



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

9/3/2010

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 004-10

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, September 17, 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: William Harper, City of Tualatin
Gloria Gardiner, DLCD Urban Planning Specialist
Bill Holmstrom, DLCD Transportation Planner
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF
AUG 30 2010
LAND CONSERVATION
AND DEVELOPMENT
For Office Use Only

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

Jurisdiction: **City of Tualatin**

Local file number: PTA-10-02

Date of Adoption: 8-23-10

Date Mailed: 8-27-10

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

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".

Amend TDC Chapter 75 Access Management (75.120) to allow a public street intersection on the west side of SW Boones Ferry Road, approximately 500 ft. north of the SW Sagert Street Intersection.

Does the Adoption differ from proposal? No.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals: No Applicable Goals

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment. Yes

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

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

None other than City of Tualatin.

DLCD file No. 004-10 (18366) [16309]

Local Contact: **William Harper, Associate Planner**

Phone: (503) 691-3027 Extension:

Address: 18880 SW Martinazzi Ave

Fax Number: 503-692-0417

City: Tualatin

Zip: 97062

E-mail Address: wharper@ci.tualatin.or.us

ADOPTION SUBMITTAL REQUIREMENTS

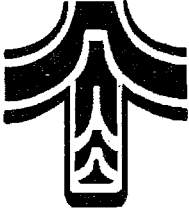
This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

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



City of Tualatin

www.ci.tualatin.or.us

NOTICE OF ADOPTION

On August 23, 2010 the City of Tualatin adopted Ordinance #1309-10 (File No. PTA-10-02), an Ordinance Amending the Existing Streets of Boones Ferry Road and Amending TDC 75.120 and Map 75-1.

A copy of the ordinance is also available for review at the Tualatin Planning Department located at 18876 SW Martinazzi Avenue from 8 a.m. to 12 noon and from 1:00 to 5:00 p.m., Monday through Friday.

Review of land use decisions is commenced by filing a Notice of Intent to Appeal with the Land Use Board of Appeals as provided in ORS 197.830 to 197.845. The notice of intent to appeal a land use decision must be filed within 21 days of the date the decision is mailed to parties entitled notice under ORS 197.615.

Date notice mailed: August 27, 2010

cc: Scott Miller, Marquis Companies, 4560 International Way, Milwaukie, OR 97222
Kirsten Van Loo, Landuse Planner, Emerio Design Group, 6900 SW 105th Street, Beaverton, OR 97008
Kelly Hossaini, Miller Nash LLP, 3400 US Bancorp Tower, 111 SW Fifth Avenue, Portland, OR 97204-3699

file: PTA-10-02

ORDINANCE NO. 1309-10

AN ORDINANCE AMENDING THE EXISTING ACCESS MANAGEMENT FOR STREETS CONNECTING TO SW BOONES FERRY ROAD AND AMENDING TDC 75.120 AND MAP 75-1 (PTA-10-02)

WHEREAS upon the application of Scott Miller of Marquis Companies, a public hearing was held before the City Council of the City of Tualatin on August 23, 2010, related to a Plan Text Amendment of the TDC; and amending TDC 75.120 and Map 75-1 (PTA-10-02); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code 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 by mailing a copy of the notice under the Tualatin Development Code, which is evidenced by the Affidavit of Mailing marked "Exhibit C"; and

WHEREAS the Council conducted a public hearing on August 23, 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 [4-2] in favor with Mayor Ogden and Councilor Harris voting against and Councilor Maddux absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated August 23, 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 75.120 Boones Ferry Road section is amended to read as follows with the remainder of TDC 75.120 unchanged:

BOONES FERRY ROAD

North City Limits to Tualatin River: All existing driveways will remain. No new driveways will be permitted.

Tualatin River to Tualatin Road: Between the River and Martinazzi Avenue on the south side, the access for the apartments (2S1 24B/1500) will be closed and converted over to the Loop Road. The Loop Road may have a right-in, right-out connection to Boones Ferry Road between the river and Martinazzi Avenue. On the south side of Boones Ferry Road between Martinazzi Avenue and the driveway for the White Lot (old Lot C), any development or redevelopment shall take access over the White Lot or from Martinazzi Avenue. Between the White lot and 84th Avenue, all properties shall have combined accesses resulting in only one access on Boones Ferry Road. Between 84th Avenue and Tualatin Road on the south side, any redevelopment shall result in no driveways onto Boones Ferry Road and access shall be taken from 84th Avenue or Seneca Street.

On the north side the Baranzano (2S1 24BC/1301, 1400) and Bray (2S1 24B/1300) properties shall combine their driveways at a location to be determined by the design of the Martinazzi Avenue-Boones Ferry Road intersection. The Baranzano and Kaplan (formerly Greulich) (2S1 24BC/1300) properties shall combine their access into one across from the White lot's driveway. Between the Green (old G lot) and Blue (old H lot) lots, any redevelopment of these properties shall remove the existing driveways and take access from the public parking lots from a cross access between the two public lots. Between the Blue lot and Tualatin Road any development or redevelopment shall have access off of Tualatin Road at the north edge of the property or over the Blue lot.

Tualatin Road to Tualatin-Sherwood Road: On the west side of this road is the Portland and Western (old Burlington-Northern) railroad tracks. There will be no access to Boones Ferry Road across the Portland and Western tracks except an access for a public street to the west side of the railroad tracks, centered on the centerline of Nyberg Street. The existing two driveways to the Pratt-Broome (2S123/200) property shall be closed and access taken over the Hedges Greene Retail development to Nyberg Street. On the east side of this road, all redevelopment shall lead to elimination of all driveways onto Boones Ferry Road. Vehicular access to Boones Ferry Road in this section shall be limited to the Seneca Street intersection and Nyberg Street intersection. This will require interim access agreements per TDC 75.090.

Tualatin-Sherwood Road to Sagert Street: On the west side, all existing driveways will be allowed to remain. On the former Old Tualatin Elementary School property frontage (2S123DD 500), a new local street intersection is allowed on SW Boones Ferry Road that connects to a future public street on the Old Tualatin Elementary School property that extends north from SW Sagert Street in the approximate alignment of SW 90th Avenue. The new local street intersection may be located approximately 500 ft. north of the intersection with SW Sagert Street. The Tualatin Center property (the old Galloway site) (2S1 23DA/100) (19401-19417 Boones Ferry Road) will have one access aligned with Warm Springs. On the east side, the old McDonald's driveway was closed and shall remain closed (2S1 24CB/1201). Any additional development on the Brock

property (2S1 24CB/2100) shall result in closure of this driveway to Boones Ferry Road. Any additional development on the Ziedman property (2S1 24CB/2200) shall result in closure of this driveway to Boones Ferry Road. Between Warm Springs Street and Tualatin-Sherwood Road, as an option to closing the driveways at Brocks, and Ziedmans, it may be permissible to construct a raised median barrier or other improvements in Boones Ferry Road in this section to physically eliminate left turning movements, thus limiting all these driveways to right turn in, right turn out. Any redevelopment of the residential property between Mohawk and Sagert on the east side of Boones Ferry Road shall be accomplished in such a manner that the ultimate access to this area is from a street off of Sagert Street at its intersection with 86th Avenue. This may require interim agreements in accordance with TDC 75.090. All existing driveways in this area will be allowed to remain so long as the use of the property does not change.

Boones Ferry Road south of Sagert Street to Avery: The existing driveways will be allowed to remain. Any redevelopment of any residential property between Sagert and Avery shall result in no additional driveways being constructed in this area.

Avery to Ibach: South of Avery Street, the Sundae Meadows Subdivision and Tualatin Presbyterian Church (2S1 26AC, 301) (9230 Siletz Drive) shall access Boones Ferry Road via Siletz Drive. One additional street or private drive (Cherry Lane) will be provided for the Boones Ferry Condos (2S1 26AC Supplemental).

Ibach Street to Norwood: Development of these residential properties shall result in no more than two driveway accesses for Tualatin High School, one emergency access with no curb cut for Grahams Landing Condos (SW Corner of Boones Ferry and Ibach) and only street intersections for other properties. All street intersections on Boones Ferry Road between Ibach and Norwood shall be spaced a minimum of 500 feet apart.

Section 2. The Map 75-1 Access Management is amended to add a local street intersection on SW Boones Ferry Road adjoining Tax Lot 500 on Assessors Map 2S123DD, approximately 500 ft. north of the SW Sagert Street Intersection (Exhibit D).

Section 3. As specified in Sections 3 & 4 of the Amended and Restated Non-Statutory Development Agreement with Marquis Companies and the Tigard-Tualatin School District (Exhibit E), this amendment shall become effective as of the date on which:

- a. Marquis receives architectural review approval from the City and either (a) the applicable appeal periods for those Project Approvals have expired or (b) any appeals that are timely filed during the applicable appeal periods have been fully and finally resolved in favor of Marquis on terms acceptable to Marquis in the exercise of its sole discretion (the "Project Approval Date"); and
- b. The Conditions 4(a) and 4(b) are satisfied.

Section 4. If the conditions of Sections 3 & 4 of the Amended and Restated Non-Statutory Development Agreement (Exhibit E) with Marquis Companies and the Tigard-Tualatin School District are not satisfied, this amendment shall not become effective and the proposed public street intersection will not be approved.

INTRODUCED AND ADOPTED this 23rd Day of August, 2010.

CITY OF TUALATIN, OREGON

BY 

Mayor

ATTEST:

BY 

City Recorder

APPROVED AS TO LEGAL FORM


CITY ATTORNEY



8805 SE Lake Road, Portland, OR 97222 • PO Box 22109 Portland OR 97209-2109
 Phone: 503-884-0380 Fax: 503-820-3433
 E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, SS I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of *The Times* (serving Tigard, Tualatin & Sherwood), a newspaper of general circulation, published at Beaverton, in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

**City of Tualatin
 Notice of Hearing/PTA 10-02
 TT11481**

A copy of which is hereto annexed, was published in the entire issue of said newspaper for
 1

week in the following issue:
August 5, 2010

Charlotte Allsop
 Charlotte Allsop (Accounting Manager)

Subscribed and sworn to before me this August 5, 2010.

Robert A. Buzyn
 NOTARY PUBLIC FOR OREGON
 My commission expires

Acct #108462
 Attn: Stacy Crawford
 City of Tualatin
 18880 SW Martinazzi Ave
 Tualatin, OR 97062

Size: 2 x 8
 Amount Due: \$144.80 *
 *Please remit to the address above.

**NOTICE OF HEARING
 CITY OF TUALATIN, OREGON**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, August 23, 2010, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA) 10-02—AN ORDINANCE AMENDING THE EXISTING STREETS OF BOONES FERRY ROAD AND AMENDING TDC 75.120 AND MAP 75-1 (PTA 10-02)

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. For information contact William Harper, Associate Planner at (503) 691-3027. This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
 City Recorder

Publish 08/05/2010.

TT11481

EXHIBIT A

AFFIDAVIT OF POSTING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

I, Stacy Crawford, being first duly sworn, depose and say:

That at the request of Sherilyn Lombos, City Recorder for the City of Tualatin, Oregon; that I posted four copies of the Notice of Hearing on the 3rd day of August, 2010, a copy of which Notice is attached hereto; and that I posted said copies in four public and conspicuous places within the City, to wit:

1. City of Tualatin - Police Department
2. City of Tualatin - City Center Building
3. City of Tualatin - Community Development
4. City of Tualatin - Library

Dated this 3rd day of August, 2010.

Stacy Crawford
Stacy Crawford

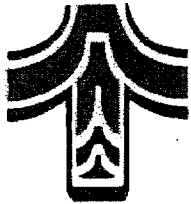
Subscribed and sworn to before me this 3rd day of August, 2010.



Maureen A. Smith
Notary Public for Oregon
My Commission expires: July 4, 2013

RE: PLAN TEXT AMENDMENT (PTA) 10-02—AN ORDINANCE AMENDING THE EXISTING STREETS OF BOONES FERRY ROAD AND AMENDING TDC 75.120 AND MAP 75-1

EXHIBIT B



City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING CITY OF TUALATIN, OREGON

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Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper, Associate Planner at (503) 691-3027 or wharper@ci.tualatin.or.us.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on
August 5, 2010

AFFIDAVIT OF MAILING

STATE OF OREGON)
) SS
COUNTY OF WASHINGTON)

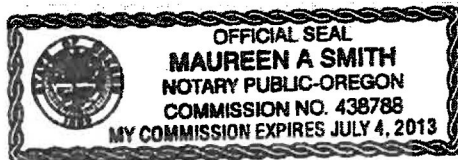
I, Stacy Crawford, being first duly sworn, depose and say:

That on the 3rd day of August, 2010, I served upon the persons shown on Exhibit "A," attached hereto and by this reference incorporated herein, a copy of a Notice of Hearing marked Exhibit "B," attached hereto and by this reference incorporated herein, by mailing to them a true and correct copy of the original hereof. I further certify that the addresses shown on said Exhibit "A" are their regular addresses as determined from the books and records of the Washington County and/or Clackamas County Departments of Assessment and Taxation Tax Rolls, and that said envelopes were placed in the United States Mail at Tualatin, Oregon, with postage fully prepared thereon.

Stacy Crawford
Stacy Crawford

SUBSCRIBED AND SWORN to before me this 3rd day of August, 2010.

Maureen A. Smith
Notary Public for Oregon
My commission expires July 4, 2013



RE: PLAN TEXT AMENDMENT (PTA) 10-02—AN ORDINANCE AMENDING THE EXISTING STREETS OF BOONES FERRY ROAD AND AMENDING TDC 75.120 AND MAP 75-1

EXHIBIT C

Exhibit "A"

2S126AA 01400
Terry Lee Schreiber
20130 SW Boones Ferry Rd
Tualatin, OR 97062-6931

2S126AA 01500
Wilbur Hutchens
4830 Dawn Ave
Lake Oswego, OR 97035-8308

2S126AA 01600
Living Savior Lutheran Church
8740 SW Sagert St
Tualatin, OR 97062-9116

2S126AA 01700
Zaida & Claudia Munoz
20085 SW Boones Ferry Rd
Tualatin, OR 97062-6930

2S126AA 01701
Naum & Deena Chernobersky
6530 SW 89th Pl
Tigard, OR 97223-7108

2S126AA 01702
Delores Jean Dingman
20155 SW Boones Ferry Rd
Tualatin, OR 97062-6931

2S126AA 01703
Donald & Martha Edwards
8850 SW Sagert St
Tualatin, OR 97062-9049

2S126AA 01800
Rachel Suzanne Edwards
8900 SW Sagert St
Tualatin, OR 97062-9049

2S126AA 01801
Tyler Eaton
8910 SW Sagert St
Tualatin, OR 97062-9049

2S126AA 01900
Elizabeth & Robert Brown
Po Box 1338
Tualatin, OR 97062-1338

2S126AA 01901
Alberta Graham
8920 SW Sagert St
Tualatin, OR 97062-9049

2S126AA 01902
Steven Stolze
Po Box 1093
Tualatin, OR 97062-1093

2S126AA 02000
Wells Fargo Bank
3 Ada
Irvine, CA 92618-2304

2S126AA 02100
Russell Little
Po Box 1006
Tualatin, OR 97062-1006

2S126AB 00100
William & Lorelei Cohen
9050 SW Sagert St
Tualatin, OR 97062-9004

2S126AB 00101
Fred Stephens
9060 SW Sagert St
Tualatin, OR 97062-9004

2S126AB 00102
Dannielle Yates
Po Box 3307
Tualatin, OR 97062-3307

2S126AB 00103
Thomas Douville
9040 SW Sagert St
Tualatin, OR 97062-9004

2S126AB 00200
Jill Strader Carroll
9070 SW Sagert St
Tualatin, OR 97062-9004

2S126AB 00300
Chad Greear
9100 SW Sagert St
Tualatin, OR 97062-9051

2S126AB 04600
J Matthew & Kathleen Cunningham
9285 SW Apache Dr
Tualatin, OR 97062-7000

2S126AB 04700
Diane Glenn
9275 SW Apache Dr
Tualatin, OR 97062-7000

2S126AB 04800
James Edgington
9265 SW Apache Dr
Tualatin, OR 97062-7000

2S126AB 04900
Deborah Bujanski
9252 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05000
Loretta Kay Brown
9248 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05100
Kevin & Wendy O'Riley
9244 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05200
Holly Teutsch
9242 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05300
Matthew Fisher
9240 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05400
Christian & Kristin Wolfe
9236 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 05500
Mellisa Deregla
9232 SW Cree Cir
Tualatin, OR 97062-9046

2S123DD 00600
Hal Fabrycki
16543 S Harding Rd
Eugene City, OR 97045-9679

2S123DD 00700
Shelley Simpson
Po Box 824
Tualatin, OR 97062-0824

2S123DD 00800
Mario Larsen
19738 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 00900
John Plaggmier Jr.
19740 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 01000
Colleen Brazil
19790 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 01100
Dawyne Larsen
19770 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 01400
Ashley & Rebecca Lukas
19840 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 01700
Roberto Pintos
8735 SW Sagert St
Tualatin, OR 97062-9120

2S123DD 01900
Dennis Rice Sr.
8635 SW Sagert St
Tualatin, OR 97062-8115

2S123DD 02000
Mary McDonald
8585 SW Sagert St
Tualatin, OR 97062-9115

2S123DD 02200
S N H Corporation
Po Box 5348
Salem, OR 97304-0348

2S123DD 02300
S N H Corporation
Po Box 5348
Salem, OR 97304-0348

2S123DD 02400
Pumilite Building Products Inc
Po Box 5348
Salem, OR 97304-0348

2S123DD 02600
Martin & Beverly Zell
1440 SW Taylor St
Portland, OR 97205-1924

2S123DD 02701
Columbia Self-Stor LLC
16225 NE Eugene Ct
Portland, OR 97230-5594

2S123DD 02800
Francisco Soltero
19760 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 02900
Brenda Houston
19750 SW Boones Ferry Rd
Tualatin, OR 97062-7392

2S123DD 03100
Richard & Tamara Caffall
8555 SW Sagert St
Tualatin, OR 97062-9115

2S123DD 03200
Karen Tindall
8575 SW Sagert St
Tualatin, OR 97062

2S123DD 03300
2003-018 Partition Plat
8575 SW Sagert St
Tualatin, OR 97062

2S123DD 03400
Curt & Leslie Caffall
8685 SW Sagert St
Tualatin, OR 97062-8115

2S123DD 03500
Packard
8675 SW Sagert St
Tualatin, OR 97062-8115

2S123DD 03600
William Kimmer
10344 SW Broadmoor Pl
Tigard, OR 97223-0000

2S123DD 03700
William Dean Inc
13044 SW Broadmoor Pl
Tigard, OR 97223-1783

2S123DD 03800
Sean & Amber Stansfield
8631 SW Logan Ln
Tualatin, OR 97062-7602

2S123DD 03900
William Kimmer
10344 SW Broadmoor Pl
Tigard, OR 97223-0000

2S123DD 04000
William Dean Inc
13044 SW Broadmoor Pl
Tigard, OR 97223-1783

2S123DD 04100
William Preston
8652 SW Logan Ln
Tualatin, OR 97062-7602

2S123DD 04200
William & Patsy Kimmer
4660 NE Belknap Ct #119
Hillsboro, OR 97124-8402

2S123DD 04300
William Kimmer
10344 SW Broadmoor Pl
Tigard, OR 97223-0000

2S123DA 00400
S N H Corporation
Po Box 5348
Tualatin, OR 97304-0348

2S123DA 00600
Northland Enterprises LLC
19460 SW 89th Ave
Tualatin, OR 97062-8537

2S123DA 00700
Northland Enterprises LLC
19460 SW 89th Ave
Tualatin, OR 97062-8537

2S123DA 00800
Tgoc LLC
19470 SW 89th Ave
Tualatin, OR 97062-8537

2S123DA 00900
Jvtc Explorations LLC
19463 SW 89th Ave
Tualatin, OR 97062-8537

2S123DB 00200
Verizon Northwest Inc
Po Box 152206
Irving, TX 75015-2206

2S123DB 00400
Earl Itel
12155 SW Tualatin Sherwood Rd
Tualatin, OR 97062

2S123DC 00100
Sylvia Giustina
Po Box 989
Eugene, OR 97440-0989

2S123DC 00200
Jspd LLC
19570 SW 90th Ct
Tualatin, OR 97062-7620

2S123DC 00300
Watumull Properties Corp
307 Lewers St #6flr
Honolulu, HI 96815-2357

2S123DC 00600
American Apartment Communities
Po Box 4900
Scottsdale, AZ 85261-4900

2S123DC 00900
Emkay Development Co Inc
Po Box 73
Boise, ID 83729

2S123DC 01000
Harold & Shannon Moyer
9055 SW Sagert St
Tualatin, OR 97062-9052

2S123DC 01100
Schwarz
1395 Skye Pkwy
West Linn, OR 97068-1875

2S123DC 01200
Thomas Hosler
19148 SW Chesapeake Dr
Tualatin, OR 97062-9781

2S123DC 90000
Rebecca Woods Condo
9061 SW Sagert St
Tualatin, OR 97062

2S123DC 90001
Mary Linker
9061 SW Sagert St
Tualatin, OR 97062

2S123DC 90002
Kenneth Henry
9063 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90003
Lisa Hayes
9067 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90004
Helen Cain
5680 SW Meridian Way
Tualatin, OR 97062-6755

2S123DC 90005
Sloan Cathlene
9075 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90006
Lawrence & Diana Wolff
9077 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90007
Ron Netter
9083 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90008
Jennifer Streger
9085 SW Sagert St
Tualatin, OR 97062-7036

2S123DC 90009
Federal Home Loan Mortgage Corp
5000 Plano Pkwy
Carrollton, TX 75010-4900

2S123DC 90010
Robert & Janet Brehm
9089 SW Sagert St
Tualatin, OR 97062-7036

2S123DD 00200
Martin & Beverly Zell
1440 SW Taylor St
Portland, OR 97205-1924

2S123DD 00300
Pet & Alan Zell
1440 SW Taylor St
Portland, OR 97205-1924

2S123DD 00400
Envoy Chelan LLC
1111 Main St #700
Vancouver, WA 98660-2970

2S123DD 00500
Tigard-Tualatin School
6960 SW Sandburg St
Tigard, OR 97223-8039

2S123DD 04400
Logan House Estates
13044 SW Broadmoor Pl
Tualatin, OR 97223

2S123DD 04500
Tualatin City Of
18880 SW Martinazzi Ave
Tualatin, OR 97062-7092

2S123DD 90000
Garden Court Condo
19816 SW Boones Ferry Rd
Tualatin, OR 97062

2S123DD 90001
Kelly Peterson
19800 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90002
Terry Bourbonnais
19804 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90003
Jacqueline Amiel
19810 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90004
Heidi Lee Grant
19816 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90005
Janis Kistler
19820 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90006
Sheryl Young
19824 SW Boones Ferry Rd
Tualatin, OR 97062-9005

2S123DD 90007
Beverley Hammons
Po Box 206
Tualatin, OR 97062-0206

2S124CC 00300
Robert Randall
9500 SW Barbur Blvd #300
Portland, OR 97219-5436

2S124CC 90000
Tualatin Village Condo Ph II
8350 SW Mohawk St
Tualatin, OR 97062

2S124CC 90301
Dan Rees
8502 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90321
Martin Tobias
8506 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90332
Darnien Cuello Jr.
8508 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90341
Shelley Teel
8510 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90352
Cindy Valladares
21091 SW Bedstraw Ter
Sherwood, OR 97140-8894

2S124CC 90361
Elaine Gudekunst
8514 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90372
Jacqueline Rokey
8516 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90381
Mitzi Oliver
8518 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90392
Scott Glenn & Shelley Johnson
8520 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90401
Sherry Tucker
8522 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90412
Anita Orsburn
8524 SW Mohawk St
Tualatin, OR 97062-9170

2S124CC 90421
Jenny Wong
8474 SW Mohawk St
Tualatin, OR 97062-9135

2S124CC 90432
Shereen Simonson
8476 SW Mohawk St
Tualatin, OR 97062-9135

2S124CC 90441
Ambre Fagerquist
8470 SW Mohawk St
Tualatin, OR 97062-9139

2S124CC 90452
David Cornell McSwain II
8472 SW Mohawk St
Tualatin, OR 97062-9139

2S124CC 90551
Luan Hedmann
11433 SW 33rd Ave
Portland, OR 97219

2S126AA 00100
Living Savior Lutheran Church
8740 SW Sager St
Tualatin, OR 97062-9116

2S126AA 01300
Jonathan Herman Hoppert
22805 SW Erio Pl
Tualatin, OR 97062-7374

2S126AB 06700
Dorothy Skiles
9260 SW Apache Dr
Tualatin, OR 97062-7000

2S126AB 06800
Joseph & Rose Kacan
9235 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 06900
Daniel & Juana Balboa
9247 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 07000
Rose Jackson
9251 SW Cree Cir
Tualatin, OR 97062-9046

2S126AB 07100
Catherine Schweigert
Po Box 707
Sherwood, OR 97140-0707

2S126AB 07600
Momarls LLC
8405 SW 158th Pl
Beaverton, OR 97007-5898

2S126AB 12600
Cheryl Henderson-Brown
9200 SW Sagert St
Tualatin, OR 97062-9050

2S126AB 12700
Lillian Marie Brink
9280 SW Apache Dr
Tualatin, OR 97062-7000

2S126AB 12700
Lillian Brink
9200 SW Sagert St
Tualatin, OR 97062-9050



City of Tualatin

www.ci.tualatin.or.us

NOTICE OF HEARING CITY OF TUALATIN, OREGON

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Tualatin City Council at 7:00 p.m., Monday, August 23, 2010, at the Council Building, Tualatin City Center, at 18880 SW Martinazzi Avenue, to consider:

PLAN TEXT AMENDMENT (PTA) 10-02—AN ORDINANCE AMENDING THE EXISTING STREETS OF BOONES FERRY ROAD AND AMENDING TDC 75.120 AND MAP 75-1 (PTA-10-02)

Before granting the proposed amendments, the City Council must find that: (1) Granting the amendments is in the public interest; (2) The public interest is best protected by granting the amendments at this time; (3) The proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan; (4) The factors listed in Section 1.032(4) were consciously considered; (5) The Tigard Tualatin School District Facility Plan was considered; (6) The amendments are consistent with the Statewide Planning Goals; (7) The amendments are consistent with the Metro Urban Growth Management Functional Plan; and (8) The amendments are consistent with Level of Service F for the PM peak hour and E for the one-half hour before and after the PM peak hour for the Town Center 2040 Design Type and E/E for the rest of the 2040 Design Types in the City's planning area.

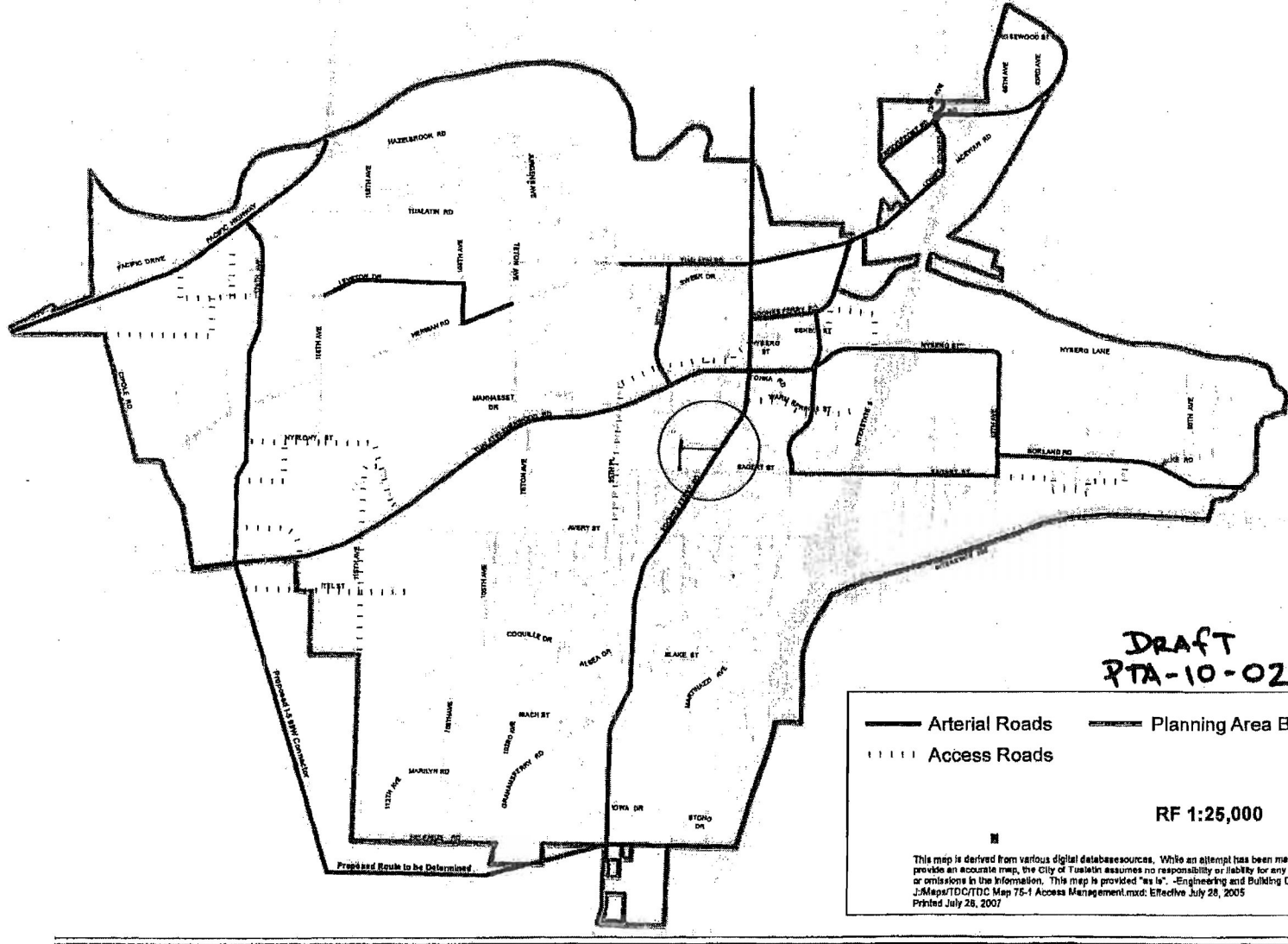
Individuals wishing to comment may do so in writing to the Planning Division prior to the hearing and/or present written and/or verbal testimony to the City Council at the hearing. Hearings begin with a staff presentation, followed by testimony by proponents, testimony by opponents, and rebuttal. The time of individual testimony may be limited. If a participant requests, before the hearing is closed, the record shall remain open for at least 7 days after the hearing. The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to the decision maker to respond to the issue precludes an action for damages in circuit court.

Copies of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at reasonable cost. **For information contact William Harper, Associate Planner at (503) 691-3027 or wharper@ci.tualatin.or.us.** This meeting and any materials being considered can be made accessible upon request.

CITY OF TUALATIN, OREGON

By: Sherilyn Lombos
City Recorder

NOTICE TO THE TUALATIN TIMES: Please publish in the TUALATIN TIMES on
August 5, 2010



DRAFT
PTA-10-02

Arterial Roads
 Access Roads
 Planning Area Boundary

RF 1:25,000

This map is derived from various digital databasesources. While an attempt has been made to provide an accurate map, the City of Tualsis assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -Engineering and Building Dept. J:\Maps\TDC\TDC Map 75-1 Access Management.mxd: Effective July 28, 2005 Printed July 28, 2007

REVISED 6-17-10

AMENDED AND RESTATED NON-STATUTORY DEVELOPMENT AGREEMENT

This Amended and Restated Non-Statutory Development Agreement (this "Amended Agreement") is made and entered into as of the ____ day of ____, 2010 (the "Amended Effective Date") by and between Tigard-Tualatin School District 23J, an Oregon school district (the "School District"), Marquis Companies I, Inc., an Oregon corporation ("Marquis") and the City of Tualatin, Oregon (the "City"), (collectively the "Parties").

RECITALS

- A. The School District is the owner of 12.75 acres of improved real property located in the City (the "Property"). The Property currently consists of three parcels which shall be referred to from time to time in this Amended Agreement as Lot 1, Lot 2 and Lot 3.
B. By Second Amended and Restated Purchase and Sale Agreement dated as of February 4, 2010 (as the same may be further amended from and after the date hereof, the "Purchase Agreement") on the terms and conditions set forth in the Purchase Agreement, (A) the School District agreed (i) to sell Lots 1 and 2 to Marquis, and (ii) to give Marquis certain rights with respect to the purchase of Lot 3 and (B) Marquis agreed (i) to purchase the Lots 1 and 2 and (ii) to accept the purchase rights with respect to Lot 3.
C. As described more fully below, Marquis has applied, or will be applying, to the City for Architectural Review approval to develop on Lots 1 and 2 a senior living facility, which will include a skilled nursing facility, assisted living facility and independent living cottages, as well as a community center (the "Project").
D. As a condition to its acquisition of Lots 1 and 2, on March 5, 2010 Marquis obtained approval from the City for a proposed property line adjustment between Lot 1 and Lot 2 to reconfigure the lots as shown on the Site Plan (the "Site Plan") that is attached as Exhibit A. All references to Lot 1 and Lot 2 in this Amended Agreement refer to the reconfigured Lot 1 and Lot 2 as shown on the Site Plan.
E. On June 8, 2009, the Parties entered into a Non-Statutory Development Agreement for a portion of the Property (the "Original Development Agreement"). Pursuant to the terms of the Original Development Agreement, Marquis applied for a - Plan Map Amendment (PMA-09-01) to permit a change in the planning district designation of Lot 1 and a portion of Lot 2 from Low Density Residential ("RL") to Medium-low Density Residential ("RML"). On June 22, 2009, the City approved Plan Map Amendment 09-01 changing the Planning District Designation for Lot 1 and a portion of Lot 2 from RL to RML (the "Initial Planning District Designation Change").

- F. In accordance with the terms of the Original Development Agreement, the changes contemplated by Plan Map Amendment 09-01 are, by their terms, not effective until the date that Marquis has received both a conditional use permit and architectural review approval by the deadlines set forth in the Original Development Agreement (the "Original PMA Deadline Dates") and the appeal periods related thereto have expired and thus would be null and void if those conditions are not timely fulfilled.
- G. Promptly after the Amended Effective Date, Marquis intends to submit an application for a Plan Map Amendment to change the Planning District Designation for the remainder of Lot 2 and for Lot 3 from RL to RML (the "Additional Planning District Designation Change"). In the event that the Additional Planning District Designation Change is approved, the Parties wish to extend the Original PMA Deadline Dates to coincide with the dates set forth in Section 4 below.
- H. Marquis also wishes to assure that the Project will include the creation of a public street intersection onto Boones Ferry Road (the "BFR Intersection"), which would require a Plan Text Amendment to the Tualatin Development Code (the "PTA"). Accordingly, Marquis intends to submit a Plan Text Amendment to the City to allow for the creation of the BFR Intersection.
- I. Hereinafter the Initial Planning District Designation Change, the Additional Planning District Designation Change and the PTA will be collectively referred to as the "Project Approvals."
- J. The City wishes to assure that if the various Project Approvals are granted by the City Council after a public, quasi-judicial hearing, those Project Approvals would only apply to the Project and only if certain conditions precedent are satisfied within certain specified time periods.
- K. In light of changes to the Project since the execution of the Original Development Agreement, the parties are interested in entering into this Amended Agreement in order to document the parties' intent with respect to the Project.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants of the parties set forth herein, THE PARTIES AGREE AS FOLLOWS:

1. Marquis agrees to apply for the PTA to allow for the creation of the BFR Intersection and, the City staff agrees, subject to the receipt of a favorable analysis of the Project by the City's Community Development staff, to recommend to the Tualatin City Council approval of the PTA.
- 2.
3. Marquis agrees to apply for the Additional Planning District Change and the City staff agrees, subject to the receipt of a favorable analysis of the Project by the City's

Community Development staff, to recommend to the Tualatin City Council approval of the application for the Additional Planning District Change.

4. The Project Approvals shall be effective, without the need for further action or the execution of further documents, as of the date on which Marquis receives architectural review approval from the City and either (a) the applicable appeal periods for those Project Approvals have expired or (b) any appeals that are timely filed during the applicable appeal periods have been fully and finally resolved in favor of Marquis on terms acceptable to Marquis in the exercise of its sole discretion (the "Project Approval Date"). The Parties acknowledge and agree that there can be no assurances that the Project Approvals, to the extent not already granted as of the Amended Effective Date, will be granted or that, if the Project Approvals are granted, that the conditions set forth in this Section 3 will be satisfied.
5. The Parties acknowledge and agree that this Agreement is subject to the following conditions subsequent (the "Conditions Subsequent").
 - a. If Marquis has not obtained the approval of the Architectural Review cited in Recital "C" and the remaining Project Approvals within eighteen (18) months after the Amended Effective Date (the "Project Approval Deadline"), it being understood and agreed that as of the Amended Effective Date Marquis has obtained the Initial Planning District Designation Change, then, without the need for further action or the execution of further documents, the Project Approvals shall not be enacted and this Agreement shall be null and void and of no further force and effect.
 - b. If Marquis has obtained the Architectural Review cited in Recital "C" and the Project Approvals by the Project Approval Deadline but has not been issued a foundation permit within twelve (12) months after the Project Approval Date, then, without the need for further action or the execution of further documents, this Agreement and the Project Approvals shall be null and void and of no further force and effect.

If the Conditions Subsequent are satisfied, then the Project Approvals shall be final and binding and the Project Approvals and this Agreement shall each be deemed to be a covenant which runs with the land for the benefit of the Property. In furtherance, and not in limitation, of the immediately preceding sentence, if the Conditions Subsequent are satisfied, the Additional Planning District Designation Change shall not be invalidated with respect to Lot 3 even if Lot 3 is never acquired by Marquis.

6. The parties acknowledge and agree that this Agreement is not intended to be a statutory Development Agreement.
7. This Agreement represents the entire and final agreement of the parties with respect to this subject matter and incorporates the requirements of the Original Development

Agreement, as modified by this Amended Agreement, it being understood and agreed that from and after the Amended Effective Date, this Amended Agreement shall control with respect to the matters which are addressed herein and in the Original Development Agreement .

8. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute but one and the same instrument.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the day and year first set forth above.

Tigard-Tualatin School District 23J

By: _____
Its: _____

Marquis Companies I, Inc.

By: _____
Its: _____

The City of Tualatin

By: _____
Its: _____



neopost

049J82043608

\$0 1.90

08/27/2010

Mailed From 97062

US POSTAGE



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

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