



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: February 16, 2016
Jurisdiction: City of Tigard
Local file no.: CPA2015-00005/ZON201
DLCD file no.: 007-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/11/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 39 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 007-15 {24115}
Received: 2/11/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Tigard

Local file no.: **CPA2015-00005, ZON2015-00007**

Date of adoption: 2/2/2016 Date sent: 2/11/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 11/5/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Yes

Local contact (name and title): Gary Pagenstecher, Associate Planner

Phone: 503-718-2434

E-mail: garyp@tigard-or.gov

Street address: 13125 SW Hall Blvd.

City: Tigard

Zip: 97223-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from M to CG 1.37 acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Change from to acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 13125 SW Pacific Hwy TAX MAP/ LOT # 2S102CB00200

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from R-12	to C-G	Acres: 1.37
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: NA Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address): 13125 SW Pacific Hwy TAX MAP/ LOT # 2S102CB00200

List affected state or federal agencies, local governments and special districts: DLCD, Metro

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Planning Commission Recommendation to City Council (Exhibit B to Ordinance No. 16-05)

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-05

AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AMENDMENT CPA 2015-00005 AND ZONE CHANGE ZON 2015-00007 TO AMEND THE TIGARD COMPREHENSIVE PLAN DESIGNATIONS AND ZONING DISTRICTS MAP.

WHEREAS, Section 18.380.030 of the City of Tigard Community Development Code requires quasi-judicial amendments to be undertaken by means of a Type IV procedure when a zone change application also involves a concurrent application for a comprehensive plan map amendment, as governed by Section 18.390.060; and

WHEREAS, the city has proposed an amendment to the Tigard Comprehensive Plan Map to facilitate preservation of R-12 zoned land and ensure it is applied in a location that supports residential use; and

WHEREAS, on December 14, 2015, the Tigard Planning Commission held a public hearing, which was noticed in accordance with city standards, and recommended approval of the proposed CPA 2015-00005/ZON 2015-00007 by motion with a 6-1 vote in favor; and

WHEREAS, on January 12, 2016, the Tigard City Council held a public hearing, which was noticed in accordance with city standards, to consider the Commission's recommendation on CPA 2015-00005/ZON 2015-00007, hear public testimony, and apply applicable decision-making criteria; and

WHEREAS, on January 12, 2016, the Tigard City Council continued the hearing for CPA 2015-00005/ZON 2015-00007 to February 2, 2016 to consider testimony from interested parties; and

WHEREAS, on February 2, 2016, the Tigard City Council approved CPA2015-00005/ZON 2015-00007 with amendments.

WHEREAS, Council's decision to approve CPA 2015-00005/ZON 2015-00007 and adopt this ordinance was based on the findings and conclusions found in Exhibits "B" and "C" and the associated land use record which is incorporated herein by reference and is contained in land use file CPA 2015-00005/ZON 2015-00007.

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

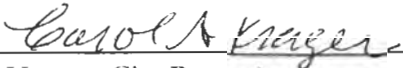
SECTION 1: Tigard City Council amends the Tigard Comprehensive Plan Map to change the Comprehensive Plan Designations and Zoning Districts as shown in Exhibit "A" for the School Street Site.

SECTION 2: Tigard City Council adopts the findings and conclusions contained in Exhibits "B" and "C" in support of the Council's action and to be the legislative basis for this ordinance.

SECTION 3: The City Council finds that the immediate applicability of the new zone to the subject property in Exhibit "A" provided in this Ordinance is necessary to facilitate development of the property in a timely manner.


SECTION 4: For the reasons set forth in Section 3, an emergency is declared to exist and this Ordinance takes effect upon adoption by the City Council and signature of the Mayor.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 2nd day of February, 2016.



Carol Krager, City Recorder

APPROVED: By Tigard City Council this 2nd day of February, 2016.

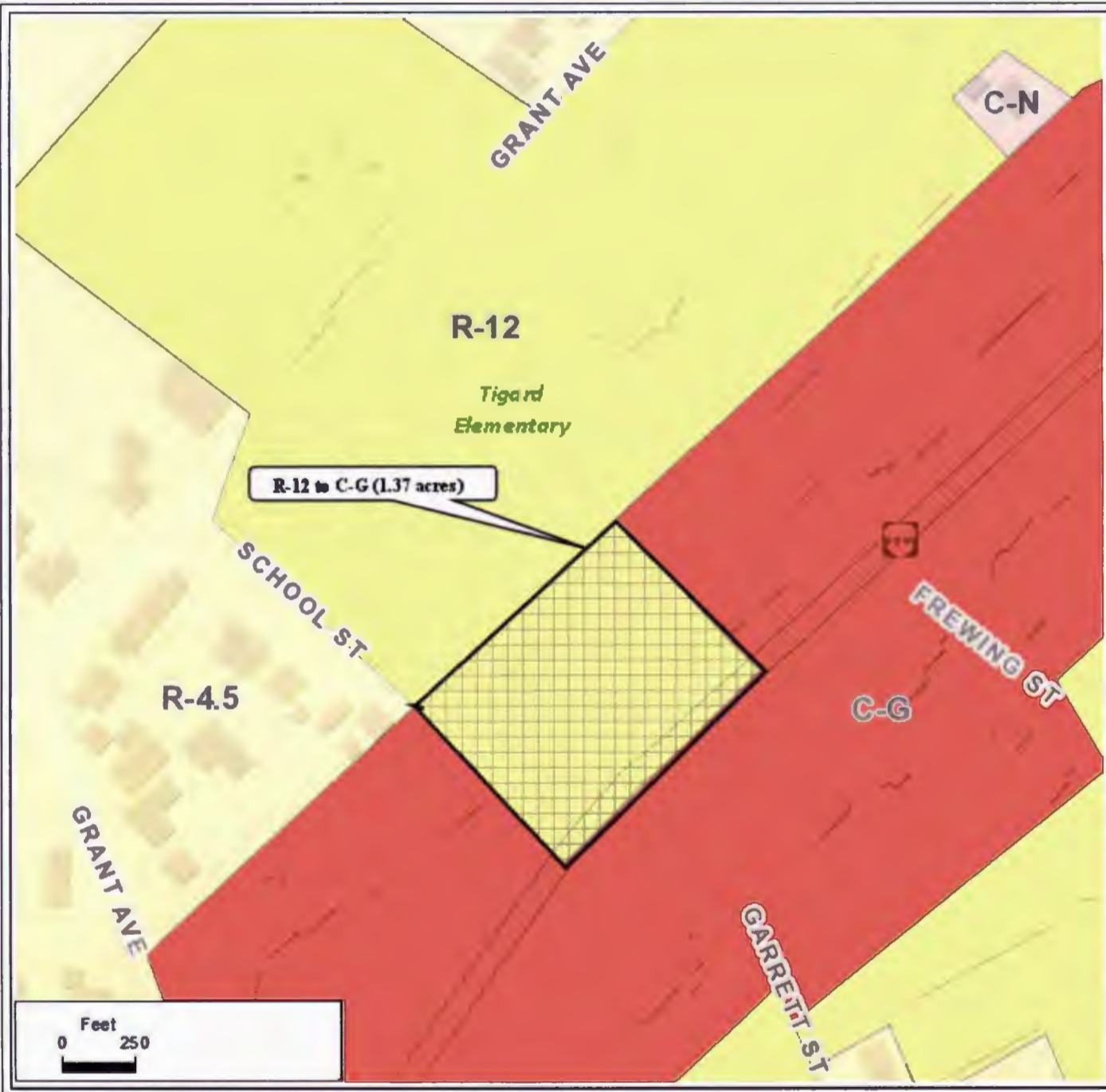


John L. Cook, Mayor

Approved as to form:



City Attorney

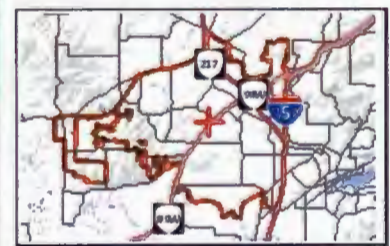


VICINITY MAP

CPA 2015-00005
 ZON 2015-00007
**Medium Residential (R-12)
 Preservation**

SITE B

Subject Site

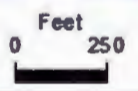



Information on this map is for general location only and should be verified with the Development Services Division.

Approx. Scale 1:2,000 - 1 in = 167 ft
 Map printed at 09:11 AM on 05-Nov-15

DATA IS DERIVED FROM MULTIPLE SOURCES. THE CITY OF TIGARD MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE CONTENT, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY OF THE DATA PROVIDED HEREIN. THE CITY OF TIGARD SHALL ASSUME NO LIABILITY FOR ANY ERRORS, OMISSIONS, OR INACCURACIES IN THE INFORMATION PROVIDED REGARDLESS OF HOW CAUSED.

TIGARD MAPS City of Tigard
 13125 SW Hall Blvd
 Tigard, OR 97223
 503 639-4171
 www.tigard-or.gov

CITY COUNCIL DECISION FOR THE CITY OF TIGARD, OREGON



An ordinance approving a Comprehensive Plan Map Amendment (CPA2015-00005) and Zone Map Amendment (ZON2015-00007) for the 1.37-acre Tigard Tualatin School District property located at 13125 SW Pacific Hwy, Site B, amending the comprehensive plan map from Medium Density Residential (M) to General Commercial (CG) and amending the zoning map from Medium Density Residential (R-12) to General Commercial (C-G). Council remanded to the Planning Commission the proposed rezoning for Site A. The Planning Commission held a public hearing on December 14, 2015 and City Council held hearings on January 12th and February 2nd, 2016 to receive testimony regarding this application. This decision has been based on the facts, findings and conclusions contained within this decision.

SECTION I. APPLICATION SUMMARY

FILE NO.: Comprehensive Plan Amendment (CPA) 2015-00005
Zone Change (ZON) 2015-00007

FILE TITLE: Consider Comprehensive Plan Amendments and Zoning Changes to Preserve Medium Density (R-12) Residential Land

APPLICANT: City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

REQUEST: The City proposes changing the Comprehensive Plan Designations and Zoning District Classifications of the subject parcel **SITE B** (1 parcel of 1.37 acres) from Medium Density Residential (R-12) to General Commercial (C-G).

LOCATION: **SITE B:** 13125 SW Pacific Hwy TAX MAP/ LOT # 2S102CB00200

COMP PLAN DESIGNATION/ ZONING DISTRICT: FROM: Medium Density Residential (R-12)
TO: General Commercial (C-G)

APPLICABLE REVIEW CRITERIA: Community Development Code Chapters 18.380.020 and 18.390.060.G; Comprehensive Plan Goals 1 and 2; Statewide Planning Goals 1, 2, 10; and Metro's Urban Growth Management Functional Plan Title 1.

SECTION II CITY COUNCIL DECISION

Through the public hearing process, the Tigard City Council amended the proposed Comprehensive Plan and Zoning Map Amendments, adopting by ordinance only the proposed Comprehensive Plan and Zoning Map Amendments to Site B. Council remanded the proposed Site A Comprehensive Plan and Zoning Map Amendments to Planning Commission for review and recommendation to Council.

SECTION III BACKGROUND INFORMATION

Site Description

Site A (3 parcels totaling 1.54 acres) is developed with single-family residences and was annexed in 2006 (ZCA2006-00003), which changed the county zone from Commercial Office (OC) to the City's Professional Commercial (C-P) zone, the zone most closely implementing the County's plan map designation. The current zone does not allow residential use, which the market has identified as its highest best use as evidenced by the pre-application conference applications cited above. The subject site is located across Spruce Street from Fred Meyers and within 1,000 feet of Pacific Hwy.

Site B (1 parcel of 1.37 acres) is currently a vacant lot owned by the Tigard – Tualatin School District. The site abuts the south side of the Charles F. Tigard Elementary School. The subject property abuts SW Pacific Highway, a Principal Arterial that is designated in the Metro Urban Growth Functional Plan as a High Capacity Transit Corridor. The highway is also maintained and under jurisdictional ownership of the Oregon Department of Transportation (ODOT). The site is bordered to the east and west by commercial development. The property is the only parcel located along the highway between McKenzie Street and Canterbury Lane, an approximately 1.12 mile segment that is not currently designated for commercial use. The subject site is approximately .25 miles from the Metro Town Center adopted boundary.

Project History

The city initiated this Comprehensive Plan and Zoning Map Amendment to facilitate preservation of R-12 zoned land and ensure it is applied in a location that supports residential use. Staff proposed the change in response to two development applications, both of which involve R-12 zoning.

Two pre-application conferences were held in March and August of 2015 for proposals to rezone from C-P to R-12 or R-25 several contiguous parcels located on SW Spruce and 72nd Avenue (**Site A**). The owners and interested parties are supportive of the city's proposal to accomplish this.

In April 2015 the city received an application for a Comprehensive Plan and Zoning Map Amendment (CPA2015-0003/ZON2015-00004) for a parcel owned by the school district zoned R-12 with frontage on Pacific Hwy (**Site B**). The Applicant proposed to change the plan and zoning designation of the site to General Commercial (C-G). In addition to this request, the Applicant requested concurrent Site Development Review approval from the City to allow a 15,085 square foot (SF) specialty retail store with associated parking, circulation, landscaping and site improvements. Those applications were withdrawn, in favor of the city's action to rezone the subject parcels. The staff recommendation to approve the Comprehensive Plan and Zoning Map Amendments at both locations was presented to Planning Commission for consideration in December of 2015.

Planning Commission Recommendation

On December 14, 2015 the Tigard Planning Commission held a public hearing to consider the proposal and

make a recommendation to Council. As discussed in greater detail in Section VIII of this report and in the minutes of the hearing, public testimony was received and considered by the Planning Commission as part of their deliberations. At the conclusion of their deliberations, the Planning Commission voted 6 to 1 in favor of a motion recommending City Council adopt the proposed amendments.

City Council Decision

City Council held hearings on January 12th and February 2nd, 2016 to receive testimony regarding this application. Council determined that the hearing should be processed quasi-judicially instead of legislatively, as originally presented. Staff had provided sufficient quasi-judicial notice and has supplemented the record with findings for quasi-judicial actions as required in 18.380.030. Through the public hearing process, City Council amended the proposed Comprehensive Plan and Zoning Map Amendments, adopting by ordinance only the proposed Comprehensive Plan and Zoning Map Amendments to Site B. Council directed that the proposed Comprehensive Plan and Zoning Map Amendments for Site A be remanded back to the Planning Commission for consideration separately from Site B. The Council's decision by Ordinance 16-05 is supported by the applicable criteria, findings and conclusions for quasi-judicial proceedings, as described in the report below.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

This section contains all the applicable city, state and metro policies, provisions, and criteria that apply to the proposed comprehensive plan amendment and zone change for Site B. Each section is addressed demonstrating how each requirement is met.

APPLICABLE PROVISIONS OF THE TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Chapter 18.380: Zoning Map and Text Amendments **18.380.030 Quasi-Judicial Amendments and Procedures to this Title and Map**
A. Quasi-judicial amendments. Quasi-judicial zoning map amendments shall be undertaken by means of a Type III-PC procedure, as governed by Section 18.390.050, using standards of approval contained in subsection D of this section. The approval authority shall be as follows:

3. The commission shall make a recommendation to the council on a zone change application which also involves a concurrent application for a comprehensive plan map amendment.

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

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations;

FINDING: The findings in this decision address all applicable comprehensive plan policies and map designations. This standard is met.

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

FINDING: The findings in this decision describe how the proposal complies with all applicable Tigard Development Code (Title 18) standards.

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

FINDING: Site B is in the ownership of the Tigard – Tualatin School District, who had intended to utilize the site for school facilities to serve the community. However, the school district has determined that the site is no longer necessary for its long term capital facilities planning and has elected to surplus the lot. Given this change in the school district’s capital facilities planning and considering the fact that the subject site is the only parcel on SW Pacific Highway in the immediate vicinity that is not zoned General Commercial, a proposal to rezone Site B from R-12 to C-G represents a reasonable adjustment of the comprehensive plan and zoning map. The city supports the land owner’s interest in a rezone to commercial property because of the deficit of commercially zoned property identified in the Housing Strategies report and because the site, located on a Major Arterial, is more suitable for commercial uses.

As identified in the City’s most recent BLI map, dated January 1, 2014, the project site has not been identified as buildable, likely due to its ownership by the school district and aggregation with adjoining school properties. Therefore, the conversion of the site’s zoning district to C-G will not have a demonstrable effect on the planned residential capacity of the City.

On balance, Council can find that the change in the status of the subject TTSD property to surplus represents a change in the neighborhood and that the proposed C-G zone will allow more suitable commercial development along a Major Arterial. This standard is met for Site B.

**Chapter 18.390:
Decision-
Making
Procedures**

Chapter 18.390.060.G. Decision-making considerations. The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**
- 2. Any federal or state statutes or regulations found applicable;**
- 3. Any applicable Metro regulations;**
- 4. Any applicable comprehensive plan policies; and**
- 5. Any applicable provisions of the City’s implementing ordinances.**

FINDING: Findings and conclusions are provided within this decision for the applicable listed factors on which the recommendation by the Commission and the decision by the Council shall be based.

CONCLUSION: Based on the findings above and below, these provisions are met.

APPLICABLE COMPREHENSIVE PLAN POLICIES

Chapter 1: Citizen Involvement

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

Policy 2 **The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.**

Policy 5 **The opportunities for citizen involvement provided by the City shall be appropriate to the scale of the planning effort and shall involve a broad cross-section of the community.**

FINDING: Citizens, affected agencies, and other jurisdictions were given the “opportunity to participate in all phases of the planning process.” Several opportunities for participation are built into the Comprehensive Plan amendment process, including:

- Public Hearing notification requirements pursuant to Chapter 18.390.060 of the Tigard Community Development Code and Measure 56. Public hearing notice of the Planning Commission and City Council public hearings was sent to the interested parties list (11-5-15) and all property owners within 500 feet of the subject parcels (11-19-15). Measure 56 Notice was mailed to subject property owners.
- A notice was published in the November 19, 2015 issue of The Tigard Times (in accordance with Tigard Development Code Chapter 18.390). The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City’s webpage where the Staff Report to the Planning Commission could be viewed.
- Site B was posted with a notice board on November 23, 2015, and again on January 19, 2016 at Council’s request.
- Posting on the City’s web site (11-24-15)

CONCLUSION: Based on the findings above, Tigard Comprehensive Plan Goal 1.1 Policies 2 and 5 are met.

Chapter 2: Land Use Planning

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

Policy 1 **The City’s land use program shall establish a clear policy direction, comply with state and regional requirements, and serve its citizens’ own interests.**

The goals and policies contained in the Tigard Comprehensive Plan provide the basis for the city's land use planning program. This policy is met.

Policy 2 The City's land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

As described in this staff report, the amendment complies with all applicable statewide planning goals, regional regulations, comprehensive plan policies, and serves the interest of the citizens. This policy is met.

Policy 3 The City shall coordinate the adoption, amendment, and implementation of its land use program with other potentially affected jurisdictions and agencies.

Potentially affected jurisdictions and agencies were given an opportunity to comment. Any comments that were received are addressed in Section VI: Outside Agency Comments. This policy is met.

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

The Metro 2040 Growth Concept Map shows that Pacific Hwy, through Tigard, is designated as a "Corridor." The proposal to up-zone Site B from residential to commercial would increase development intensity consistent with the "intense urban level development" envisioned for Metro designated corridors. This policy is met.

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

In a February 22, 2011 Economic Opportunities Analysis (EOA) conducted by Cogan Owens Cogan, LLC and FCS Group the forecasted 20-year vacant land need for commercial, mixed use and industrial lands in the City over the 2011 to 2031 time period was prepared. As noted in Table 7, Page 9 of the EOA, it was determined that the City would need a *minimum* of 51-acres of vacant commercial land to satisfy its commercial land needs over that 20-year growth period. A moderate estimate of commercial land need of 68-acres was identified and a high forecasted need of 85-acres was projected.

As noted in the January 1, 2014 BLI prepared by the City, the City's most recent vacant lands inventory identified an existing vacant commercial inventory of 46.55-acres. The proposed comprehensive plan and zoning map amendment will help fill this projected deficit of available commercial land by adding 1.37-acres of commercial land to the City's vacant commercial land inventory, thereby improving the City's available commercial development capacity. Furthermore, consistent with this plan policy, the proposed project will enable the transition of the site from school to private commercial use, thereby placing the property back on the public tax rolls and enabling the

generation of property taxes from the newly created development. These projected public revenues will enable the funding of needed City services and advance the community's social and fiscal stability as desired. This Policy is met.

Policy 7

The City's regulatory land use maps and development code shall implement the Comprehensive Plan by providing for needed urban land uses including:

- A. Residential;**
- B. Commercial and office employment including business parks;**
- C. Mixed use;**
- D. Industrial;**
- E. Overlay districts where natural resource protections or special planning and regulatory tools are warranted; and**
- F. Public services**

According to Chapter 9, Economic Development of the City of Tigard comprehensive plan, approximately 85 percent of Tigard residents work outside of the City limits. Additionally, approximately 69 percent of the existing land in the City is zoned for residential use, while 31 percent is zoned for commercial, industrial, and mixed use development. The zone change will ensure that this balance of residential and employment uses in the City is maintained with a gain of 1.37 acres zoned C-G. This policy is met.

Policy 15

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

- A. Transportation and other public facilities and services shall be available, or committed to be made available, and of sufficient capacity to serve the land uses allowed by the proposed map designation;**
- B. Development of land uses allowed by the new designation shall not negatively affect existing or planned transportation or other public facilities and services;**

The transportation impacts for Site B have been detailed in the Transportation Impact Analysis prepared by Kittelson & Associates, Inc., dated July 15th, 2015. As described in the report, the project site can be developed while maintaining acceptable levels of service and safety on the existing transportation system. No changes in street classifications are necessary. However, the report recommends limiting movements at the SW School Road intersection with SW Pacific Highway to right-in, right-out, and left-in. The northeastern driveway access to the site from SW Pacific Highway will also be restricted and will be limited to a right-in and right-out to ensure safe access from SW Pacific Highway.

The TPR 'Future Conditions Analysis' on page 9 of the report identifies the potential impacts that the existing zoning and proposed zone change could have on the surrounding transportation system using reasonable worst-case development conditions. A detailed review of how the proposed zone change

complies with the TPR begins on page 24 of the analysis. Proposed recommended mitigation measures are found on Page 25. Future development of the site will be required to implement these mitigation measures.

Additional public services such as stormwater, water and sanitary sewer will connect to existing infrastructure and it is not anticipated that the proposed designation changes to G-C will result in additional demands on public services. This policy is met.

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

Site B's conversion to C-G from R-12 would fulfill a proven community need for employment and provision of goods in that location.

The City's 2011 Economic Opportunities Analysis (EOA) forecast a 20-year vacant land need for commercial, mixed use and industrial lands in the City over the 2011 to 2031 time period was prepared. As noted in Table 7, Page 9 of the EOA, it was determined that the City would need a minimum of 51-acres of vacant commercial land to satisfy its commercial land needs over that 20-year growth period. A moderate estimate of commercial land need of 68-acres was identified and a high forecasted need of 85-acres was projected.

As noted in the January 1, 2014 BLI prepared by the City, the City's most recent vacant lands inventory identified an existing vacant commercial inventory of 46.55-acres. The proposed comprehensive plan and zoning map amendment will help fill this projected deficit of available commercial land by adding 1.37-acres of commercial land to the City's vacant commercial land inventory, thereby improving the City's available commercial development capacity.

Furthermore, consistent with this plan policy, the proposed project will enable the transaction of the site from school to private commercial use, thereby placing the property back on the public tax rolls and enabling the generation of property taxes from the newly created development. These projected public revenues will enable the funding of needed City services and advance the community's social and fiscal stability as desired.

Lastly, the proposed comprehensive plan amendment will help create employment opportunities for residents of Tigard, which currently sees approximately 85 percent of its employees work in other communities, according to Chapter 9, Economic Development of the City of Tigard comprehensive plan. This Policy is met.

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

As noted above for Site B, there is a projected minimum deficit of vacant commercial land of approximately 4.45-acres. The proposed comprehensive plan and zoning map amendment will reduce this projected deficit by approximately 1.37-acres.

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

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

The proposed zones in Site B would allow uses compatible with adjacent uses; there is no reason to believe the property could not be developed in conformance with C-G standards. There is no overlay district on the subject properties. This policy is met.

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

The subject property has been previously developed and is predominantly flat land without any sensitive natural resources. The proposed rezone would not detract from the viability of the City's natural systems. This policy is met.

CONCLUSION: Based on the findings above, Tigard Comprehensive Plan Goal 2.1 Policies 1, 2, 3, 6, 7, 14, and 15 are met.

Chapter 10: Housing

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

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

Currently, approximately 69% of land is zoned for residential land uses. As noted in the January 1, 2014 BLI conducted by the City, there are a total of 34.26 acres of land zoned R-12 that are vacant.

Due to the property's ownership by the school district and school related development being present on the site, the property was not included in the BLI—as identified in the City's most recent BLI map, dated January 1, 2014. Additionally, the project site has not been identified as buildable, likely due to its ownership by the school district and aggregation with adjoining school properties. Therefore, the conversion of the site's zoning district to C-G will not have a demonstrable effect on the planned residential capacity of

the City. This policy is met.

CONCLUSION: Based on the findings above, Tigard Comprehensive Plan Goal 10.1 Policy 1 is met.

APPLICABLE METRO REGULATIONS

Urban Growth Management Functional Plan

Title 1: Housing Capacity

The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity.

3.07.120 Housing Capacity

A. A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection D or E. A city or county may reduce its minimum zoned capacity in other locations under subsections C, D or E.

Site B is located on Pacific Hwy, designated a “Corridor” in the Regional Framework Plan. Therefore, the proposed rezone of Site B from R-12 to C-G, reducing the minimum zoned capacity of R-12 zoned land, is subject to subsection D or E.

E. A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city’s or county’s overall minimum zoned residential capacity.

Due to the property’s ownership by the school district and school related development being present on the site, the property was not included in the Buildable Lands Inventory (BLI)—as identified in the City’s most recent BLI map, dated January 1, 2014. Therefore, the conversion of the site’s zoning district to C-G will not have a demonstrable effect on the minimum zoned residential capacity of the City. This policy is met.

CONCLUSION: Based on the findings above, Metro’s Urban Growth Management Functional Plan Title 1 is met.

THE STATEWIDE PLANNING GOALS AND GUIDELINES ADOPTED UNDER OREGON REVISED STATUTES CHAPTER 197

The City’s Comprehensive Plan incorporated the Statewide Planning Goals and was acknowledged by the state as being in compliance with state law; therefore, the Statewide Goals are addressed under the Comprehensive Plan Policies Sections. The following Statewide Planning Goals are applicable: Goal 1: Citizen Involvement; Goal 2: Land Use Planning; Goal 10: Housing.

TRANSPORTATION PLANNING RULE COMPLIANCE

OAR Section 660-12-0060 Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section

(2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

The proposed C-G zone for Site B will not require or result in any changes to the functional classification of any transportation facility in the vicinity of the site.

(b) Change standards implementing a functional classification system; or

The proposed C-G zoning will not require or result in any changes to the standards that implement the functional classification system.

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

The proposed C-G zoning for Site B will result in future traffic volumes and access in a manner consistent with the functional classification of OR 99W in the study area. Although a component of the C-G zoning site trips are expected to travel behind the subject property along SW School Road and SW Grant Avenue, due to a proposed left turn egress restriction at the OR 99W/SW School Road intersection, the amount is minor and should not be any more significant than the buses that frequented this route when the subject site property was a bus storage facility for the Tigard-Tualatin School District.

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

The proposed C-G zoning for Site B will degrade the operational performance of the SW School Road/SW Garrett Street/OR 99W intersection with a v/c ratio of greater than 3.0 for the SW School Road approach under year 2035 weekday p.m. peak hour conditions (Appendix H, Kittelson July 15, 2015 TIA). This finding results in a “significant effect” determination, but is remedied by the site access control measures recommended in this report.

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The OR 99W/SW Walnut Street intersection is projected to fail with a v/c ratio of 1.03 under year 2035 weekday p.m. peak hour conditions assuming development under the current R-12 zoning. However, because the v/c ratio remains the same at 1.03 under the proposed C-G zoning development scenario, the performance of this intersection is not degraded further. Therefore, a finding of “significant effect” is not triggered by this section of the TPR.

CONCLUSIONS AND RECOMMENDATIONS

The proposed C-G zoning for the subject site has the potential to create a significant affect at an aligned OR 99W/SW School Road/SW Garrett Street intersection. This significant affect can be remedied by the following mitigation measures, which are recommended to be applied to any future commercial development of the site through Site Development Review:

- Maintain the current SW School Road alignment and access to OR 99W, but restrict turn movements to right-in/right-out/left-in only by constructing a raised concrete island and traffic separator in the center median lane of the highway.
- Close the current site access to OR 99W across from SW Garrett Street, and construct a new site driveway near the northern property limits. The new driveway would be effectively restricted to right-in/right-out only movements due to the raised traffic separator that already exists in the median lane of the highway

SECTION V. ADDITIONAL CITY STAFF COMMENTS

The City of Tigard's Current Planning Division, Development Services Division (Engineering), and Public Works Department had an opportunity to review this proposal and had no objections.

SECTION VI. OUTSIDE AGENCY COMMENTS

The following agencies/jurisdictions had an opportunity to review this proposal and did not respond: **Metro Land Use and Planning, Clean Water Services, Tigard Tualatin School District #23J, Washington County, Department of Land Use and Transportation, Oregon Department of Land Conservation and Development.**

Oregon Department of Transportation, Region 1 reviewed this proposal and provided a comment letter dated December 2, 2015 from Marah Danielson, ODOT Development Review Planner. ODOT determined that for Site A (7303 SW Spruce St), vehicle trips to OR 99W intersections will likely be reduced and that the proposed zone change from C-P to R-12 does not significantly affect a state highway facility. ODOT determined that for Site B (13135 SW Pacific Highway), vehicle trips to OR 99W intersections at Walnut and Park under the proposed zone change from R-12 to C-G would not significantly affect a state highway facility.

ODOT supports proposed mitigations to address the safety concern of introducing more vehicle turning conflicts at School Street onto OR 99W and recommends the following conditions on subsequent development of the site:

1. Restrict turn movements at the SW School Rd/OR 99W intersection to right-in/right-out/left-in only by constructing a raised concrete island (traffic separator) in the center of OR 99W to prevent vehicles from turning left onto the highway.
2. Close the existing site driveway to OR 99W across from SW Garret St and construction of a new site driveway near the northern property limits (the new driveway location would be restricted to right-in/right-out only movements due to the existing raised traffic separator on the highway).

Future applications for development on the property at 13135 SW Pacific Hwy will be required to implement these mitigation measures through Site Development Review.

SECTION VII. INTERESTED PARTIES COMMENTS

The Planning Commission received and considered both written and oral comments from residents and stakeholders as part of their deliberations on December 14, 2015.

Written comments were submitted by the following interested parties:

- Jim Long, 10730 SW 72nd Avenue, Tigard, OR 97223, comments submitted at hearing

Oral comments were submitted by the following individuals:

- Kelly Houssaini, Miller Nash, LLP (Site B representative)
- Mathew Zinzer, DOWEL (Site A representative)
- Noreen Gibbons 10730 SW 72nd Ave, Portland, OR 97223
- Nancy Tracy, 7310 SW Pine Street, Tigard OR 97223
- Ann and Nathan Murdock, 7415 SW Spruce Street, Tigard OR 97223

Other verbal and written testimony was heard at Council hearings. Listed below are the main highlights from the oral and written comments received. The full text of all comments can be found in the project file and Planning Commission minutes of December 14, 2015 and Council minutes from the January 12th and February 2nd 2016 hearings.

Testimony in favor, received from representatives of the school property, is appreciative of the city being pro-active in amending its comp plan and zoning map to better reflect locational characteristics of Site B.

Testimony in opposition, received from neighbors, identify the following concerns with respect to future development under the proposed R-12 zone for Site A:

Increased traffic and on-street parking,
Loss of open space and potentially, blocked views
Lot size not in keeping with neighborhood character
Preference for retaining the existing C-P zone
Objection with the legislative process and notice procedures

The City Council was presented copies of all written comments and heard all oral testimony before a motion to approve the proposed amendments for Site B and to remand the Site A amendments to the Planning Commission. The Council found the proposal for Site B to meet all relevant approval criteria pertaining to the issues raised by the public.

SECTION VIII. CONCLUSION

As demonstrated by the findings above, the proposed amendments to Site B comply with the applicable Statewide Planning Goals, applicable regional, state and federal regulations, the Tigard Comprehensive Plan, and applicable provisions of the City's implementing ordinances.

Therefore, through the public hearing process, the Tigard City Council determined to amend the proposed Comprehensive Plan and Zoning Map Amendments, adopting by ordinance only the proposed changes to Site B. Council remands the proposed Site A Comprehensive Plan and Zoning Map Amendment to Planning Commission for review and recommendation to Council.



City of Tigard Memorandum

To: Mayor John L. Cook, City Councilors

From: Tom McGuire, Assistant Community Development Director
Gary Pagenstecher, Associate Planner

Re: Quasi-Judicial Findings in Support of Ordinance A and/or B for Comprehensive Plan Amendment (CPA) 2015-00005/Zone Change (ZON) 2015-00007

Date: February 2, 2016

Background

The city has initiated a legislative Comprehensive Plan and Zoning Map Amendment to facilitate preservation of R-12 zoned land and ensure it is applied in a location that supports residential use in support of the City's Housing Goal. At its January 12th hearing, Council continued the hearing to clarify procedural issues raised in public testimony.

The City Attorney has determined that the R-12 Preservation application should be processed quasi-judicially rather than legislatively. Although staff already took the extra step of providing quasi-judicial notice of the hearings, there must be additional findings on the substantive standards provided in the Tigard Development Code for review of quasi-judicial comprehensive plan amendments and zone changes. Findings for quasi-judicial zone changes in TDC 18.380.030.B applicable to the proposal are provided below:

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

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations;

The Planning Commission Recommendation to Council addresses all applicable comprehensive plan policies and map designations. This standard is met.

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

The Planning Commission Recommendation to Council and this Memorandum describe how the proposal complies with all applicable Tigard Development Code (Title 18) standards.

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

Site A was annexed into the city in 2006 (ZCA2006-00003) automatically adopting the City zone (Professional Commercial (C-P)) that was closest to the Washington County zone (Community Office (CO)) it replaced, consistent with the standards for annexations in 18.320.020.C. The property owners hoped to open a daycare on the site, a permitted use in the C-P zone. Accordingly, the City did not conduct a separate specific analysis of the zoning of the property at that time. Now, nearly 10 years later, without success developing a day care facility, the owners are considering a zone change to Medium Density Residential anticipating market support for residential development. This prompted the City to evaluate the appropriate plan and zone designations for the property.

The city's initiative to preserve R-12 zoned is in alignment with Site A owners' interest in developing the property for residential use. In this case, implementation of city housing policy is synergistic with market forces in support of preserving the versatile R-12 zone to meet the housing type preferences and financial capabilities of Tigard's present and future residents.

In 2013 the Council adopted a Housing Strategies report prepared by Angelo Planning Group and Johnson & Reid in support of the Periodic Review update to Goal 10, Housing. This report illustrated that approximately 69% of the city's land is zoned for residential land uses and that there is about twice as much buildable land in areas zoned R-7 (72.1 net buildable acres) than in areas zoned R-12 (36.7 net buildable acres). The report analyzed the city's current and future housing needs, which included the following conclusions of relevance to the application:

- "In general, there is a need for some less expensive ownership units and rental units."
- "Single family attached units are projected to meet nearly 20% of future housing need."
- "It is projected that in coming decades a greater share of housing will be attached types, including attached single family."

This type of housing is possible in the R-12 zone, which allows attached and multi-family housing on 3,050 square-foot lots. Although R-25 also allows the full range of housing types, the medium-high density zone is less compatible with the neighboring low-density residential property to the north. Although the Housing Strategies report also identified a shortfall of commercial property within the city, the proposed swap between Sites A and B would result in a minimal loss of commercial zoned property (.17 acres). The increasing importance of ensuring availability of affordable housing is evidence of change in the community that supports the proposed zone change from C-G to R-12 on Site A. This standard is met for Site A.

Site B is in the ownership of the Tigard – Tualatin School District, who had intended to utilize the site for school facilities to serve the community. However, the school district has determined that the site is no longer necessary for its long term capital facilities planning and has elected to surplus the lot. Given this change in the school district's capital facilities planning and considering the fact that the subject site is the only parcel on SW Pacific Highway in the immediate vicinity that is not zoned General Commercial, a proposal to rezone Site B from R-12 to C-G represents a reasonable adjustment of the comprehensive plan and zoning map. The city supports the land owner's interest in a rezone to commercial property because of the deficit of commercially zoned property identified in the Housing Strategies report and because the site, located on a Major Arterial, is more suitable for commercial uses.

As identified in the City's most recent BLI map, dated January 1, 2014, the project site has not been identified as buildable, likely due to its ownership by the school district and aggregation with adjoining school properties. Therefore, the conversion of the site's zoning district to C-G will not have a demonstrable effect on the *planned* residential capacity of the City. However, the *planned* capacity is shown to be in deficit. Therefore, an increase in the *actual* capacity of R-12 zoned land underwritten by the proposed swap better meets the city's affordable housing policy.

On balance, Council can find that the change in the status of the subject T1S1D property to surplus represents a change in the neighborhood and that the proposed C-G zone will allow more suitable commercial development along a Major Arterial. This standard is met for Site B.

The proposed swap between Sites A and B would result in a minimal loss of commercial zoned property (.17 acres) and help ensure availability of land to support a full range of housing types and affordable housing options for City residents. This standard is met for Sites A and B.

120 DAYS = 3/1/2016
DATE OF FILING: 2/4/2016
DATE MAILED: 2/11/2016



CITY OF TIGARD
Washington County, Oregon
NOTICE OF FINAL ORDER BY THE CITY COUNCIL

Case Number:	<u>COMPREHENSIVE PLAN AMENDMENT CPA 2015-00005, ZON2015-00007</u>
Case Name:	<u>R-12 PRESERVATION PLAN AMENDMENT AND ZONE CHANGE</u>
Applicant: Owner's Name/Address:	City of Tigard, 13125 SW Hall Blvd, Tigard, OR 97223 Tigard Tualatin School District c/o Miller Nash Graham & Dunn LLP Attention: Kelly Hossaini 111 SW 5th Ave, #3400 Portland, OR 97204
Address of Property: Tax Map/Lot Nos.:	SITE B: 13125 SW Pacific Hwy TAX MAP/ LOT # 2S102CB00200

An ordinance approving a Comprehensive Plan Map Amendment (CPA2015-00005) and Zone Map Amendment (ZON2015-00007) for the 1.37-acre Tigard Tualatin School District property located at 13125 SW Pacific Hwy, Site B, amending the comprehensive plan map from Medium Density Residential (M) to General Commercial (CG) and amending the zoning map from Medium Density Residential (R-12) to General Commercial (C-G). Council remanded to the Planning Commission the proposed rezoning for Site A. The Planning Commission held a public hearing on December 14, 2015 and City Council held hearings on January 12th and February 2nd, 2016 to receive testimony regarding this application. This decision has been based on the facts, findings and conclusions contained within this decision.

Request: ➤ The City proposes changing the Comprehensive Plan Designations and Zoning District Classifications of the subject parcel SITE B (1 parcel of 1.37 acres) from Medium Density Residential (R-12) to General Commercial (C-G).

Existing Zones: R-12 to Proposed Zones: C-G

Applicable Review Criteria: Community Development Code Chapters 18.380 and 18.390.060.G; Comprehensive Plan Goals 1, 2, 10; Statewide Planning Goals 1, 2, 10; and Metro's Urban Growth Management Functional Plan Title 1.Oregon Administrative Rule 660, Division 9; the Oregon State Transportation Planning Rule (TPR) 660-012-0060.

Action: ➤ Approval as Requested Approval with Amendment Denial

Notice: Notice was published in the newspaper and mailed to:
 Owners of Record within the Required Distance Affected Government Agencies
 Interested Parties The Applicants and Owners

Final Decision:
THIS DECISION IS FINAL ON FEBRUARY 2, 2016 AND BECOMES EFFECTIVE ON FEBRUARY 2, 2016 UNLESS AN APPEAL IS FILED.

The adopted findings of fact, decision and statement of conditions can be obtained from the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon.

Appeal: A review of this decision may be obtained by filing a notice of intent to appeal with the Oregon Land Use Board of Appeals (LUBA) according to their procedures within 21 days from DLCN Notice of Adoption (February 11, 2016), **by March 3, 2016**

Questions: If you have any questions, please call the City of Tigard Planning Division at (503) 718-2434.