from the hearing.

(9) Following a final decision only by the City Council, a person may request rehearing of the matter, which shall be allowed by the Council only if authorized by all of the Council members present and eligible to vote at the meeting at which the petition for rehearing is considered. Action on the rehearing request or the filing of a petition for rehearing shall not be required prior to seeking judicial review. If a rehearing is allowed, then quasi-judicial evidentiary hearing procedures shall apply.

Section 9. TDC 32.060 is amended to read:

A request for a conditional use, modification of an existing conditional use permit, or a review of an existing conditional use permit shall be initiated by a property owner or the owner's authorized agent by filing an application with the Community Development Department. The applicant shall discuss the proposed use and site plans with the Community Development Director and City Engineer in a pre-application conference prior to submitting an application. An applicant for a Conditional Use shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and Neighborhood/Developer Meeting, the applicant shall submit an application including, but not limited to, the following: project title; the names, addresses, and telephone numbers of the property owners and applicants, and when applicable, the architect, landscape architect and engineer; the signatures of the property owners and applicants; the site address and the assessor's tax map and tax lot numbers; a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development, the information on the Neighborhood/Developer Meeting specified in TDC 31.063(10), and a Service Provider Letter from the ~~Unified Sewerage Agency~~ Clean Water Services (CWS) indicating that a "Stormwater Connection Permit Authorization Letter" will likely be issued; and a list of mailing recipients pursuant to TDC 31.064(1). The application shall be accompanied by a fee as established by City Council resolution. If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received. The applicant shall post a sign pursuant to TDC 31.064(2).

Section 10. TDC 33.010 is amended to read:

(1) Variances may be granted under the requirements of the TDC as follows when it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the TDC would cause an undue or unnecessary hardship:

(a) The City Council may grant variances, including variances that are part of a Subdivision, or a Partition Application. The City Council may grant minor variances in conjunction with a Subdivision, Partition or Property Line Adjustment that the City Engineer, without reaching a decision on the

application, has forwarded to the City Council for review, or that has been appealed to the City Council.

(b) The City Engineer may grant minor variances when they are part of a Subdivision, Partition or Property Line Adjustment Application.

(c) The Planning Community Development Director may grant minor variances that are not part of a Subdivision, Partition or Property Line Adjustment Application.

(2) Variances may be requested to TDC Chapters 40-69 and 71-73 and the Sign Standards, TDC 38.100, 38.110, 38.120 and 38.140-38.240, except that variances to the Level I (Clear and Objective) Single-family Architectural Review standards referenced in TDC 40.140 and 41.130 and set forth in TDC 73.190(1)(a) shall be prohibited. Variances to the requirements of TDC Chapter 70, Floodplain District, shall be in accordance with TDC 70.160.

(3) Minor variances may be requested to the lot area, lot width, building coverage, setbacks, projections into required yards and structure height development standards for permitted uses in the Residential Low Density Planning District (RL) and single family dwellings in Small Lot Subdivisions in the RL and Residential Medium to Low Density Planning District (RML). Minor variances may not be requested, nor approved, for more than 10% of the lot area and for no more than 20% of the lot width, building coverage, setback, projections into required yards, structure height, and the small lot location standards in TDC 40.055(3).

(4) Minor variances shall not be requested, nor shall they be approved, to the regulations in TDC Chapter 38, Sign Regulations.

(5) Variances and minor variances shall not be requested, nor shall they be approved, to allow a use of land that is not allowed in a planning district.

Section 11. TDC 33.024 is amended to read:

No minor variance shall be granted by the Planning Community Development Director, City Engineer or the City Council unless the application shows the following approval criteria are met:

(1) A hardship is created by an unusual situation that is the result of lot size, lot shape, topography, development circumstances or being able to use the land or public infrastructure more efficiently.

(2) The hardship does not result from regional economic conditions.

(3) The minor variance will not be injurious to property abutting the subject property.

(4) The minor variance is the minimum remedy necessary to alleviate the hardship.

Section 12. TDC 33.030 is amended to read:

(1) An applicant for a variance, except for a variance to an existing single family residence, shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063

~~(12) A request for a variance or minor variance may be initiated by a property owner or the owner's authorized agent by filing an application with the Community Development Director, or the City Engineer if a minor variance is part of a Subdivision, Partition or Property Line Adjustment Application, on forms prescribed for that purpose. The applicant shall discuss the proposed variance or minor variance and site plans with the Community Development Director, and City Engineer if appropriate, in a pre-application conference prior to submitting an application. An applicant for a variance, except for a variance to an existing single family residence, shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063.~~

(3) Sign Posting: The applicant shall post a sign pursuant to TDC 31.064(2).

(24) The application shall contain:

(a) The project title;

(b) The name, addresses and telephone numbers of the property owners and applicants, and the architect, and the architect, landscape architect and engineer;

(c) The signatures of the property owner and applicant; and

(d) A list of mailing recipients pursuant to TDC 31.064(1); and

~~(de) The site address and the assessor's map number and tax lot number;~~

~~(ef) A site plan, drawn to scale, showing the dimensions and arrangement of the proposed development and other information showing how and why the criteria are met; and~~

~~(fg) The information on the Neighborhood/Developer meeting specified in TDC 31.063(10).~~



(gh) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(35) Sign variance applications shall, in addition to the above, include:

(a) Name, address and telephone number of,

(i) the land and building owners or authorized agents,

(ii) the company and a contact person at the company for which the variance is intended, and

(iii) the sign contractor company and a contact person at the sign contractor company.

(b) A site plan showing the location of the sign in relation to property lines, access points, the dripline of trees and structures on the property.

(c) A number of sets, established by the Community Development Director, of blueprints or ink drawings of the plans and specifications showing the signs and the method of construction and attachment to the building or in the ground.

(d) Information supporting the variance application and explaining how each approval criterion is met.

(e) The names, addresses and tax map and tax lot numbers of the owners of real property within 300 feet of the subject property pursuant to TDC 31.064(1). One set of the county assessors maps showing the subject property and properties within 300 feet of the vicinity of the subject property pursuant to TDC 31.064(1)(c).

(f) Other information requested by the Community Development Director.

(46) The application shall be accompanied by a fee as established by City Council resolution.

Section 13. TDC 34.013 is amended to read:

(1) The purpose of this section is to permit the open-air vending of food and fresh cut flowers in a manner that will enhance the attractiveness of the Central Commercial (CC) and General Commercial (CG) Planning Districts for pedestrian traffic.

(2) Mobile food and flower vending may be permitted in a Central Commercial (CC) and General Commercial (CG) Planning District for a period not to exceed 180 days.

(3) Applications for mobile vending permits shall meet the following criteria and requirements:

(a) Persons conducting business with a permit issued under this section may transport and display food or flowers upon any pushcart or mobile device; provided that such device shall occupy no more than 16 square feet of ground area and shall not exceed three feet in width, excluding wheels; six feet in length, including any handles; and no more than five feet in height, excluding any canopies, umbrellas, or transparent enclosure.

(b) Mobile vendors may conduct business on public sidewalks having a width of eight feet or more, and on private sidewalks or parking lots, provided that the Community Development~~Planning~~ Director approves specific locations. No person shall conduct business as defined herein at a location other than that designated on the permit.

(c) All mobile vendors shall pick up any litter within 25 feet of their places of business and shall provide an appropriate trash container for customer use.

(d) No food vendor may locate within 200 feet of a restaurant or fruit and vegetable market without written consent from the proprietor of the restaurant or market, and no flower vendor may locate within 200 feet of a flower shop without the written consent of the proprietor of the flower shop.

(e) Design colors and graphics for any pushcart or mobile device shall be subject to approval by the Community Development~~Planning~~ Director to assure aesthetic compatibility with surrounding development.

(f) Food vendors shall comply with all state and county health regulations and shall furnish written evidence of compliance at the time of application for a mobile vending permit.

(g) Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any mobile device or pushcart to determine if any cooking or heating apparatus conforms with the code of the Tualatin Rural Fire Protection District.

(h) Applications for a mobile vending permit shall be accompanied by a signed statement that the permittee will hold harmless the City of Tualatin,

its officers and employees and shall indemnify the City of Tualatin, its officers and employees, for any claim for damage to property or injury to persons that may be occasioned by any activity carried on under the terms of the permit. The permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect the permittee from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence, and not less than \$300,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds the City of Tualatin, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Administrator.

(4) An application for a mobile vending permit may be granted by the Community Development Planning Director if the Director finds that Subsection (3) is satisfied by the applicant.

(5) The Community Development Planning Director may attach appropriate conditions to the permit that are necessary to secure the health, safety and welfare of the residents and inhabitants of the City

Section 14. TDC 34.185 is amended to read:

(1) A transitional use permit shall be issued for a period of time determined to be appropriate by the City Council.

(2) A permit may be renewed by the Council at the end of the time period previously approved. An application for renewal shall be required to meet the eligibility criteria for an original application contained in TDC 34.183 and 34.182. However, the applicant for renewal need not establish that the use being proposed for renewal is more compatible with surrounding uses than the current use.

(3) Where the life span of eligibility for the structure has been determined or established by the City through an earlier Transitional Use Permit, such life span is presumed to be accurate and shall not be renewed or extended unless the Council finds by clear and convincing evidence that the current applicant meets the eligibility criteria. Where the life span of eligibility for the structure is renewed or extended, a new life span shall be established.

(4) All applications shall be made jointly by the recorded contract purchaser or owner of the property as well as the lessee or proposed user of the property and structure. The transfer of a permit shall only be permitted where the underlying property

or business ownership is transferred, so long as the use of the structure remains unchanged. The Community Development ~~Planning~~ Director shall determine whether a new application and permit is required and such determination may be appealed to the Council. Each tenant of a structure shall submit a separate application.

(5) All Transitional Use Permits shall become void without a hearing if any of the following occur:

- (a) The permit has not been exercised for 12 months;
- (b) The use approved is discontinued for 12 months; or
- (c) The period of time for which the permit has been granted expires without a renewal.

Section 15. TDC 34.186 is amended to read:

(1) A request for a Transitional Use Permit is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(2) Sign Posting: The applicant shall post a sign pursuant to TDC 31.064(2).

(13) All permit requests shall be submitted on forms prescribed by the Community Development ~~Planning~~ Director. The applicant shall submit a list of mailing recipients pursuant to TDC 31.064(1) and a site plan, drawn to scale, showing the dimensions and arrangement of the proposed use, the application fee established by City Council resolution, a written explanation demonstrating compliance with the provisions of this section and other relevant characteristics. In addition, the applicant shall adequately describe the hardship associated with strict code interpretation and the ways in which impacts upon nearby properties and uses are to be alleviated. The Community Development ~~Planning~~ Director shall prepare a staff report recommending a tentative decision to the Council.

(24) Before acting on a request for a transitional use permit, the City Council shall consider the request at a public hearing conducted in the manner provided for in TDC 31.077. The City Council must find that the eligibility criteria are met before an application is approved.

(35) In a case where a Transitional use terminates or relocates before the expiration of the life span of eligibility established for the structure, a new transitional use, if approved by Council, may occupy the structure under prescribed conditions for no more than the previously approved life span of eligibility for the structure.

(46) The Council may approve, approve with conditions, or deny a transitional use permit application

based on the criteria listed above. The Council shall, in addition, place a specific time limit on the permit.

(57) An original application may include a single lot or part thereof or more than one adjacent tax lots.

Section 16. TDC 34.200 is amended to read:

(1) Except as provided in TDC 34.200(3), no person shall remove a tree within the City limits except as follows:

(a) For a tree on private property, the person must first obtain a Tree Removal Permit from the City or obtain approval through Architectural Review, Subdivision Review, or Partition Review. A request for a Tree Removal Permit is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063. Submittal of a permit request shall include a list of mailing recipients pursuant to TDC 31.064(1). The applicant shall post a sign pursuant to TDC 31.064(2).

(b) For a street tree or tree within a public right-of-way, the person must obtain approval in accordance with TDC 74.705. Incentives for tree retention are found in TDC Chapter 73, Community Design Standards. A property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions, shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

(2) As used in this ordinance, "park" means a City-owned parcel, lot or tract of land, designated and used by the public for active and passive recreation.

(3) The following exemptions apply to tree removal:

(a) General Exemption. Four or fewer trees may be removed within a single calendar year from a single parcel of property or contiguous parcels of property under the same ownership without a permit, except when the tree to be removed:

(i) Is located in the Natural Resource Protection Overlay District (NRPO);

(ii) Is located in the Wetlands Protection Area (WPA) of the Wetlands Protection District (WPD);

(iii) Is a Heritage Tree;



(iv) Was previously required to be retained under an approved Architectural Review decision.

(b) Parks and golf courses are exempt if both the following are met:

(i) The property's owner or owner's agent has submitted a tree management plan to the Community Development Director and has received approval from the Director. The tree management plan shall be approved for a five year period, after which the property owner or owner's agent must submit a new tree management plan for approval or comply with requirements set out in the applicable Architectural Review decision.

(ii) This exemption supersedes the Architectural Review requirements with regard to tree removal except as provided in subsection (i) of this section.

(c) Forest Harvesting Exemption. The harvesting of forest tree species for the commercial value of the timber is permitted subject to the following:

(i) The property from which the forest species are to be harvested must be in a property tax deferred status based on agricultural or forest use under any or some combination of the following:

- Farm Deferral according to state law.
- Forest Land Deferral according to state law. Small Woodlands Deferral according to state law.

(ii) The property from which the forest species are to be harvested must have been in property tax deferred status on the effective date of this ordinance or at the time of annexation of the property by the City, whichever occurs later.

(iii) Revocation of the Forest Harvesting Exemption. Property, or portion of the property exempted under TDC, 34.200(3)(c) shall cease to be exempted from the provisions of this ordinance immediately upon the filing of an application for any of the following land use actions:

- Subdivision or Partition review;
- Conditional Use;
- Architectural Review.

(iv) Reinstatement of the Forest Harvesting Exemption. Property or portions of the property previously exempted under TDC 34.200(3)(c) and revoked in accordance with TDC 34.200(3)(c)(iii) will be considered reinstated if the property remains tax deferred in accordance with TDC 34.200(3)(c)(i) and 34.200(3)(c)(ii), and one or more of the following criteria are met:

- The land use action that affected the revocation was denied and the appeals period has expired; or

- The land use action that affected the revocation was approved, and the proposed development that affected the filing of the land use action did not occur; and the approval, which was granted, including extensions has expired.

(v) The Community Development Director shall prepare a listing of properties exempted under this section upon the effective date of this ordinance and update the list annually.

(d) Orchards. Tree removal is permitted in orchards of commercial agricultural production.

(e) Public Right-of-Way. Trees within public right-of-way shall be governed by TDC Chapter 74, Public Improvement Requirements.

(f) Federal, state, county, or City road, water, sanitary sewer, or storm sewer improvements and maintenance of City owned property are exempt from this ordinance.

(4) As provided under TDC 31.030, no single-family dwelling building permit application shall be submitted to the City until all required land use approvals, including any required Tree Removal Permit, have been obtained by the property owner.

Section 17.TDC 34.210 is amended to read:

(1) Architectural Review, Subdivision, or Partition. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), to develop property, and the development is subject to Architectural Review, Subdivision Review, or Partition Review approval, the property owner shall apply for approval to remove trees as part of the Architectural Review, Subdivision Review, or Partition Review application process.

(a) The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; existing and proposed property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number). All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a "sensitive area" or "vegetated corridor" on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist's signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year preceding the date the development application is deemed complete by the City. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan.

Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located in the CWS-required easement need not be tagged.

(b) The application for tree removal shall be approved or denied based on the criteria in TDC 34.230.

(c) The approval or denial of an application to remove trees shall be a part of the Architectural Review, Subdivision Review, or Partition Review decision.

(2) Existing Single-Family Dwelling. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), in order to remodel, add to, or replace, an existing single-family dwelling, or in order to remodel, add to, replace or newly construct, an accessory structure on property developed with an existing single-family dwelling, the property owner shall apply for a Tree Removal Permit as follows:

(a) An application for a Tree Removal Permit shall be filed with the Community Development Director. Application shall be made upon forms furnished by the City, and shall be accompanied by a nonrefundable fee as established by City Council resolution. The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas. All trees eight inches or more in diameter that are proposed for removal or that are located within 15 feet of the development envelope shall be indicated on the site plan (including size, species, and tag i.d. number), except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a "sensitive area" or "vegetated corridor" on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist's signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year preceding the date the Tree Removal Permit application is deemed complete by the City. Where TDC 34.210(2)(a)(i)(A) through (D) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees eight inches or more in diameter that are proposed for removal or that are located within 15 feet of the development envelope shall be physically identified and numbered in the field with an arborist-approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan. Where TDC 34.210(2)(a)(i)(A) through (D) are applicable, trees located in the CWS-required easement need not be tagged.

(iv) The application shall include a mailing list of ~~all property owners within 300 feet of the property~~ recipients pursuant to TDC 31.064(1).

(v) The applicant shall post a sign pursuant to TDC 31.064(2).

(b) The application for a Tree Removal Permit shall be approved or denied based on the criteria in TDC 34.230.

(c) The approval or denial of a Tree Removal Permit application is a land use decision.

(3) Other. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), for reasons other than those identified in TDC 34.210(1) and (2), the property owner shall apply for a Tree Removal Permit as follows:

(a) An application for a Tree Removal Permit shall be filed with the Community Development Director. Application shall be made upon forms furnished by the City, and shall be accompanied by a nonrefundable fee as established by City Council resolution. The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; property lines; existing and



proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number). All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a "sensitive area" or "vegetated corridor" on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist's signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year preceding the date the Tree Removal Permit application is deemed complete by the City. Where TDC 34.210(3)(a)(i)(A) through (D) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan. Where TDC 34.210(3)(a)(i)(A) through (D) are

applicable, trees located in the CWS-required easement need not be tagged.

(iv) The application shall include a mailing list of ~~all property owners recipients pursuant to TDC 3.1.064(1) within 300 feet of the~~ property.

(b) The application for a Tree Removal Permit shall be approved or denied based on the criteria in TDC 34.230.

(c) The approval or denial of a Tree Removal Permit application is a land use decision.

Section 18. TDC 34.310 is amended to read:

(1) An accessory dwelling unit shall be within a detached single-family dwelling or be in, or partly in, addition to a detached single-family dwelling in the RL Planning District or in the RML Planning District in a Small Lot Subdivision.

(2) There shall be no more than one accessory dwelling unit per lot.

(3) An accessory dwelling unit shall not exceed 50% of the gross floor area (house and garage) of the existing detached single-family dwelling up to a maximum of 800 square feet.

(4) Neither a garage or a former garage shall be converted to an accessory dwelling unit.

(5) In addition to the parking spaces required in TDC 73.370 for the detached single-family dwelling, one paved on-site parking space shall be provided for the accessory dwelling unit and the space shall not be within five feet of a side or rear property line.

(6) The accessory dwelling unit's front door shall not be located on the same street frontage as the detached single family dwelling's front door unless the door for the accessory dwelling unit already exists.

(7) The accessory dwelling unit shall not be sold separate from the single family dwelling or as a condominium.

(8) The accessory dwelling unit shall be served by the same water meter as the single family dwelling.

(9) The accessory dwelling unit shall be served by the same electric meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it.

(10) The accessory dwelling unit shall be served by the same natural gas meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it.

(11) The accessory dwelling unit shall be connected to the single family dwelling by an internal doorway.

(12) If the gross floor area of the existing single family dwelling is to be enlarged when an accessory dwelling unit is created, the proposed enlargement shall not increase the gross floor area of the single family dwelling more than 10% and it shall be of the same or similar architectural design, exterior materials, color and roof slope as the single family dwelling. The enlargement shall be reviewed through the Architectural Review process to ensure compliance with Subsections 1-6 and 8-12 of this section.

(13) When the accessory dwelling unit is proposed to be created and if no enlargement of the existing single family dwelling is proposed, the owner of the single family dwelling within which the accessory dwelling unit is to be located shall notify the Community Development Planning Director by letter that an accessory dwelling unit is proposed. The letter shall state the owners name and mailing address, address of the accessory dwelling unit, the gross square footage of the single family dwelling and the gross square footage of the accessory dwelling unit.

Section 19. TDC 36.120 is amended to read:

(1) A request for a Subdivision shall be subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(12) The applicant shall discuss the preliminary plans with the City Engineer in a pre-application conference prior to submitting an application. An applicant for a subdivision shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall prepare and submit a City of Tualatin development application, available from the City Engineer.

(23) The application shall contain:

(a) the proposed plat name, approved by the County Surveyor;

(b) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;

- (c) the signatures of the property owners and applicants; and
- (d) the site location by address and current County Tax Assessor's map and tax lot numbers.
- (e) A description of the manner in which the proposed division complies with each of the expedited criterion for an Expedited Subdivision Application.
- (f) If a variance or minor variance is requested to the dimensional standards of the lots, or the minimum lot size, adequate information to show compliance with the approval criteria in TDC Chapter 33.
- (g) A "Service Provider Letter" from Clean Water Services indicating that a "Stormwater Connection Permit" will likely be issued.
- (h) The information on the Neighborhood/Developer Meeting specified in TDC 31.063(10).
- (i) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(34) The subdivision application shall be submitted to the City Engineer, along with:

- (a) the subdivision plan;
- (b) preliminary utility plans for streets, water, sanitary sewer and storm drainage;
- (c) a black and white 8&1/2" x 11" site plan suitable for reproduction;
- (d) a completed City fact sheet;
- (e) a Clean Water Services Service Provider letter; and
- (f) other supplementary material as may be required, such as:
  - (i) deed restrictions; or
  - (ii) for all nonbuildable areas or tracts to be dedicated or reserved for public use, a statement of ownership, use, covenants, conditions, limitations and responsibility for maintenance.

(45) The following general information shall be shown on the subdivision plan:

- (a) appropriate identification clearly stating the map is a subdivision plan;
- (b) proposed plat name, approved by the County Surveyor;
- (c) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;
- (d) the date the plan was prepared;
- (e) north arrow;
- (f) scale of drawing;
- (g) location of the subdivision by 1/4 Section, Township and Range;
- (h) existing streets (public and private), including location, name, centerline, right-of-way and pavement width on and abutting the site, and the location of existing and proposed access points;
- (i) proposed streets (public and private), including location, centerline, right-of-way and pavement width, approximate radius of curves and approximate grades of proposed streets on the subject property and within three hundred feet of the site;
- (j) an outline plan demonstrating that the adjacent property can be divided in the future in a manner that is consistent with the subdivision plan, and illustrating the connections to transit routes, pedestrian and bike facilities, and accessways to adjacent properties;
- (k) easements, including location, width and purpose of all recorded and proposed easements in or abutting the site;
- (l) public utilities, including the approximate location, size and grade of all existing and proposed sanitary sewers, the approximate location, size and grade of on-site and off-site storm drainage lines, and the approximate location and size of water lines;
- (m) flood areas, including the location of any flood plain, drainage hazard areas and other areas subject to flooding or ponding;
- (n) natural resources, including the location of natural features, such as rock outcroppings, wetlands, water courses, creeks, wooded areas and trees having a trunk diameter of eight inches or greater, as measured at a point



four feet above ground level, proposed to be removed and to be retained on site;

(o) approximate lot dimensions, including all existing property lines and their lengths and the approximate location and dimensions of all proposed lots;

(p) approximate area of each lot;

(q) proposed lot numbers;

(r) existing structures, including the location and present use of all structures, wells and septic tanks on the site and an indication of which structures, wells and septic tanks are to remain after platting; indicate all City-designated historic landmarks;

(s) all lots and tracts of land intended to be dedicated or reserved for public use;

(t) a vicinity map showing a minimum one- mile radius;

(u) contour lines with intervals at a minimum of two feet for slopes up to five percent and five feet for slopes over five percent; and

(v) other information required by the City Engineer.

(56) The subdivision application shall be accompanied by a nonrefundable fee as established by City Council resolution. The subdivision application shall not be accepted until the fee has been paid to the City. This fee does not apply towards any building permit or other fees that may later be required.

(67) The applicant shall submit, along with the subdivision application:

(a) ~~A mailing list in accordance with TDC 31.077(3)~~ A list of mailing recipients pursuant to TDC 31.064(1).

(b) ~~Proof of sign posting pursuant to TDC 31.064(2)~~ A verified statement showing that one or more signs, as directed by the City Engineer, have been posted on the property in a conspicuous location which indicates that a subdivision proposal has been submitted to the City and the name of a person or persons who may be contacted in order to inquire about specific aspects of the proposal. The sign size, copy size, copy content, height, location, and maintenance shall be determined by the City Engineer with the objective of providing members of the public passing the site with reasonable notice, such that an interested person would have an opportunity to inquire further.

(78) Unless otherwise specified in the subdivision application, or approval, or in express direction from the City Engineer, any material submitted by the applicant with a subdivision application which exceeds the TDC requirements shall be considered a part of the subdivision plan approval.

(89) The applicant has the burden of demonstrating compliance with the applicable development regulations.

(910) The applicable time period for action on the subdivision application shall not commence until the City Engineer has determined that the application is complete.

(a) If the City Engineer fails to make such determination of completeness within 30 days of the date of its submission, or resubmission, the subdivision application shall be deemed complete upon the expiration of the 30-day period for purposes of commencing the applicable time period, unless:

(i) the application lacks information required to be submitted; or

(ii) the required fees have not been submitted; or

(iii) the City Engineer has notified the applicant in writing of the deficiencies in the application within 30 days of submission of the subdivision application.

(b) The City Engineer may subsequently require correction of any information found to be in error or submission of additional information not specified in this Chapter, as the City Engineer deems necessary to make an informed decision.

(1011) The City Engineer shall prepare the standard form of Development Application for subdivision plans, including provisions which will best accomplish the intent of this section.

Section 20. TDC 36.140 is amended to read:

(1) Review of subdivision applications shall be a limited land use decision process. Before approval may be granted on a subdivision application, the City Engineer shall first establish that the subdivision proposal conforms to the Tualatin Development Code and applicable City ordinances and regulations, and requested variances or minor variances to the dimensional standards of lots or the minimum lot size, conform with the approval criteria in the TDC Chapter 33. Failure of the proposal to conform is sufficient reason to deny the application.

(2) After the subdivision application is deemed complete, the City Engineer shall provide written notice of the application to and invite comments from:

(a) potentially affected governmental agencies such as the school district in which the subdivision is located, the fire district, the Oregon Department of Transportation, Tri-Met, Clean Water Services and Washington or Clackamas County;

(b) utility companies;

(c) City departments; and

~~(d) property owners within 300 feet of the entire contiguous site. The list shall be compiled from the most recent property tax assessment roll and be done in accordance with TDC 31.071(7); and~~

~~(e) neighborhood associations recognized in accordance with TDC 31.065 whose boundaries include the site-recipients pursuant to TDC 31.064(1).~~

(3) The notice sent in TDC 36.140(2) shall:

(a) state that written comments shall be submitted within 14 calendar days of the mailing date of the notice in order to be considered as a basis for a request for review;

(b) state that issues which may provide the basis for a request for review to the City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient clarity and detail to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;

(c) list the applicable criteria by code section for the decision;

(d) include the street address or other easily understood geographical reference to the subject property;

(e) state the place, date and time that comments are due, and that comments are due no later than 5:00 pm on the fourteenth calendar day after notice was sent;

(f) state that copies of all evidence relied upon by the applicant are available for review, and can be obtained at cost;

(g) state of the local government contact person and telephone number; and

(h) briefly summarize the local decision-making process for the limited land use decision being made.

(4) Failure of a person or agency to receive the notice required in TDC 36.140(2) shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(5) Comments must be received by the City Engineer within 14 calendar days of the date the notice was mailed. Signed comments shall be in writing. Comments must raise issues with sufficient detail and clarity to enable the decision-maker to respond to the issue. Requests for review may be made only by parties who submitted written comments and may be adversely affected by the decision within the 14 calendar-day period.

(6) Prior to making a decision, the City Engineer may conduct one or more review meetings with the applicant, governmental agencies, utility companies and any other interested parties.

(7) The approval of a subdivision application shall not automatically grant other approvals that may be required by the Development Code or City ordinances. However, a decision on a requested minor variance to the dimensional standards of lots or the minimum lot size, shall be included in the subdivision decision.

(8) Approval or denial of a subdivision shall be based upon and accompanied by a brief statement that

- (a) explains the criteria and standards considered relevant to the decision;
- (b) states the facts relied upon in making the decision; and
- (c) explains the justification for the decision based on the criteria, standards and facts set forth.

(9) Notice of the decision shall be provided to the applicant, property owner, and any person who submitted written comments within the 14 calendar-day comment period. Notice of the decision shall include a description of rights to request a review of the decision.

(10) When the City Engineer determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property owners or residents, the City Engineer may request that the City Council review the subdivision without first reaching a decision. The City Council shall hold a hearing in accordance with TDC 31.077. This applies to all subdivisions except for expedited subdivisions which shall not be the subject of a public hearing. The City Engineer shall prepare a report for presentation to the City Council, which may include recommendations on the subdivision application and requested minor variances.

Section 21. TDC 36.220 is amended to read:

(1) Prior to the submittal of a partition application, an applicant for a partition shall conduct a Neighborhood/ Developer Meeting subject to TDC 31.063.

(2) The applicant shall prepare and submit a City of Tualatin Development Application, available from the City Engineer. The applicant shall post a sign pursuant to TDC 31.064(2).

(3) The application shall contain:

(a) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;

(b) the signatures of the property owners and applicants;

(c) the site location by address and current County Tax Assessor's map and tax lot numbers; and

(d) a description of the manner in which the proposed division complies with each of the expedited criterion for an Expedited Partition Application.

(e) if a minor variance is requested to the dimensional standards of the lots or the minimum lot size, adequate information to show compliance with the approval criteria in TDC Chapter 33.

(f) a "Service Provider Letter" from Clean Water Services indicating that a "Stormwater Connection Permit" will likely be issued.

(g) The information on the Neighborhood/Developer Meeting specified in TDC 31.063(10).

(h) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(4) The partition application shall be submitted to the City Engineer, along with:

(a) the partition plan;

(b) preliminary utility plans for streets, water, sanitary sewer and storm drainage; and

- (c) a black and white 8&1/2" x 11" site plan suitable for reproduction;
- (d) a completed City fact sheet; and
- (e) other supplementary material as may be required, such as:
  - (i) deed restrictions; or
  - (ii) for all nonbuildable areas or tracts to be dedicated or reserved for public use, a statement of ownership, use, covenants, conditions, limitations and responsibility for maintenance.

(5) The following general information shall be shown on the partition plan:

- (a) appropriate identification clearly stating the map is a plan;
- (b) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;
- (c) the date the plan was prepared;
- (d) north arrow;
- (e) scale of drawing;
- (f) location of the partition by 1/4 Section, Township and Range;
- (g) existing streets (public or private), including location, name, centerline, right-of-way and pavement width on and abutting the site, and the location of existing and proposed access points;
- (h) proposed streets (public or private), including location, centerline, right-of-way and pavement width, approximate radius of curves and approximate grades of proposed streets on the subject property and within three hundred feet of the site;
- (i) an outline plan demonstrating that the adjacent property can be divided in the future in a manner that is consistent with the partition plan, and illustrating the connections to transit routes, pedestrian and bike facilities, and accessways to adjacent properties;
- (j) easements, including the location, width and purpose of all recorded and proposed easements in or abutting the proposed site;



(k) public utilities, including the approximate location, size and grade of all existing and proposed sanitary sewers, the approximate location, size and grade of all existing and proposed on-site and off-site storm drainage lines, and the approximate location and size of water lines;

(l) flood areas, including the location of any flood plain, drainage hazard areas and other areas subject to flooding or ponding;

(m) natural resources, including the location of natural features, such as rock outcroppings, wetlands, water courses, creeks, wooded areas and trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on site;

(n) approximate parcel dimensions, including all existing property lines and their lengths and the approximate location and dimensions of all proposed parcels;

(o) approximate area of each parcel;

(p) proposed parcel numbers;

(q) existing structures, including the location and present use of all structures, wells and septic tanks on the site and an indication of which structures, wells and septic tanks are to remain after platting; indicate all City-designated historic landmarks;

(r) all parcels or tracts of land intended to be dedicated or reserved for public use;

(s) a vicinity map showing a minimum 1-mile radius;

(t) contour lines with intervals at a minimum of two feet for slopes up to five percent and five feet for slopes over five percent; and

(u) other information required by the City Engineer.

(6) The partition application shall be accompanied by a nonrefundable fee as established by City Council resolution. The partition application shall not be accepted until the fee has been paid to the City. This fee shall not apply towards any building permit fees that may later be required.

(7) The applicant shall submit, along with the partition application, a mailing list in accordance with TDC 31.077.

(8) The City Engineer may require information in addition to that stated in this section.

(9) Unless otherwise specified in the partition application, approval, or in express direction from the City Engineer, any material submitted by the applicant with the partition application which exceeds the TDC requirements shall be considered a part of the recommended decision.

(10) The applicant has the burden in all cases of demonstrating compliance with applicable development regulations.

(11) The applicable time period for action on the partition application shall not commence until the City Engineer has determined that the application is complete.

(a) In the event such determination of completeness is not made within 30 days of the date of its submission, or resubmission, the development application shall be deemed complete upon the expiration of the 30-day period for purposes of commencing the applicable time period, unless:

(i) the application lacks information required to be submitted; or

(ii) the required fees have not been submitted; and

(iii) the City Engineer has notified the applicant in writing of the deficiencies in the application within 30 days of submission of the partition application.

(b) The City Engineer may subsequently require correction of any information found to be in error or submission of additional information not specified in this Chapter, as deemed necessary to make an informed decision, though such additional or corrected information will result in extending the applicable time period for action by the City.

(12) The City Engineer shall prepare the standard form of Development Application for partition plans, including provisions which will best accomplish the intent of this section.

Section 22. TDC 36.230 is amended to read:

(1) Review of partition applications shall be a limited land use decision process in accordance with this section. Before a decision is made on a partition application, it shall first be established that the partition proposal conforms to the Tualatin Development Code, and applicable City ordinances and regulations and requested minor variances to the dimensional standards of the lots or the minimum lot size,

conform with the approval criteria in TDC Chapter 33. Failure to conform is sufficient reason to deny the application.

(2) Prior to the City Engineer issuing a decision on the partition application the applicant shall obtain any required use approvals, including but not limited to plan amendment and conditional use permit, except for minor variances which shall be reviewed and decided as part of the partition decision. Partition with a concurrent variance shall be decided by the City Council.

(3) After the partition application is deemed complete, written notice of the application inviting comments shall be provided to:

(a) potentially affected governmental agencies such as, the school district in which the partition is located, the fire district, Clean Water Services, the Oregon Department of Transportation, Tri-Met, Washington or Clackamas County;

(b) utility companies;

(c) City departments; and

~~(d) surrounding property owners within 300 feet of the entire contiguous site. This list shall be compiled from the most recent property tax assessment roll and this shall be deemed met by an affidavit or other certification that such notice was given; and~~

~~(e) neighborhood associations recognized in accordance with TDC 31.065, whose boundaries include the siterecipients pursuant to TDC 31.064(1).~~

(4) The notice sent in TDC 36.230(3) shall:

(a) state that signed written comments shall be submitted by letter or facsimile within 14 calendar days of the mailing date of the notice to be considered as a basis for requesting a review;

(b) state that issues that may provide the basis for a request for review to the City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail and clarity to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;

(c) list the applicable criteria by code section for the decision;

(d) include the street address or other easily understood geographical reference to the subject property;

(e) state the place, date and time that comments are due, and that comments are due no later than 5:00 pm on the fourteenth calendar day;

(f) state that copies of all evidence relied upon by the applicant are available for review, and copies can be obtained at cost;

(g) state the local government contact person and telephone number;

(h) briefly summarize the local decision-making process for the limited land use decision being made; and

(i) state that notice of decision will be provided only to those who submitted written comments in accordance with this section.

(5) Failure of a person or agency to receive the notice required in TDC 36.230(3) shall not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice in accordance with this section was given.

(6) Comments shall be received by the City Engineer within 14 calendar days of the date when the notice was mailed. Signed comments shall be in writing or received by facsimile. Issues shall be raised with sufficient detail and clarity to enable the decision maker to respond to the issues. Requests for review may be made only by persons who submitted written comments within the 14 calendar-day period, who may be adversely affected by the City Engineer's decision and may only be submitted in writing.

(7) Prior to making a decision the City Engineer may conduct one or more review meetings with the applicant, governmental agencies, utility companies and any other interested parties.

(8) When the City Engineer determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property owners or residents, the City Engineer may request that the City Council review the partition without first reaching a decision. The City Council shall hold a hearing in accordance with TDC 31.077. This applies to all partitions except for expedited partitions which shall not be the subject of a public hearing. The City Engineer shall prepare a report for presentation to the City Council, which may include recommendations on the partition application and requested minor variances.

(9) The City Council may review and approve a partition application when it is submitted as part of an Industrial Master Plan in accordance with TDC Chapter 37. Such City Council review shall then be conducted in accordance with TDC 31.077. The City Engineer shall prepare a report for presentation to the City Council, which may include recommendations on the partition application and requested minor variances.

Section 23. TDC 36.340 is amended to read:

(1) Within 30 days from the date the property line adjustment application, including a requested minor variance to the dimensional standards of the lots or the minimum lot size, is deemed complete, the City Engineer shall issue a decision to approve or deny the application.

(2) The decision shall include findings of fact and conclusions based upon applicable criteria. The City Engineer's decision shall be supported by written findings and reasons for the decision based upon applicable regulations. Findings and reasons may consist of references to the applicable Development Code or Ordinance provisions.

(3) The decision shall be written, and at a minimum shall identify the applicant, the date of the decision, the decision, and any time frame to which the decision is subject.

(4) Except as otherwise provided, failure of the City Engineer to make a decision on a property line adjustment application within 30 days from the date the application is deemed complete shall constitute approval of the particular application, unless the applicant consents to an extension of time.

(5) The decision of the City Engineer shall not be considered final until a written notice of the decision is given to the owners of the properties listed on the application and if a minor variance is requested, ~~also to the owners of properties (fee title) within 300 feet of the subject property recipients pursuant to TDC 31.064(1).~~

(6) The decision of the City Engineer shall be appealable for 14 calendar days after the date the notice of the decision is given. A written request for review of the decision by City Council shall be in accordance with applicable procedures and on a form provided for that purpose, as set forth in TDC 31.075 and 31.076.

Section 24. TDC 37.020 is amended to read:

(1) A request for an Industrial Master Plan or modification of an existing Industrial Master Plan shall be subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

~~(1)~~ A request for an Industrial Master Plan or modification of an existing Industrial Master Plan shall be initiated by the owner or owners of all properties within the Industrial Master Plan Area or an authorized agent by filing an application with the Community Development Department. The applicant shall discuss the proposed use and site plans with the Community Development Director and City Engineer in a pre-application conference prior to submitting an application. Prior to the submittal of an application, an applicant shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant may submit a written application addressing applicable review criteria and a site

plan, as outlined in (3) below, showing the dimensions and arrangement of the proposed development. The application shall be accompanied by a fee as established by City Council resolution and the information outlined in TDC 31.071(7) for notification purposes. The applicant shall post a sign pursuant to TDC 31.064(2). The City shall mail notice of application submittal pursuant to TDC 31.064(1).

(23) An Industrial Master Plan may be approved based on proposed parcel boundaries; in this case development under the Industrial Master Plan shall be conditioned on creation of the proposed parcels through the subdivision or partition process or may be the subject of a concurrent land division application. Partition applications associated with an Industrial Master Plan may be approved by City Council in accordance with TDC 36.230(8).

(34) In addition to the information necessary to satisfy the approval criteria specified below, the following information shall be included in the application or on accompanying drawings:

(a) A completed application form accompanied by the appropriate fee with the correct map and tax lot numbers and location of property. The application must include the name, address, and telephone number of the applicant, the name and addresses of all property owners if different, the signature of the applicant, and the nature of the applicant's interest in the property.

(b) One copy of a written statement that includes the following items:

(i) A complete list of all land use reviews requested;

(ii) A complete description of the proposal; (iv) Any request for alternate development standards, pursuant to (4) below, shall be included in the written statement.

(c) A site or development plan. At least one complete copy must be 8½ inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:

(i) All existing or proposed property lines with dimensions and total lot area;

(ii) North arrow and scale of drawing;

(iii) Adjacent streets, motor vehicle circulation systems, including connections off site, location of parking areas, and design to include number of spaces, location of loading areas, curbs, and sidewalks;



- (iv) Easements and on-site utilities;
- (v) General location of existing and proposed building envelopes;
- (vi) Location of adjacent off-site buildings;
- (vii) Types and location of vegetation, street trees, screening, fencing, and building materials;
- (viii) Pedestrian and bicycle access and circulation systems, including connections off site and bicycle parking areas;
- (ix) Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site;
- (x) Conceptual building materials and location of landscaped areas; and
- (xi) Partition application if applying for concurrent approval in accordance with TDC 36.220.

(d) The information on the Neighborhood/Developer Meeting specified in TDC 31.063(10).

(e) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(45) An Industrial Master Plan may specify, for the entire Industrial Master Plan Area as a whole or for each individual parcel therein, the following alternate development standards which shall supersede conflicting provisions otherwise applicable:

- (a) Setbacks from each lot line to buildings, parking areas and circulation areas. Required setbacks may be exact, or minimum and maximum ranges may be specified. Required setbacks may be greater than or less than those required under TDC 62.060.
- (b) Locations of shared parking and circulation areas and access improvement, including truck maneuvering and loading areas and common public or private infrastructure improvements.
- (c) Building heights and placement and massing of buildings with respect to parcel boundaries.
- (d) Location and orientation of building elements such as pedestrian ways or accesses, main entrances and off-street parking or truck loading facilities,

including the number of off-street parking spaces and loading docks required.

(e) Lot dimensions and area provided that no individual parcel shall be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive unless otherwise provided under TDC 62.050(1).

(f) Location of required building and parking facility landscaped areas.

(56) Except as specifically provided in subsection (4) above, all other provisions of this Code shall apply within an Industrial Master Plan Area.

Section 25. TDC 68.020 is amended to read:

(1) A request for Landmark Designation or Removal of Landmark Designation is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(42) The process for designating a landmark or removing a landmark designation shall be through the plan amendment process as described in TDC 31.080.

(23) Notice of the public hearing and ~~property owner~~ identification shall be as described in TDC 31.08477.

(34) In making their decision the Council shall use the criteria of TDC 31.082 and additional criteria pertaining specifically to landmark designation in TDC 68.030.

(45) The following information shall be required in an application for landmark designation or request for removal of a landmark designation:

(a) The applicant's name and address.

(b) The property owner's name(s) and address(s), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner. City initiated applications do not require a property owner signature.

(c) The street address or other easily understood geographical reference to the property.

(d) A drawing or site map illustrating the location of the structure on the property.

(e) A statement explaining compliance or non-compliance with the applicable approval criteria contained in TDC 31.082 and 68.030.

~~(f) A list of owners of property (fee title) within 300 feet of the subject property together with their current mailing addresses recipients pursuant to TDC 31.064(1).~~

(g) Any other information deemed necessary by the Planning Director.

(6) The applicant shall post a sign pursuant to TDC 31.064(2).

(57) The burden of proof in all cases is upon the applicant seeking approval. Failure to provide a complete application is sufficient reason to deny the application.

Section 26. TDC 68.050 is amended to read:

(1) A request to demolish or relocate a Landmark is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

~~(12)~~ The Planning Director and City Council shall have the authority to issue a Certificate of Appropriateness regarding demolition or relocation of designated landmarks. Only after issuance of a Certificate of Appropriateness stating approval or approval with conditions, compliance with imposed conditions and approval from other applicable historic preservation reviews shall a demolition or relocation permit be issued by the Building Official.

~~(23)~~ Applications for demolition or relocation shall be on forms provided by the Planning Director and be accompanied by an application fee in accordance with 31.100.

~~(34)~~ Applications for relocation of landmarks to sites other than in a Low Density Residential (RL) Planning District shall require Architectural Review approval in addition to a relocation certificate of appropriateness.

~~(45)~~ Relocated landmarks, which also are to be altered, shall also obtain alteration approval as per 68.090, 68.100 and 68.110.

~~(56)~~ The following information shall be required in an application for demolition or relocation of a landmark:

(a) The applicant's name and address.

(b) The property owner's name(s) and address(s), if different from the applicant's, and a statement of authorization to act on behalf of the owner signed by the owner.

(c) The street address or other easily understood geographical reference to the landmark property.

(d) A drawing or site map illustrating the location of the landmark.

(e) A statement explaining compliance with the applicable approval criteria (68.060 or 68.070, as appropriate).

(f) Five sets of plan drawings to include site, landscaping and elevations, drawn to scale.

(g) Photographs of the landmark which show all exterior elevations.

(h) ~~A list of owners of property (fee title) within 300 feet of the subject property together with their current mailing addresses~~ recipients pursuant to TDC 31.064(1).

(i) Any other information deemed necessary by the Planning Director.

~~(67)~~ For the purpose of identifying property owners, the requirements of ~~31.074~~31.064~~(81)~~ shall apply.

(8) The applicant shall post a sign pursuant to TDC 31.064(2).

~~(79)~~ At the time a demolition or relocation application is made, the Planning Director shall review alternatives to demolition or relocation with the owner of the landmark, including local, state and federal preservation programs.

Section 27. TDC 68.080 is amended to read:

(1) The Planning Director shall issue a Certificate of Appropriateness within 30 days of receipt of a complete application regarding a demolition or relocation request unless the applicant consents to an extension of time. The Planning Director's decision shall become final ten (10) City business days after the date the notice of decision is given unless within said ten (10) days the Planning Director receives a written request for review.

(2) Notice of a decision by the Planning Director concerning demolitions and relocations shall conform to the requirements of 31.074(2), (3) and (4).

(3) The burden of proof in all cases is upon the applicant seeking approval. Failure to provide a complete application is sufficient reason to deny the application.

(4) The Planning Director may approve, approve with conditions or deny the demolition or relocation request after considering the applicable criteria and factors in TDC 68.060 or 68.070, as appropriate.

(5) As conditions of approval for demolition the applicant shall:

(a) List the landmark for sale with a real estate agent for a period of not less than 90 days. The landmark shall be advertised in at least one local or state newspaper of general circulation in the City for a minimum of 10 days over a 5-week period. A copy of the advertisement shall be submitted to the Planning Department prior to issuance of a demolition permit from the Building Official.

(b) ~~Post a notice provided by the City sign pursuant to TDC 31.064(2)~~ offering the building "For Sale" as follows: HISTORIC BUILDING TO BE DEMOLISHED - FOR SALE. The ~~sign applicant~~ shall be posted ~~by the applicant in a prominent and conspicuous place~~ sign within ten feet of a public street on the parcel on which the landmark is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with (a) above. Marketing conducted by the applicant or property owner prior to application for demolition or relocation which meets requirements of 5(a) and (b) above may be applied towards meeting the requirements.

(c) Prepare and make available through the City any information related to the history and sale of the property to all individuals, organizations and agencies who inquire.

(d) Prepare photographic documentation, architectural drawings, and other graphic data or history as deemed necessary by the Planning Director to preserve an accurate record of the landmark. The basic format to be followed will be guidelines from the Historic American Building Survey (HABS, December 1973). The historical documentation materials shall be the property of the City or other party determined appropriate by the Planning Director.

(6) As conditions of approval for relocation the applicant shall comply with 68.080(5)(c) and (d).

(7) When a landmark is approved for demolition it shall automatically be deleted from the Landmark Inventory and shall not require approval through 68.020 and 68.030.

(8) When a landmark is relocated to another site within the City limits the landmark status is automatically retained for that landmark at the new site unless an application for landmark designation removal is submitted and approved by the City Council under 68.020 and 68.030.

(9) This ordinance shall not be construed to make it unlawful for any person, without prior approval of the Planning Director, to comply with an order by the City Council to remove or demolish any landmark determined by the City Council to be dangerous to life, health, or property.

(10) In addition to any other persons entitled to notice, the Community Development Director or designee shall mail notice of application to demolish a landmark to the president of the Tualatin Historical Society. Such notice shall begin a comment period of two weeks.

Section 28. TDC 68.090 is amended to read:

(1) A request for Landmark Alteration or New Construction is subject to a Neighborhood/Developer Meeting pursuant to TDC 31.063.

(12) The Planning Director and City Council shall have the authority to issue a Certificate of Appropriateness regarding alteration or new construction of designated landmarks. Only after issuance of a Certificate of Appropriateness stating approval or approval with conditions, compliance with imposed conditions and approval from other applicable historic preservation reviews shall a building permit be issued by the Building Official.

(23) Applications for alteration and new construction shall be on forms provided by the Planning Director and be accompanied by an application fee in accordance with 31.100.

(34) Applications for new construction on landmark sites other than in a Low Density Residential (RL) Planning District shall require Architectural Review approval in addition to an alteration Certificate of Appropriateness.

(45) The following information shall be required in an application for alteration or new construction of a landmark:

- (a) The applicant's name and address.
- (b) The property owner's name(s) and address(s), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner.
- (c) The street address or other easily understood geographical reference to the landmark property.
- (d) A drawing or site map illustrating the location of the landmark.
- (e) A statement explaining compliance with the applicable approval criteria (68.100(3) or (4)), as appropriate.
- (f) Five sets of plan drawings to include site, landscaping and elevations, drawn to scale.
- (g) Photographs of the landmark which show all exterior features.



(h) A list of owners of property (fee title) within 300 feet of the subject property together with their current mailing addresses.

(i) Any other information deemed necessary by the Planning Director.

~~(56)~~ For the purpose of identifying property owners, the requirements of ~~31.071(8)~~31.064(1) shall apply.

(7) The applicant shall post a sign pursuant to TDC 31.064(2).

Section 29. TDC 31.064, a new section, is added to read:

This section applies to the following types of Land Use applications: Annexations; Architectural Reviews, except Level I (Clear and Objective) Single-family Architectural Review; Conditional Uses; Historic Landmark actions, including designation, removal of designation, demolition, relocation, or alteration or new construction; Industrial Master Plans; Partitions; Plan Map Amendments for a specific property; Plan Text Amendments for a specific property; Subdivisions; Tree Removal Permit; Transitional Use Permit; and Variances, except for variances to existing single family residences.

(1) Mail: An applicant shall mail notice of a Neighborhood/Developer Meeting and the City shall mail notice of application submittal as follows:

(a) Recipients: The mailing recipients shall be the applicant, the owners of the subject property, and owners of property and recognized neighborhood associations as defined in TDC 31.060 and recognized through TDC 31.065 the boundaries of which include the subject property.

(b) Recipient Identification: The City shall use the names and addresses of the owner or owners of record as shown in the current, or within thirty (30) days of a completed application, computer roll of the County Assessor. The applicant shall be responsible for having one of the following prepare the list: a land title company; a land use planning consultant authorized by the State of Oregon to conduct business in the state; a registered architect, landscape architect, engineer, surveyor, or attorney; or where the City is the applicant, the Community Development Director or when applicable the City Engineer. The applicant shall update the list of property owners no less than every ninety (90) days until a final land use decision is rendered. The applicant shall provide a copy of the list of recipients and their current mailing addresses as part of the land use application.

(c) Mailing Area, Buffer, or Distance: The mailing area shall extend 1,000 feet from the boundaries of the subject property. If the 1,000-foot area

includes lots within a platted residential subdivision, the notice area shall extend to include the entire subdivision of which the lots are part, and the applicant shall identify these subdivisions for staff as part of the mailing notification list. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases.

(d) ARB: The notice of application submittal for an Architectural Review application subject to review by the Architectural Review Board (ARB) shall have the minimum information pursuant to TDC 31.074(3).

(2) Sign Posting: The applicant shall as follows both provide and post on the subject property a sign that conforms to the standard design established by the City for signs notifying the public of land use actions:

(a) Minimum Design Requirements: The sign shall be waterproof, and the face size shall be eighteen (18) by twenty-four (24) inches (18 x 24) with text being at least two (2) inches tall.

(b) On-site Placement: Prior to land use application submittal, the applicant shall place a sign along the public street frontage of the subject property or, if there is no public street frontage, along the public right-of-way (ROW) of the street nearest the subject property. A subject property having more than one public street frontage shall have at least one posted sign per frontage with each frontage having one sign. For a subject property that has a single frontage that is along a dead-end street, the applicant shall post an additional sign along the public ROW of the nearest through street. The applicant shall not place the sign within public ROW pursuant to TDC 38.100(1); however, for a subject property that has no public street frontage or that has a single frontage that is along a dead-end street, the applicant may place the sign within public ROW of the nearest street.

(c) Proof of Posting: The applicant shall submit as part of the land use application submittal an affidavit of posting to the Community Development Director or when applicable the City Engineer.

[Continued on next page]

(d) Removal: If the sign disappears prior to the final decision date of the subject land use application, the applicant shall replace it within forty-eight (48) hours. The applicant shall remove the sign no later than fourteen (14) days after the City makes a final decision on the subject land use application.

INTRODUCED AND ADOPTED this 14th Day of June, 2010.

CITY OF TUALATIN, OREGON

BY

  
\_\_\_\_\_  
Mayor

ATTEST:

BY

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

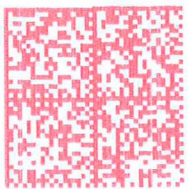
APPROVED AS TO LEGAL FORM

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



**City of Tualatin**  
18880 SW Martinazzi Avenue  
Tualatin, Oregon 97062-7092

**ATTN: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION  
& DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**



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