



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/25/2009

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment
DLCD File Number 010-08

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, March 10, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Gary Pagenstecher, City of Tigard
Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner
Thomas Hogue, DLCD Regional Representative
Angela Lazarean, DLCD Regional Representative

<pa> YA/

FEB 18 2009

LAND CONSERVATION AND DEVELOPMENT

Notice of Adoption

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

Jurisdiction: **City of Tigard**

Date of Adoption: **2/10/2009**

Local file number: **DCA2008-00004**

Date Mailed: **2/17/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **11/21/2008**

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".

An amendment to the Tigard Community Development Code Chapter 18.530, specifically Table 18.530.1 - Use Table: Industrial Zones, to add Footnotes 12 and 13 to allow the sales/rental of boats as a Restricted Use (R) in the Industrial Park (I-P) zone, provided such operation takes place wholly within an enclosed building and does not exceed 10,000 square feet/lot.

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

The applicant originally proposed that such operation not exceed 20% of the floor area of the given development complex. The City of Tigard further restricted the use to boat sales/rental, only, and that the use, separately or in combination, may not exceed 10,000 square feet per lot.

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **Land Zoned Industrial Park (I-P)**

Acres Involved: **0**

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

New: **N/A**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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| 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 No

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?

DLCD file No. 010-08 (17249)

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

City of Tigard

Local Contact: Gary Pagenstecher

Phone: (503) 718-2434 Extension:

Address: 13125 SW Hall Boulevard

Fax Number: 503-624-3681

City: Tigard

Zip: 97223-8189

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

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 09- 01

AN ORDINANCE AMENDING THE TIGARD COMMUNITY DEVELOPMENT CODE CHAPTER 18.530, SPECIFICALLY TABLE 18.530.1 – USE TABLE: INDUSTRIAL ZONES, TO ADD FOOTNOTES 12 AND 13 TO ALLOW THE SALES/RENTAL OF BOATS AS A RESTRICTED USE IN THE INDUSTRIAL PARK (I-P) ZONE, PROVIDED SUCH OPERATION TAKES PLACE WHOLLY WITHIN AN ENCLOSED BUILDING AND DOES NOT EXCEED 10,000 SQUARE FEET/LOT.(DCA2008-00004)

WHEREAS, the applicant Northwest Ski and Wake Sports, LLC, has requested to amend Chapter (18.510 – Industrial Zoning Districts) of the Tigard Development Code to amend the text of Table 18.530.1 to allow “motor vehicle sales/rental” in the I-P zone as a restricted (R) use, provided (a) such operation takes place wholly within an enclosed building and (b) does not exceed 20% of the floor area of the given development complex.; and

WHEREAS, notice was provided to the Department of Land Conservation and Development 45 days prior to the first evidentiary public hearing; and

WHEREAS, the Tigard Planning Commission held a public hearing on January 5, 2009, and recommended approval of the proposed amendment, as amended to further restrict the use to boats only and the size to 10,000 square feet per lot, with a 8-0 vote;

WHEREAS, notice of the public hearings was published in the Tigard Times and the Oregonian Newspapers at least 10 business days prior to the public hearings; and

WHEREAS, the Tigard City Council has considered applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City’s implementing ordinances; and

WHEREAS, the City Council has found the following to be the only applicable review criteria: Community Development Code Chapters 18.130, 18.380, 18.390 and 18.530; Comprehensive Plan Goals 1.1 and 9.1; Metro Urban Growth Management Functional Plan Sections 3.07.110 and 3.07.410; and Statewide Planning Goals 1, 2 and 9; and

WHEREAS, the Tigard City Council held a public hearing on February 10, 2009, to consider the proposed amendment; and

WHEREAS, the Tigard City Council has determined that the proposed development code amendment is consistent with the applicable review criteria, and that approving the request would be in the best interest of the City of Tigard.

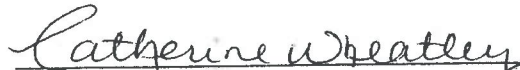
NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The specific text amendments attached as **"EXHIBIT A"** to this Ordinance are hereby adopted and approved by the City Council.

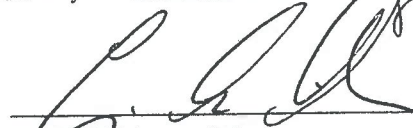
SECTION 2: The findings in the December 18, 2008 Staff Report to the Planning Commission and the Minutes of the January 5, 2009 Planning Commission hearing are hereby adopted in explanation of the Council's decision.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

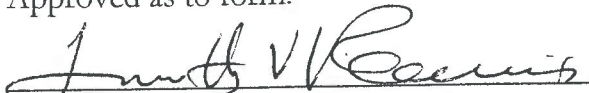
PASSED: By unanimous vote of all Council members present after being read by number and title only, this 10th day of February, 2009.


Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 10th day of February, 2009.


Craig Dirksen, Mayor

Approved as to form:


City Attorney

2.11.09

Date

EXHIBIT A

DCA2008-00004
MOTOR VEHICLE RELATED USE CODE AMENDMENT

Explanation of Formatting

This text amendment employs the following formatting:

[Bold] – Text to be added

~~[Strikethrough]~~ – Text to be removed

TABLE 18.530.1
USE TABLE: INDUSTRIAL ZONES

USE CATEGORY	I-P	I-L	I-H
Motor Vehicle Related			
- Motor Vehicle Sales/Rental	N R ^{4, 12, 13}	P	P

⁴ Permitted if all activities, except employee and customer parking, are wholly contained within a building(s).

¹² These limited uses, separately or in combination, may not exceed 10,000 square feet/Lot.

¹³ This use limited to boat sales/rental, only.

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes**

January 5, 2009

1. CALL TO ORDER

President Inman called the meeting to order at 7:06 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Commissioners Present: President Inman; Commissioners Anderson, Caffall, Doherty, Fishel, Hasman, Muldoon, Vermilyea, and Walsh

Commissioners Absent: Commissioner Fishel

Staff Present: Craig Dirksen, Mayor of Tigard; Dick Bewersdorff, Planning Manager; Gary Pagenstecher, Associate Planner; Ron Bunch, Assistant Community Development Director; Darren Wyss, Senior Planner; Doreen Laughlin, Senior Administrative Specialist

3. COMMUNICATIONS

Mayor Dirksen was introduced by President Inman. The Mayor took some time to thank the Commissioners on behalf of the City Council and himself for their hard work on the Comprehensive Plan. He complimented them on the work that was done and the quality of the document - which he said was a direct result of all the hard work the citizens, policy interest teams, City staff, and especially the Planning Commission did. He thanked them and gave them each a token of remembrance and appreciation. He presented each commissioner with a personalized pen and a candy filled City of Tigard mug.

4. APPROVE MEETING MINUTES

There was a motion by Commissioner Caffall, seconded by Commissioner Vermilyea, to approve the December 1, 2008 meeting minutes as submitted. The motion was approved as follows:

AYES: Caffall, Doherty, Hasman, Inman, Muldoon, Vermilyea, Walsh
NAYS: None
ABSTENTIONS: Anderson
EXCUSED: Fishel

5. PUBLIC COMMENTS

PERIODIC REVIEW PUBLIC COMMENT OPPORTUNITY

The City of Tigard has been notified that the Oregon Department of Land Conservation and Development (DLCD) has initiated periodic review for the community. DLCD is tasked with overseeing the process and focuses periodic review on economic development, needed housing, transportation, public facilities and services, and urbanization. The first step of periodic review is to perform an evaluation of the City's comprehensive plan and land use regulations. An important component of the evaluation is to provide the opportunity for citizen review and comment. This is an opportunity for citizen comment in the presence of the Planning Commission, before the final evaluation is made by the City Council on January 27, 2009.

STAFF COMMENTS

Senior Planner, Darren Wyss, introduced periodic review and gave a rundown of what it is. He noted that the City of Tigard had been notified of the commencement of Periodic Review by the Department of Land Conservation and Development (DLCD) last May. Periodic Review is a process required by state statute and Tigard must review its comp plan and land use regulations to ensure they continue to provide for the growth management and development needs of the community. The first step to Periodic Review is to evaluate the City's comprehensive plan and land use regulations. DLCD focuses Periodic Review evaluation on economic development, needed housing, transportation, public facilities and services, and urbanization. The City completed the evaluation using the DLCD checklist, and staff is here tonight to accept public comment before the Planning Commission. Staff received written comment from two individuals. These will be incorporated into the evaluation, as will any comments submitted tonight. Staff will prepare a response to all submissions and will send the response to the person who submitted the comments. Based on the evaluation, the City will then create a draft work program to address any needed deficiencies in the comp plan or land use regulations. Council has scheduled Jan 27th to review the evaluation and draft work program. With Council's direction, both will then be submitted to DLCD for review.

PUBLIC COMMENTS

At this point President Inman opened up the meeting for public comment. She noted that no one had signed up to speak and asked if anyone present would like to make a comment. No one from the public had questions.

PUBLIC COMMENT CLOSED

6. PUBLIC HEARING

DEVELOPMENT CODE AMENDMENT (DCA) 2008-00004

MOTOR VEHICLE SALES IN THE I-P ZONE CODE AMENDMENT

REQUEST: A Development Code Amendment to amend the text of Table 18.530.1 of the City of Tigard Community Development Code to allow "motor vehicle sales/rental" in the I-P zone as a Restricted (R) use, currently Not Permitted (N), provided (a) such operation takes place wholly within an enclosed building and (b) does not exceed 20% of the floor area of the given development complex. **LOCATION:** Land zoned Industrial Park (I-P).

COMPREHENSIVE PLAN DESIGNATION: Industrial Park. **ZONE:** I-P: Industrial Park District. The I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odors, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well-integrated, attractively landscaped, and pedestrian-friendly. **APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.130, 18.380, 18.390 and 18.530; Comprehensive Plan Goals 1.1 and 9.1; Metro Urban Growth Management Functional Plan Sections 3.07.110 and 3.07.410; and Statewide Planning Goals 1, 2 and 9.

STAFF REPORT

Gary Pagenstecher, Associate Planner, presented the staff report on behalf of the City. He noted the applicant owns and operates Northwest Ski & Wake Sports, LLC which specializes in high-end watercraft. The applicant intends to move their business to Tigard and entered a lease agreement for a building in the Industrial Park (I-P) zone that met the space and functional needs of their business. On learning the proposed use was not allowed in the I-P zone, the applicant applied for a text amendment to permit the use. Pagenstecher went over the background information, applicable criteria, findings, and conclusions as on the staff

report. He noted the staff recommendation: "Staff recommends that the Planning Commission find in favor of the proposed text amendment allowing motor vehicle sales/rental in the Industrial Park zone with a restriction that limits the permitted use to boats and with any alterations as determined through the public hearing process, and make a final recommendation to the Tigard City Council." Pagenstecher went over the five listed factors (in the staff report) on which the recommendation by the Commission and the decision by the Council shall be based: 1) Statewide Planning Goals and Guidelines; 2) Federal or State Statutes and Regulations; 3) Metro; 4) Tigard Comprehensive Plan; and 5) Applicable Provisions of the Tigard Development Code.

Pagenstecher noted that a comment letter from the Department of Land Conservation and Development (**Attachment 1**) which was distributed to the commissioners. He said DLCD does not support the code amendment – they want to preserve the IP zone for industrial uses and they cite the inconsistency with the Metro code.

QUESTIONS & COMMENTS BY COMMISSIONERS (Replies in italics)

- One of the commissioners referred to the traffic impact issue. He said that on page 3 of 8 on the staff report, the State Transportation Planning Rule (TPR) requires evidence that the proposed plan amendment will not significantly affect a transportation facility. As he understands the description, there's been no evidence provided, but there's been an analysis, based on some assumptions, and then a conclusion. It seems that a potential problem, if approved, is the fact that there is no "evidence" supplied to address the TPR rule. He wondered how that would be dealt with. *That is a legitimate concern.*
- Does this set a precedent? The letter from DLCD seemed to imply that this sets a precedent for all of that type of land, one that is broad in scope – is that correct? *Yes – this is a legislative action that would apply to all IP zoned lands. Not just the subject property.*
- What is our history, in Tigard, of changing zoning for a single business? *That's not something usually done.*
- Where are the IP zoned areas? *There are two maps attached. You can see the areas on there.*
- If the code is changed – is the concern that car lots could come in? *It's possible – motor vehicle sales, and rentals, would include all vehicles.*
- What is the downside of that? *From a standpoint of protection from Metro, DLCD, and our regulation previously, we want to preserve industrial land for industrial uses – primarily. But, there are other services in the IP zone that are allowed.*
- What business was in that building before? *Industrial use.*
- Are there other industrial sites where this facility could be located and meet code? *Yes, there are zones that can accommodate that use; however, the applicant had difficulty finding the*

building that would accommodate that use in those zones so they found this building type attractive – it just happened to be located in the IP zone.

- If they do this amendment, my thought is that we open the floodgate to any and all operations.
- With respect to the finding that this may be inconsistent with Metro's code, what is the potential consequence of allowing a change like this? What's the downside? *If they felt it was important, they could appeal it to LUBA and then we'd have to deal with that.*
- Development complex – is it defined? *Complex could be one building, one property, one use.*
- Development complex is not defined. It's not clear. *Should we consider narrowing that down to be specific to make sure we're getting the scale of what we might permit appropriate?*
- Is part of the problem the fact that the definition has the boat fall within "motor vehicle sales"? Is there any way we can we move the boat out separately? *That is a potential recommendation. You could add a note saying "This use is limited to boat sales and rentals."*
- Can we pull out "boats" versus "motorized vehicles"? Most people don't think of boats as motorized vehicles – those are cars, motor homes, etc. Is one of our alternatives to make an exception saying it only deals with boats? *Yes – you could do that.*

APPLICANT'S PRESENTATION

April Berg of 13531 SW Aerie Dr., Tigard, OR 97223 introduced herself as one of the owners of Northwest Ski and Wake Sports.

Jack Hoffman also introduced himself as an Attorney for Dunn Carney Allen Higgins & Tongue LLP located at 851 SW 6th Ave., Portland, OR 97204

Ms. Berg began by saying they'd gone through most all of what the commissioners concerns are during the pre-apps with the City of Tigard. She said they started the process in July and, unbeknownst to them, they and their brokers had information that the property was zoned IL. They said they've been in other IP and IL zones in other cities in the Metro area. She said this particular location was chosen for various reasons. They did a market study. Their business is to sell very high end boats - they could be likened to Lamborghini's. They don't have customers every day. It's a very high end single niche. They sell anywhere from 30 to 65 boats a year. So a buyer is coming in once every 5 days or once every 12 days. In the winter there will be times when people will drop off their boat to have it serviced on Monday and come pick it up on a Saturday. She said we may have 3 or 4 days where there's, frankly, no deposits - and that's not to make my current landlord sitting back there worried, but it's just one of those difficult sales. The reason we chose this location is 3 fold. One - It's close to the center where the market study was done. Two - Based on our buyer profile,

those people that we would be selling to are already traveling on that road. It's not a new trip for them. They're already going to the high school. The typical buyer is a family buyer – their income range is \$150,000 - \$350,000. So they are coming and going to Bridgeport or to the high school for games and activities. The third, and probably the most important reason, is the Duncan's building – the site itself. We have to have our boats inside. They're high end and we don't want them exposed to the weather. We have to move the boats easily in and out. This building meets those needs. There are freight doors that work in that capacity. Lastly, industrial zones have become unfriendly to retail environment. This location is clearly very "light" industrial – which is what makes it so attractive. This business will not be an eyesore, but an asset to that area. We've worked with the City on this since July. We want to provide a good product for Tigard.

At this point, the attorney spoke to the Commissioners regarding their stated concerns. He said that in terms of the traffic impact and the DLCD analysis, there's no evidence to address the TPR – Traffic Planning Rule. The difficulty with what DLCD said is that there's nothing in the Institute for Transportation Engineer Manual (the ITE manual), that fits with boat sales. If you go through the manual, there's nothing that talks about it. The closest would be furniture sales, which is a large item. We're really talking about form over function. As staff has pointed out, industrial uses are changing and blurring. We're proposing that you look at the effect on the industrial park area – what does this look like? If you minimize it to 20% and the development complex is very small in this situation – less than 60,000 sq ft. and that they're indoor boat sales – then you have a handle on it and you don't open the flood gates. The comment about car lots - well, car lots will not come in if you limit the boat sales. As to whether this does or does not comply with Metro's code – I'm confident that this does not violate Metro Code and we didn't get a letter from Metro to that effect because the employment area restriction from Metro restricts new buildings. The industrial area restriction really talks about big box retail. They don't intend to regulate this kind of small commercial activity. I'm comfortable that that isn't an issue with this Planning Commission. This does not violate Metro Code Title Four. We would support the staff's recommendation in terms of the conditions of limited to boats with the other restrictions as per your instructions.

At this point there were a few questions & comments. One of the commissioners noted that he thought this business would be an asset to the area. His biggest concern remains the traffic issue. He said the Planning Commission has an obligation to make a decision based on evidence so he wanted to ask some questions:

- What is the business that used this property previously? At this point, the landlord, John Duncan, of 9929 NW Upton Ct., Portland, 97229, spoke to the question. He introduced himself as the owner of the property. He said *the previous tenants in the*

building were basically involved in selling cultured stone to builders, etc. and there was a lot more traffic coming into the place than these people will have.

- How many visits do you anticipate you're going to get from "lookie loo" types or prospective buyers? *On an average - two visits. We have an Internet site and a lot of the negotiating and information disseminating is done over the Internet.*
- What you're essentially saying is that you're averaging on a daily basis roughly one visit to your store per day. Is that correct? *I would say that's true. In the winter we can go days without a visit - we'll deal on the internet and the phone - but no visit.*
- Would you say that the prior user's trips were significantly greater than that? *Yes - semi's would come in unloading stone.*
- How long was that tenant in there? *That tenant was in there for two years.*

PUBLIC TESTIMONY – IN FAVOR

None

PUBLIC TESTIMONY – IN OPPOSITION

None

APPLICANT'S REBUTTAL

None

PUBLIC HEARING CLOSED

DELIBERATIONS

The commissioners deliberated at length. Some of the deliberations follow:
One of the commissioners said the intent of Metro was to keep out used car lots and sprawl. He said he likes the project. It will attract people from out of town. Another commissioner noted upscale selling would be a good tenant and citizen for the City. One noted the fact that they're indoors, and that this business might actually reduce traffic from the previous business.

Commissioner Doherty wanted to go on record as encouraging light industrial growth in the City of Tigard. She said that looking at where this property is, and looking at the kind of business that's coming in, she's not that concerned about the traffic. She thinks there should be some sort of requirement for a traffic study but this is not a business that will bring in a lot of traffic. It's a very exclusive clientele. So she likes to encourage business coming in to

Tigard, but again, with the idea that a goal out there that – we also encourage light industrial that will bring in more jobs into the City of Tigard.

One of the commissioners said she was personally conflicted because she thinks that it's a nice business but, thru her tenure, she's seen a chipping away at all of our industrial – it seems it's all going commercial office. She's concerned about the pattern that seems to be being established - about individualizing zoning. She doesn't like the path it's headed down. She's also concerned about the Industrial Zone as an employment base – she's not sure it can be considered to be good for employment. She'd like to see it work but is concerned about the trend. She suggests addressing development complex.

There were more deliberations and then a motion was made.

MOTION

The motion was by Commissioner Vermilyea, seconded by Commissioner Caffall as follows:

I move that the Planning Commission forward a recommendation of approval to the City Council of application DCA2008-00004 and adoption of the findings and conditions of approval contained in the staff report, as well as the amendments that we've made here tonight. Specifically, restricting changing the motor vehicle related sales from a non-prohibited use to a restricted use with the restrictions that were set forth today including limiting it solely to boat sales, such that those limited uses separately, or in combination, may not exceed 10,000 sq ft per lot, and such that all activities, except employee and customer parking, are wholly contained within the building. And also a condition on receipt of a letter from Metro Council to the effect that this use, as set forth in the application, will not violate Metro Code Title Four. (Not in the language of the restriction - it is just a condition of approval.)

The motion passed unanimously on a recorded vote; the Commissioners voted as follows:

AYES:	Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Hasman, Commissioner Inman, Commissioner Muldoon, Commissioner Vermilyea and Commissioner Walsh (8)
NAYS:	None (0)
ABSTAINERS:	None (0)
ABSENT:	Commissioner Fishel (1)


President Inman noted that this application will be going to City Council on February 10th pending the letter [from Metro].

7. OTHER BUSINESS

There was a request that the Planning Commission Secretary check on whether there is a need to vote on officers this year. She will check the bylaws and see if this needs to be done on an odd or even year and report back to the commission.

8. ADJOURNMENT

President Inman adjourned the meeting at 8:49 p.m.



Doreen Laughlin, Planning Commission Secretary



ATTEST: President Jodie Inman



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
Meg Fernekees, Portland Area (West) Regional Representative
Portland Regional Office
800 NE Oregon Street, M/S 18
Suite 1145
Portland, OR 97232
(971) 673-0965

January 2, 2009

Gary Pagenstecher, AICP
Associate Planner
City of Tigard
Community Development
13125 SW Hall Blvd.
Tigard OR 97223

SENT VIA EMAIL

Subject: Local File No. **DCA2008-00004**
DLCD File No. Tigard 010-08
Development Code Change

Dear Mr. Pagenstecher:

The Department of Land Conservation and Development received a notice of proposed amendment for the file referenced above. The proposal is to allow "motor vehicle sales/rental" in the I-P zone as a restricted (R) use, currently Not Permitted (N), with some limitations.

The Oregon Department of Land Conservation and Development (DLCD) appreciates the opportunity to comment on the above proposal. We respectfully request that this letter become part of the official record for the above proceedings. We hope you will find the following comments helpful in the city's deliberations on this matter.

Goal 12 – Transportation Planning Rule (TPR)

As we understand the applicant's case, the applicant claims that the requirement to be indoors placed on the motor vehicle sales use in this zone would make most "walk-in" motor vehicle sales unfeasible. While one could argue that the history of large indoor showrooms along the I-5 corridor proves the opposite, the text amendment in

any case is overly broad and likely may have unforeseen consequences, both in terms of the growth of large product merchandizing and in traffic congestion. In this regard, the Transportation Planning Rule mandates that all possible "motor vehicle sales/rental" uses in the IP zones city-wide be addressed, not just the applicant's specific proposed use.

Goal 9 and Preventing conversion of industrial land

The applicant erroneously concludes that Statewide Planning Goal 9 is not applicable to the proposal. Commercial sales of any large merchandise can erode the future viability of industrial uses in the vicinity. The department agrees with this advisory conclusion in the staff report: "The Planning Commission should consider whether the proposed use would otherwise compromise the intended use of industrial-zoned lands for industrial purposes." Similarly, we would urge the Commission such serious consideration as well, particularly in light of the apparent inconsistency with Metro's Title 4 requirements.

We appreciate the opportunity to comment and ask for your kind consideration of these comments. To continue the trend of conversion of industrial land is not in the State's or the City's best interest.

If you or other city officials have any questions on the above comments, please contact me at 971-673-0965 or meg.fernekees@state.or.us.

Thank you.

Sincerely,

Meg Fernekees
DLCD Metro Area (West) Regional Representative

cc: Tom Hogue, Economic Development Planning Analyst
Angela Lazarean, Urban Planner
Darren Nichols, Community Services Manager
Gloria Gardiner, Urban Planning Specialist
Bill Holmstrom, Transportation & Land Use Planner
Tim O'Brien, Principal Planner, Metro

Agenda Item: 6
 Hearing Date: January 5, 2009 Time: 7:00 PM

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



SECTION I. APPLICATION SUMMARY

CASE NAME: MOTOR VEHICLE SALES/RENTAL IN THE I-P ZONE
CASE NO.: Development Code Amendment (DCA) DCA2008-00004

PROPOSAL: To amend the text of Table 18.530.1 of the Community Development Code to allow "motor vehicle sales/rental" in the I-P zone as a restricted (R) use, currently Not Permitted (N), provided (a) such operation takes place wholly within an enclosed building and (b) does not exceed 20% of the floor area of the given development complex.

APPLICANT: Bruce and April Berg
 Northwest Ski & Wake Sports, LLC
 2801 NE Riverside Way, Suite 200
 Portland, OR 97211

OWNER: John and Janice Duncan
 9929 NW Upton Court
 Portland, OR 97229

APPLICANT'S AGENT: Dunn Carney, et al.
 851 SW Sixth Avenue, Suite 1500
 Portland, OR 97204-1357

ZONE: I-P: Industrial Park Zone.

LOCATION: Land zoned Industrial Park (I-P).

APPLICABLE REVIEW

CRITERIA: Community Development Code Chapters 18.130, 18.380, 18.390 and 18.530; Comprehensive Plan Goals 1.1 and 9.1; Metro Urban Growth Management Functional Plan Sections 3.07.110 and 3.07.410; and Statewide Planning Goals 1, 2 and 9.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Planning Commission find in favor of the proposed text amendment allowing motor vehicle sales/rental in the Industrial Park zone with a condition that limits the permitted use to boats, and with any alterations as determined through the public hearing process, and make a final recommendation to the Tigard City Council.

SECTION III. BACKGROUND INFORMATION

The applicant owns and operates Northwest Ski and Wake Sports, LLC, which specializes in high-end water craft. The applicant presently operates in the Columbia Southshore area near the airport in Portland's "General Industrial 2" zone. The applicant intends to move their business to Tigard and entered a lease agreement for a building in the Industrial Park (I-P) zone that met the space and functional needs of their business. On learning the proposed use was not allowed in the I-P zone, the applicant applied for a text amendment to permit the use.

The applicant states that the business, with a "highly specialized market niche," defies easy categorization, that it is neither retail (low frequency of boat sales) nor industrial (no manufacture or distribution). The business does not require outdoor storage and is not land intensive. The current business includes 3,000 square feet of show room, 3,000 square feet for accessory sales, 2,000 square feet for office/internet sales, and 900 square feet for boat service. The proposed use on the subject site has similar space allocations. The applicant states they have struggled to find suitably zoned land in Tigard.

The applicant's business includes boat sales and servicing, retail accessory sales, and office. The I-P zone permits motor vehicle servicing (conditionally), sales oriented retail (if less than 20% of total development complex), and office uses. The City's Use Classifications includes boats in the definition of "Motor Vehicles Sales/Rental" which is not permitted in the I-P zone. Hence, the applicant has proposed the amendment to allow "motor vehicles sales/rental" in the I-P zone for the boat sales portion of the business.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

Tigard Development Code Section 18.380.020, Legislative Amendments to this Title and Map, states that legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

The proposed text amendment would apply to the subject property and all other I-P zoned lands within the City. Therefore, the amendment will be reviewed under the Type IV legislative procedure as set forth in the chapter. This procedure requires public hearings by both the Planning Commission and City Council.

Section 18.390.060.G establishes standard decision-making procedures for reviewing Type IV applications. 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.

Findings and conclusions are provided below for the five listed factors on which the recommendation by the Commission and the decision by the Council shall be based.

STATEWIDE PLANNING GOALS AND GUIDELINES

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390. A notice was mailed to all property owners within 500 feet of the project site and the notice was additionally published in the Tigard Times newspaper prior to the hearing. After the Planning Commission public hearing, additional notice will be published prior to the City Council hearing. Two public hearings are held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework.

The Department of Land Conservation and Development (DLCD) has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and standards to review changes to the Comprehensive Plan. As discussed within this report, the Development Code process and standards have been applied to the proposed amendment.

Statewide Planning Goal 9 – Economic Development:

This goal seeks to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The Department of Land Conservation and Development (DLCD) has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City's Comprehensive Plan Economic Development goal and policies is discussed later in this report.

FINDING: Based on the analysis above, staff finds that the proposed text amendment is consistent with applicable Statewide Planning Goals.

FEDERAL OR STATE STATUTES AND REGULATIONS

The applicant cites the **State Transportation Planning Rule (OAR 660-012-0060)** which requires evidence that the proposed plan amendment will not significantly affect a transportation facility. The applicant identifies the difficulty in using the ITE Manual to estimate the trips that would be generated by the "niche" business, but concludes "the use would have a very low traffic flow."

The City has concerns about capacity at the intersection of 74th Avenue with Durham Road (adjacent to the subject property). The City is concerned that the proposed development could increase the volume of traffic traveling to and from the site, which could lead to capacity issues at the Durham/74th intersection.

The City's Engineering department suggests that the applicant be required to provide trip generation information (such as counts from similar existing uses or a more detailed trip generation analysis) to show that either a) the proposed use would generate less traffic than current uses, or b) if the proposed use would increase trip generation, that there would be adequate capacity at the intersection of Durham Road with 74th Avenue to accommodate this additional traffic.

FINDING: Based on the analysis above, staff finds that approval of the proposed text amendment may result in adversely affecting a transportation facility adjacent to the subject site. However, it is unclear whether the effects would be "significant" enough to be inconsistent with State Transportation Planning Rule in this case, or cumulatively, if applied throughout the I-P zone. Facts have not been provided which conclusively indicate whether there would or would not be a significant affect on a transportation facility.

METRO

The Urban Growth Management Functional Plan provides tools that help meet goals in the 2040 Growth Concept, Metro's long-range growth management plan. Title 4, Industrial and Other Employment Areas, places restrictions on certain uses in the three designations on the 2040 Growth Concept Map: Regionally Significant Industrial Areas, Industrial Areas, and Employment Areas.

3.07.430 Protection of Industrial Areas. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project . . .

3.07.440 Protection of Employment Areas. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

According to Metro's Title 4 Industrial and Employment Land map, the City of Tigard has no "regionally significant industrial areas," some "industrial areas," and mostly "employment areas." Metro's "Industrial Areas" within the City correlate with approximately half of Tigard's "Industrial Park" zone. Metro's "employment areas" within the City include some or all of Tigard's heavy, light, and industrial park zones, and some general commercial, mixed use employment, and mixed use commercial zones.

The applicant's proposed amendment to permit motor vehicle sales/rental in the I-P zone would apply to all of the lands within the City zoned Industrial Park. Industrial Park is comprised of both Metro's industrial and employment areas. Protections of these Metro areas aim to ensure that commercial uses serve primarily the needs of workers in "Industrial Areas" and the needs of businesses, employees and residents of the "Employment Areas." The proposed use, in this case, for a "niche market" of upscale boat owners, would likely be regional in scope. In general, the proposed amendment to permit motor vehicle sales/rental, limited to 20% of a development complex and contained within a building, may be consistent in terms of size of allowed commercial uses, but unlikely that the type would serve only local markets.

FINDING: Based on the analysis above, staff finds that the proposed text amendment may be inconsistent with applicable Metro code which limits expansion of commercial uses in industrial and employment areas to a type and size of use that would serve local markets.

TIGARD COMPREHENSIVE PLAN

Comprehensive Plan Goal 1: Citizen Involvement

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

The City has mailed notice of the Planning Commission hearing to interested citizens and agencies. The City published notice of the Planning Commission hearing December 18, 2008. After the Planning Commission public hearing, additional notice will be published prior to the City Council hearing. Two public hearings are held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided.

With these public involvement provisions, the proposed zone change is consistent with applicable Citizen Involvement policies.

Comprehensive Plan Goal 2: Land Use Planning

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

Applicable polices under this goal relate to amendments to Tigard's Comprehensive Plan/Zone Map and not to amendments to the Development Code text. The applicant does not propose an amendment to Comprehensive Plan/Zone Map. Therefore, this Goal does not specifically apply to the proposed text change.

Comprehensive Plan Goal 9: Economic Development

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

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

Northwest Ski and Wake Sports is a family owned and operated business that likely provides family wage jobs for its owners and perhaps to its employees. The City should actively encourage this business and others to locate in Tigard.

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

The proposed motor vehicle sales/rental use is currently not allowed in the I-P zone. The applicant sees an economic development opportunity in an existing building within the I-P zone and seeks to amend the code to accommodate the use and limit the impacts through size and location restrictions. In this case, the required infrastructure is existing.

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

The proposed amendment would permit an additional use in the I-P zone. As described above, the City's I-P zoned lands are in both Metro's Employment and Industrial Areas. The proposed amendment would allow the applicant to utilize a vacant property, consistent with this policy.

Policy 7: The City shall limit the development of retail and service land uses in Metro-designated industrial areas to preserve the potential of these lands for industrial jobs.

The proposed motor vehicle sales/rental use would be permitted within a Metro-designated industrial area, but would be limited in size and contained within a building. The policy does not prohibit retail uses but limits them to preserve the potential for industrial jobs.

FINDING: As shown in the analysis above, the Citizen Participation and Land Use goals have been satisfied. The economic development policies are designed, on the one hand, to promote economic activity, and on the other, to protect lands for industrial uses and jobs. Staff finds that the proposed text amendment is consistent with the applicable goals and policies contained in the Tigard Comprehensive Plan.

APPLICABLE PROVISIONS OF THE TIGARD DEVELOPMENT CODE

Section 18.530, Industrial Zoning Districts, establishes procedures and criteria for development within industrial zoning districts. Pursuant to Section 18.530.010, the purposes of these regulations are to:

Provide range of industrial services for City residents. One of the major purposes of the regulations governing development in industrial zoning districts is to ensure that a full range of job opportunities are available throughout the City so that residents can work close to home if they choose. The location of land within each industrial district must be carefully selected and design and development standards created to minimize the potential adverse impacts of industrial activity on established residential areas.

Facilitate economic goals. Another purpose of these regulations is to ensure that there is a full range of economic activities and job opportunities within the City limits, in compliance with the economic goals of the City of Tigard Comprehensive Plan.

"Motor Vehicles Sales/Rental" is otherwise allowed in the I-L and I-H zones, but "Sales-Oriented" retail is not. All aspects of the business would be permitted in the C-G, CBD (conditionally), MUE and MUR (restricted to accessory uses within a building). The applicant could site their business in other zones within the City while preserving the I-P zoned lands for industrial uses.

Section 18.530.020, List of Zoning Districts, describes the Industrial Park District: the I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odor, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well-integrated, attractively landscaped, and pedestrian-friendly.

Pursuant to Section 18.130.020.C.5.a, "Motor Vehicle Sales/Rental" includes car, light and heavy truck, mobile home, boat and recreational vehicle sales, rental and service. This use is currently permitted in four zones as indicated above. However, if as proposed, the use is limited to 20% of a development and located within a building (no off-site impacts), the use would be consistent with the "small scale commercial use . . . in a campus setting" that characterizes the I-P zone.

The proposed text amendment is shown below:

DCA2008-00004
CODE AMENDMENT

Explanation of Formatting

This text amendment employs the following formatting:

[**Bold**] – Text to be added

[~~Strikethrough~~] – Text to be removed

TABLE 18.53O.1
USE TABLE: INDUSTRIAL ZONES

USE CATEGORY	I-P	I-L	I-H
Motor Vehicle Related			
Motor Vehicle Sales/Rental	N R ^{2,4}	P	P

² These limited uses, separately or in combination, may not exceed 20% of the entire square footage within a development complex. No retail uses shall exceed 60,000 square feet of gross leasable area per building or business.

⁴ Permitted if all activities, except employee and customer parking, are wholly contained within a building(s).

A restricted (R) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions. A prohibited (N) use is one which is not permitted in a zoning district under any circumstances.

FINDING: Based on the analysis above, staff finds that the proposed text amendment is consistent with the applicable provisions of the Tigard Development Code.

SECTION V. STAFF ANALYSIS

METRO Code

Pursuant to 3.07.430, Protection of Industrial Areas, "cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses." The City already limits commercial uses in the I-P zone for such permitted uses as eating and drinking establishments, retail sales and personal services, and bulk sales. The applicant's proposed amendment would add an additional use with similar size and location limitations. The Planning Commission should consider whether the proposed use would otherwise compromise the intended use of industrial-zoned lands for industrial purposes.

Department of Motor Vehicles (DMV) Regulations

If limited "motor vehicle sales" is permitted in the I-P zone, the sale of cars, as well as boats (as in this case), would be permitted. The City has experience with car "dealers" wanting to open offices to practice their trade. The City has a practice of denying these dealerships as "office" uses because enforcing the indoor-only use restriction (for Home Occupation Permits) has proved problematic. The City Staff Memo on DMV Dealer Applications, dated August 26, 2008, outlines the potential conflict and enforcement issues associated with DMV dealer licensing and the location approval requirements requiring local zoning official sign-off. Essentially, if the City signs the DMV dealer license form, the City is approving "displays of vehicles for sale" at the business location.

The Planning Commission should consider whether permitting the proposed use, even though limited in size and location, could unnecessarily cause a tangle of enforcement situations if outdoor display or storage of motor vehicles regulated by the DMV occurs. One way to avoid this complication would be to restrict the use to boat sales only, which do not require DMV licensing.

Notes:

DMV regulates the sales of motor vehicles as defined in ORS 801.590: "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and includes vehicles that are propelled or powered by any means. "Vehicle" does not include a manufactured structure.

The City's Use Classifications (18.130.020.C.5.a) defines "motor vehicle sales/rental" to include car, light and heavy truck, mobile home, boat and recreational vehicle sales, rental and service.

SECTION VI. ALTERNATIVES TO APPROVAL

No Action – the code would remain unchanged, and Motor Vehicle Sales/Rental would continue to be prohibited in the I-P zone.

Expanded Action – Permit Motor Vehicle Sales/Rental in the I-P zone with no size restrictions.

Alternate Actions – further restrict the use to include boats only and/or further restrict the percentage of a building that could be allocated to the use.

SECTION VII. ADDITIONAL CITY STAFF & OUTSIDE AGENCY COMMENTS

The City of Tigard Long Range Division was notified of the proposed code text amendment but did not comment.

The City of Tigard Engineering Department reviewed the applicant's proposal and provided the following comments:

One issue of concern is the potential generation of additional traffic by the proposed use. The City has concerns about capacity at the intersection of 74th Avenue with Durham Road (adjacent to the subject property). The City is concerned that the proposed development could increase the volume of traffic traveling to and from the site, which could lead to capacity issues at the Durham/74th intersection.

In the Applicant's Summary Notebook, the applicant correctly notes that the proposed use really does not fit within any of the categories of uses for which the Institute of Transportation Engineers (ITE) has collected data in its Trip Generation manual. The applicant compares perhaps the closest use (New Car Sales), which would generate 33.34 trips per thousand square feet of floor area, with a use allowed by current zoning (Office Park), which would have a trip generation rate of 11.42. The applicant then speculates that, because the proposed use would be required to be wholly indoors, it would generate less traffic than currently allowed. While this could be true, the applicant's statements do not provide sufficient information to make this finding.

Therefore, if the Planning Commission elects to recommend approval to the City Council, staff recommends that as a condition of approval, the applicant should be required to provide trip generation information (such as counts from similar existing uses or a more detailed trip generation analysis) to show that either a) the proposed use would generate less traffic than current uses, or b) if the proposed use would increase trip generation, that there would be adequate capacity at the intersection of Durham Road with 74th Avenue to accommodate this additional traffic.

METRO, ODOT, and DLCD were notified of the proposed code text amendment but provided no comment.

Gary Pagenstecher by [Signature]
PREPARED BY: Gary Pagenstecher
Associate Planner

December 18, 2008
DATE







[Signature]
APPROVED BY: Dick Bewersdorff
Planning Manager

December 18, 2008
DATE

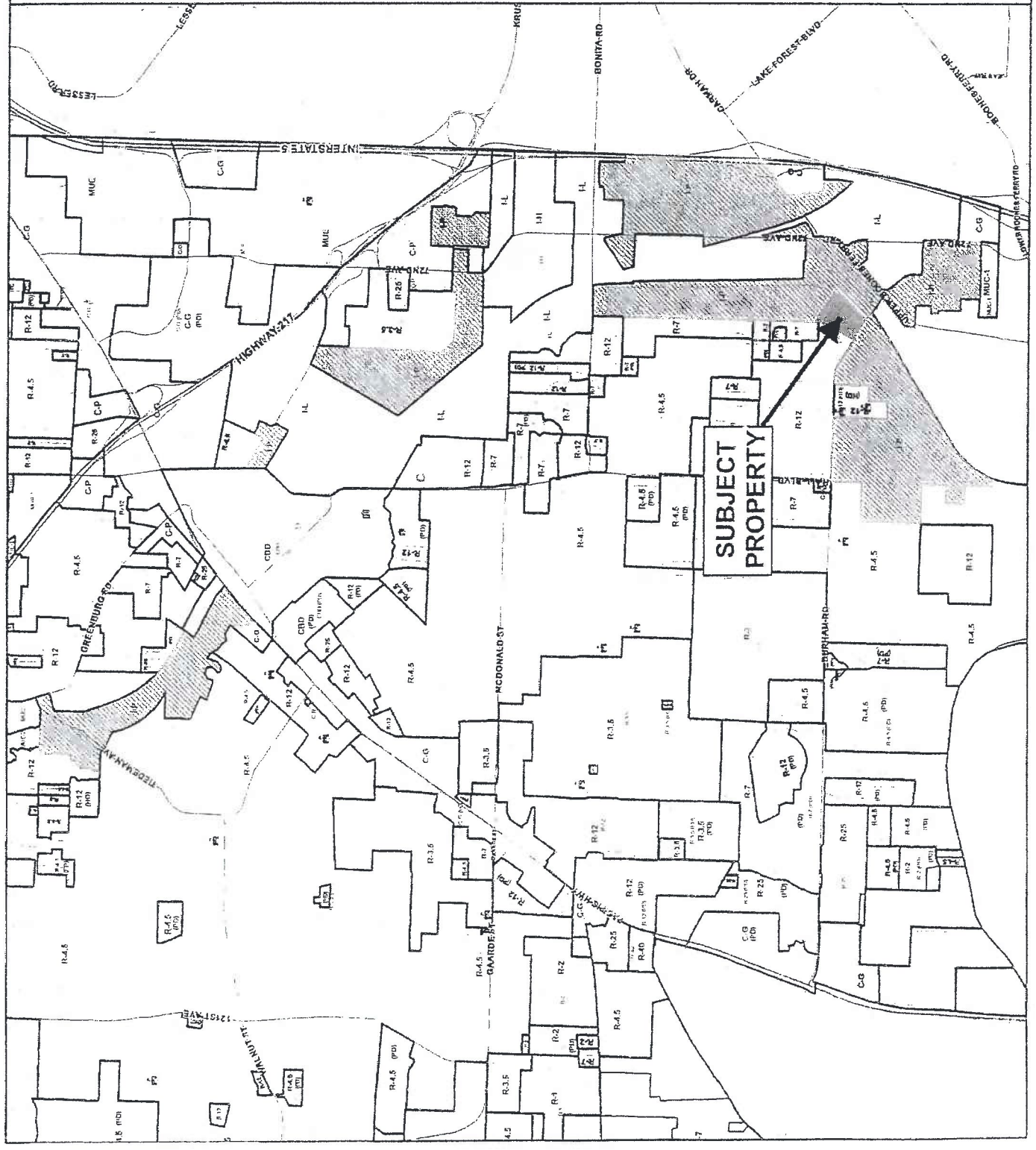
Attachments:

1. Vicinity Map of all I-P Zones in the City of Tigard
2. Vicinity Map of Metro Title 4 Industrial and Employment Land

DCA2008-00004
**MOTOR VEHICLE
 SALES IN THE
 I-P ZONE**
 City of Tigard
 Oregon

-  Subject Zones
-  Zoning Boundaries
-  Highway
-  Arterial
-  Street
-  Tigard City Limits

For information regarding this map, please contact the City of Tigard Planning Department at 503.325.4400 or visit our website at www.tigard.or.gov.
 This information is provided for informational purposes only and does not constitute an offer of insurance or any other financial product. Please contact your insurance agent for more information.



Metro Title 4 Designations

City of Tigard
Oregon



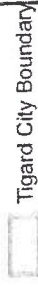
Tigard I-P Zone

Metro Title 4



Employment areas

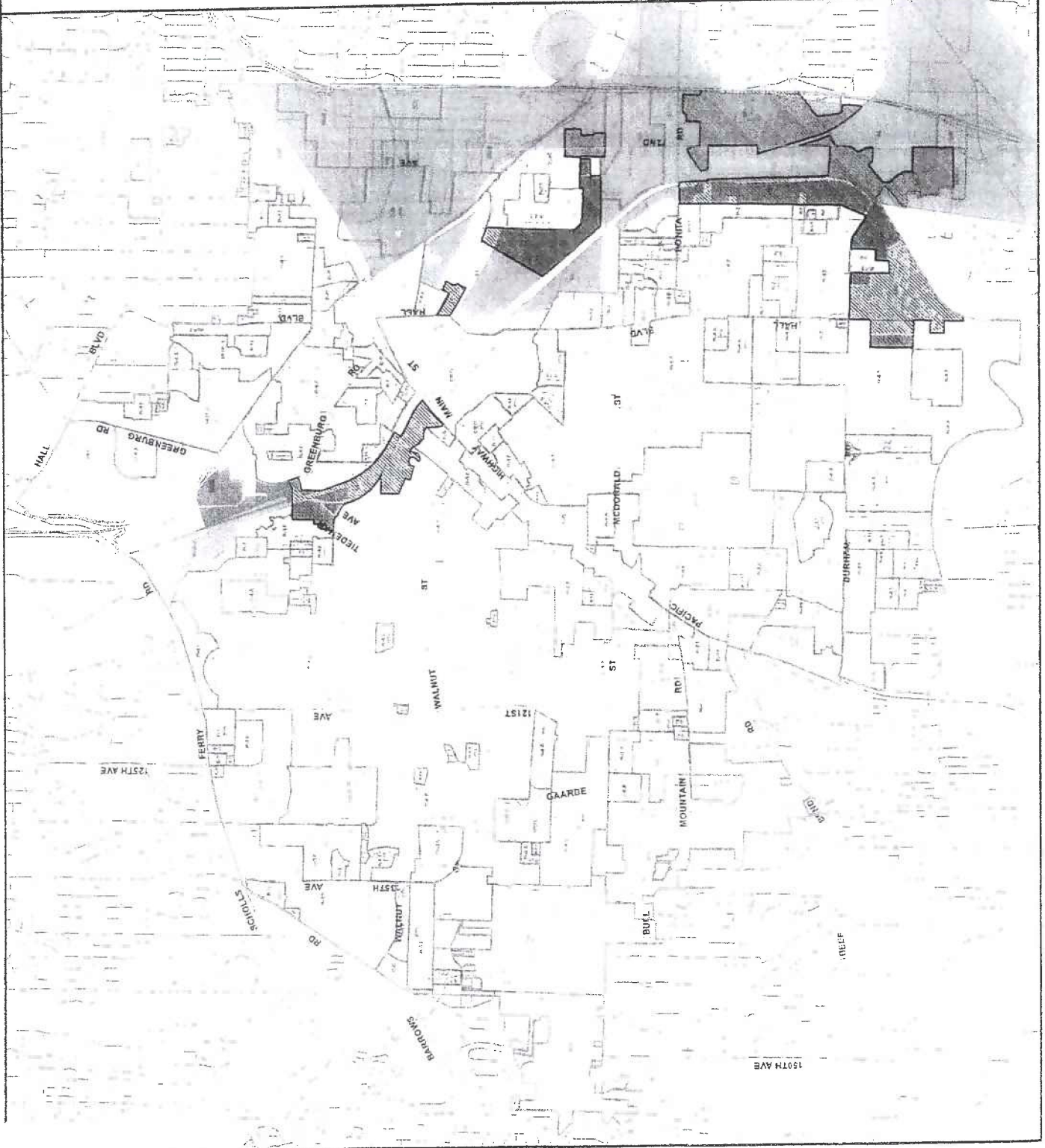
Industrial areas



Tigard City Boundary

** The information represented on this map is current as of December 31, 2008. Revisions will be made as new designations or amendments occur to alter the content of the map.

City of Tigard
11000 SW 10th Street
Tigard, Oregon 97138
503.338.2200
www.cityoftigard.com



Summary Notebook

Prepared
for
City of Tigard

Zoning and Photos

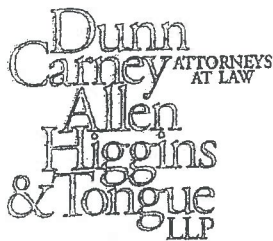
Subject Property
16055 SW 74th Avenue, Tigard, Oregon 97224

RECEIVED

NOV 03 2008

CITY OF TIGARD
PLANNING/ENGINEERING





October 3, 2008

TY K. WYMAN

DIRECT DIAL
503.417.5478

E-MAIL
tkw@dunn-carney.com

ADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
.97204-1357

Phone 503.224.6440
Fax 503.224.7324

INTERNET
www.dunn-carney.com

VIA MESSENGER

City of Tigard Permit Center
13125 SW Hall Blvd.
Tigard, OR 97223

Re: Bruce & April Berg Land Use Application
Our File No. BER33-4

To Whom It May Concern:

This firm represents Bruce & April Berg, dba NW Ski & Wake Sports, LLC. The Bergs herewith make application for an amendment to the text of the development code. In support of the application, we enclose the following:

- o completed Land Use Permit Application form, signed by the Applicant (three copies);
- o completed Basic Submittal Requirements form (three copies);
- o narrative statement explaining the proposed amendment and how it complies with the applicable criteria (three copies);
- o copy of the notes of the Berg's pre-application conference (three copies);
- o as-built plans of the property leased by the Bergs (three copies);
- o vicinity map (three copies);
- o check from the Bergs in the amount of \$3,493 to cover the filing fee.

Thank you for your assistance. Please let us know as soon as possible any additional information that you need to review the application.

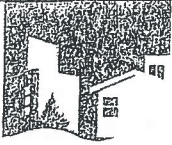
Sincerely yours,

Ty K. Wyman

TKW:lbs
Enclosures

cc: Bruce & April Berg ✓





CITY OF TIGARD PLANNING DIVISION LAND USE PERMIT APPLICATION

City of Tigard Permit Center 13125 SW Hall Blvd., Tigard, OR 97223
Phone: 503.639.4171 Fax: 503.598.1960

File # Other Case #
 Date By Receipt # Fee Date Complete

TYPE OF PERMIT YOU ARE APPLYING FOR

- | | | |
|--|--|---|
| <input type="checkbox"/> Adjustment/Variance (I or II) | <input type="checkbox"/> Minor Land Partition (II) | <input type="checkbox"/> Zone Change (III) |
| <input type="checkbox"/> Comprehensive Plan Amendment (IV) | <input type="checkbox"/> Planned Development (III) | <input type="checkbox"/> Zone Change Annexation (IV) |
| <input type="checkbox"/> Conditional Use (III) | <input type="checkbox"/> Sensitive Lands Review (I, II or III) | <input checked="" type="checkbox"/> Zone Ordinance Amendment (IV) |
| <input type="checkbox"/> Historic Overlay (II or III) | <input type="checkbox"/> Site Development Review (II) | |
| <input type="checkbox"/> Home Occupation (II) | <input type="checkbox"/> Subdivision (II or III) | |

LOCATION WHERE PROPOSED ACTIVITY WILL OCCUR (Address if available)

16055 SW 74th Ave., Tigard, OR 97224

TAX MAPS & TAX LOT NOS.

2S113AB Tax Lot 00800

TOTAL SITE SIZE

6.52 acres

ZONING CLASSIFICATION

I-P

APPLICANT*

Bruce and April Berg - Northwest Ski & Wake Sports, LLC

MAILING ADDRESS/CITY/STATE/ZIP

2801 NE Riverside Way, Suite 200, Portland, OR 97211

PHONE NO.

503.281.1510

FAX NO.

503.281.3160

PRIMARY CONTACT PERSON

April Berg

PHONE NO.

503.708.0600 or 503.281.1510

PROPERTY OWNER/DEED HOLDER (Attach list if more than one)

John and Janice Duncan

MAILING ADDRESS/CITY/STATE/ZIP

9929 NW Upton Court, Portland, OR 97229

PHONE NO.

503.297.9026

FAX NO.

503.297.9029

*When the owner and the applicant are different people, the applicant must be the purchaser of record or a lessee in possession with written authorization from the owner or an agent of the owner. The owners must sign this application in the space provided on the back of this form or submit a written authorization with this application.

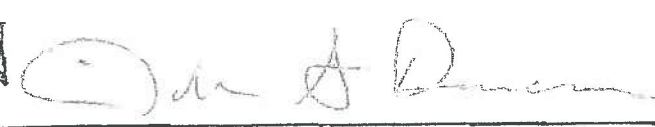
PROPOSAL SUMMARY (Please be specific)

APPLICATIONS WILL NOT BE ACCEPTED WITHOUT ALL OF THE REQUIRED SUBMITTAL ELEMENTS AS DESCRIBED IN THE "BASIC SUBMITTAL REQUIREMENTS" INFORMATION SHEET.

THE APPLICANT SHALL CERTIFY THAT:

- ◊ If the application is granted, the applicant shall exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval.
- ◊ All the above statements and the statements in the plot plan, attachments, and exhibits transmitted herewith, are true; and the applicants so acknowledge that any permit issued, based on this application, may be revoked if it is found that any such statements are false.
- ◊ The applicant has read the entire contents of the application, including the policies and criteria, and understands the requirements for approving or denying the application(s).

SIGNATURES OF EACH OWNER OF THE SUBJECT PROPERTY ARE REQUIRED.



Owner's Signature

10/3/08

Date

Owner's Signature

Date

Owner's Signature

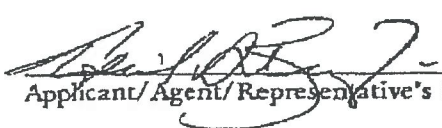
Date

Owner's Signature

Date

Owner's Signature

Date

 *BRUCE M. BERRY*
Applicant/ Agent/ Representative's Signature

10/3/08

Date

Applicant/ Agent/ Representative's Signature

Date

12 8 80

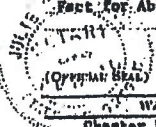
502

WARRANTY DEED - STATUTORY FORM
 CHESTER R. FYLE, JR. and MARIAN E. FYLE, T by E, as to an undivided one-third interest,
 MARGARET E. FYLE as to an undivided one-third int, GEROGE W. FYLE & MELVODINE, T by J Grantor,
 conveyers and warrants to JOHN ARTHUR DUNCAN and JANICE LEE DUNCAN, husbands and wife
 Grantor, the following described real property free of encumbrances
 except as specifically set forth herein situated in Washington County, Oregon, to-wit:

W-2

A certain mill lot in Sections 12 and 13 in Township 2 South, Range 1 West of the Willamette Meridian, and said tract being in Washington County, Oregon, bounded by and beginning at a point on the Section line 38.62 chains East of the Northwest corner of Section 13, Township 2 South, Range 1 West of the Willamette Meridian; thence South 26° West 4.90 chains to a stake on the bank of the (Mill) creek (generally called Fanno Creek) in the edge of the road; thence South 54°30' East 5.45 chains, more or less, to a stake in the center of the road; thence North 46°30' East 8.32 chains to a stake in the center of the road; thence North 12° West 1.61 chains to a stake near mill race; thence North 54°5' East 75 links to a stake near Mill Pond; thence North 38°15' West 6 chains, more or less, to a fir snag five feet in diameter; thence South 26° West 4.83 chains to the place of beginning.

Done this 12 day of November, 1980.
 X: CHESTER R. FYLE, JR. Attorney
 X: MARGARET E. FYLE, Attorney
 STATE OF OREGON, County of Clackamas.
 Personally appeared the above named Chester R. Fyle, Jr. as an individual and Attorney in Fact for Above named parties, and acknowledged the foregoing instrument to be his voluntary act and deed.
 Before me: Julie M. Carlson
 Notary Public for Oregon - My commission expires 4-13-82



WARRANTY DEED

Chester R. Fyle, Jr. et al

John Arthur Duncan
 Janice Lee Duncan

After recording return to:
 Mr. & Mrs. Duncan
 16035 SW 74th Ave
 Tigard, Oregon 97223

NAME ADDRESS, ZIP

Send a change in requested, all tax statements shall be sent to the following address:
 Same as Above

RE: 229780-8 10
 HUNT, PUGH & CO.

STATE OF OREGON
 County of Washington

ROGER THOMASSEN, Director of Records and Elections and Ex-Officio Recorder of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in book of records of said county.

ROGER THOMASSEN, Director of Records & Elections

1980 DEC - 0 PM 12:45

HILLSBORO

Dec 8, 1980

CITY OF TIGARD
 LAND USE APPLICATIONS
 BASIC SUBMITTAL REQUIREMENTS

Date: 10/3/08
 Project: Berg

**APPLICATIONS WILL NOT BE ACCEPTED IN PARTIAL SUBMITTALS.
 ALL ITEMS MUST BE SUBMITTED AT ONE TIME.**

- Include this form with submittal packet. The applicant must check the box next to the item verifying that the information is present. Staff will check off the items at intake.
- Three copies of all materials are required for the initial review process. The balance of the copies will be requested once your submittal is deemed complete.
- Each packet must be collated.
- Plans are required to be a minimum of 24" x 36".
- Plans must be FOLDED, rolled plans are not accepted.

Applicant	Staff	Documents, Copies and Fees Required
✓		Completed Master "Land Use Permit" Application with property owner's signature or name of agent and letter of authorization
n/a		Title transfer instrument or grant deed
✓		Written summary of proposal
✓		Narrative demonstrating compliance with all applicable development standards and approval criteria (as specified in the Pre- Application Conference notes)
n/a		Documentary evidence of Neighborhood Meeting: Neighborhood Meeting Affidavits of Posting & Mailing Notice, Minutes, Sign-in Sheets
n/a		Service Provider Letter
n/a		Impact Study per Section 18.390.040.B.2(e)
✓		Copy of the Pre-Application Conference notes
✓		Filing Fee (see fee schedule)
n/a		Preliminary Sight Distance Certification
n/a		Preliminary Storm Calculations
n/a		Arborist Report
n/a		Traffic Report (if Required)
✓		Maps or Plans (Plans must be at least 24" x 36")
✓		Architectural Drawings (elevations & floor plans)
✓		Existing Conditions Map
n/a		Landscape Plan
n/a		Preliminary Grading/Erosion Control Plan
n/a		Preliminary Partition/Lot Line Adjustment Plan
n/a		Preliminary Storm Drainage Plan
n/a		Preliminary Utilities Plan
n/a		Public Improvements/Streets Plan
n/a		Site Development Plan
n/a		Subdivision Preliminary Plat Map
✓		Topography Map
n/a		Tree Preservation/Mitigation Plan
✓		Vicinity Map

- Once your application has been deemed complete you will be notified by the Planning Division in the form of a completeness letter indicating that you will need to provide the following:

Two (2) sets of stamped, addressed # 10 envelopes for all owners of property within 500 feet of the subject property (the 2 sets must remain separated for the purpose of 2 mailings). Mailing envelopes shall be standard legal-size (# 10), addressed with 1" X 4" labels (please see envelope submittal requirements). Property owner mailing lists must be prepared by the City for a minimal fee (please see request for 500' property owner mailing list form).

BEFORE the CITY of TIGARD, OREGON
APPLICATION for CODE TEXT AMENDMENT
By Bruce & April Berg
Applicant's Narrative (October 3, 2008)

The Applicant

The Applicant owns and operate Northwest Ski and Wake Sports, LLC, which specializes in high end water craft. This business defies easy categorization. It is not retail; given its highly specialized market niche, the Applicant does well to sell one boat a week. Also, retail commercial buildings do not have sufficient door width or ceiling height to accommodate the boats.

Nor is the Applicant's use industrial. It does not manufacture and/or distribute to wholesalers. Also, because it requires no outdoor storage, it is not land intensive.¹ As something of a tweener use, the Applicant has struggled to find suitably zoned land in the City.

The Applicant's Proposal

The Applicant asks the City to amend the text of Table 18.530.1 of the Community Development Code as shown on Exhibit A hereto. This amendment would allow "motor vehicle sales/rental" in the IP zone, provided (a) such operation takes place wholly within an enclosed building and (b) does not exceed 20% of the floor area of the given development complex.

Process

As a Type IV Zoning Ordinance Amendment, this application is governed by provisions of CDC Chapters 18.130, 18.380, 18.390, and 18.530. The balance of this narrative sets forth the approval criteria and our responses to them.

¹ The Applicant presently operates in the Columbia Southshore area, near the airport in Portland's "General Industrial 2" zone. Its business consists of the following components:

- o Boat show room (approximately 3,000 sq.ft.);
- o Boat accessory sales (approximately 3,000 sq.ft.);
- o Office/internet sales area (approximately 2,000 sq.ft.); and
- o Boat service (approximately 900 sq.ft.).

In the boat show room, there will be approximately 5 to 10 boats in the interior show room area. The boats range in price from \$35,000 to \$85,000.

CDC Chap. 18.380

Under CDC § 18.380.020, legislative text amendments (such as the instant application) are governed by CDC § 18.390.060.G.

CDC § 18.390.060.G:

The Statewide Planning Goals and Guidelines

Of Statewide Goals, the Applicant finds only the Transportation Planning Rule (specifically, OAR 660-012-0060) applicable to this proposal. The TPR requires evidence that, assuming reasonable "worst-case" development thereunder, the proposed plan amendment will not "significantly affect" a transportation facility. Under *Mason v. City of Corvallis*, 49 Or LUBA 199 (2005), such an affect can exist only where the proposal would increase the number of vehicle trips that development of the property will likely generate.

The threshold question here, then, is whether reasonable worst case development under the motor vehicle sales/rental use category would increase the amount of traffic generated by such development. According to the ITE Manual, new trip ends to an office park would be 11.42 per day per thousand square feet of floor area. To be sure, a motor vehicle dealership would generate more trips (33.34). However, the attendant restrictions (all operations conducted indoors) make such a use infeasible in this zone. Even a car rental agency is infeasible under these conditions.

More likely in this circumstance is someone who sells large vehicles to serve industrial deliveries, keeping its inventory off-site. Any such use would have very low traffic flow. As evidence, the Applicant's present watercraft sales operation does most business by internet; indeed, during its slow season can go days with no foot traffic.

Any federal or state statutes or regulations

The Applicant identifies no federal or state statutes or regulations that apply.

Any applicable Metro regulations

In 1997 Metro adopted its Urban Growth Management Functional Plan, codified as Metro Code Chap. 3.12. Title 4 of that plan sets forth criteria that govern comprehensive plan amendments affecting designated Industrial land. That provision restricts only the following uses:

"retail commercial uses – such as stores and restaurants – and retail and professional services that cater to daily customers – such as financial, insurance, real estate, legal, and medical and dental offices."

As noted above, the Applicant's business is not retail, certainly does not "cater to daily customers." Furthermore, CDC Table 18.530.1 does not list motor vehicle sales/rental among the General Retail use categories. Rather, it lists the use within the Motor Vehicle Related category.

Thus, the proposed amendment does not violate Metro Title 4.

Any applicable comprehensive plan policies

The City adopted its comprehensive plan under the Statewide Planning Goals in 1983. Three plan policies bare directly on this proposal:

- Economic Development Policy 9.1.3: *"The City's land use and other regulatory practices shall be flexible and adaptive to promote economic development opportunities, provided that required infrastructure is available."*
- Economic Development Policy 9.1.5: *"The City shall promote well-designed and efficient development and redevelopment of vacant and underutilized industrial and commercial lands."*
- Economic Development Policy 9.1.7: *"The City shall limit the development of retail and service land uses in Metro-designated industrial areas to preserve the potential of those lands for industrial jobs."*

These policies speak to the tension inherent in the regional industrial land use policy. I.e., as the distinction between industrial and commercial blurs, where do we draw the line on allowed uses? Everyone can agree that computer chip manufacturing should be allowed on Industrial land and a discount superstore should not.

In this context, it is important to note that, as described above, the proposed text amendment complies with Metro's Title 4. The cited comp plan policies, however, raise a broader question. Given the nature of its landscape, a lot of low slung 1970's vintage industrial buildings, how does the City keep these buildings utilized in a way that does not undermine.

Not surprisingly, the Applicant believes that the proposed text amendment will help the City achieve this balance.

- The market speaks through this Application. The fact that this landlord found the Applicant to be the highest and best use of it space is substantial evidence that the IP zone in the City is underutilized.

The most recent (Q2 2008) report from Norris Beggs & Simpson bears this out. It shows a vacancy rate of about 13% in the industrial/flex market around Hwy

217. Recent macro-economic trends (*viz.*, tightening world credit markets) certainly do not portend this number to come down soon.

- According to the Comp Plan, "there has been no large scale encroachment of retail/office uses in industrial areas in Tigard." Thus, the City has, to this point, not drawn the industrial/commercial line too much in favor of the commercial. Now, the Applicant certainly does not mean to say "let's open the floodgates and freely allow a commercial land rush on the City's industrial zones." Nonetheless, this fact should give the City some comfort that the proposed amendment will not exacerbate any existing identified problem.
- The Comp Plan also says that "the City has little vacant industrial land available to attract new large scale industrial development." This suggests that enhancing the City's ability to increase its job base depends mainly on creating vacant industrial zoned land, rather than on maintaining use restrictions on existing development.

CDC § 18.530

This chapter describes the industrial zoning districts of the Code. Although the application seeks to amend the text of this chapter (Table 18.530), it does not set forth criteria that govern the subject application. However, the description of the I-P District does provide some relevant context.

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

The Applicant's use fits this description well. It is small in scale, creates no off-site impacts, and fits in well to a campus setting.

CDC § 18.130:

This chapter sets forth the Code's use categories. It does not set forth criteria that govern the application *per se*. Rather, it describes the "motor vehicle sales/rental" category.

DCAPDX_n506090_v1_Application_Narrative.doc

Proposed Amendments to
Development Code
Exhibit A to Application
of Bruce & April Berg
October 3, 2008

TABLE 18.530.1
USE TABLE: INDUSTRIAL ZONES

USE CATEGORY	I-P	I-L	I-H
RESIDENTIAL			
Household Living	R ¹	R ¹	R ¹
Group Living	N	N	N
Transitional Housing	N	N	N
Home Occupation	N	N	N
CIVIC (INSTITUTIONAL)			
Basic Utilities	C ¹⁰	C ¹⁰	P ¹⁰
Colleges	N	N	N
Community Recreation	C ¹⁹	C ¹⁹	C ¹⁹
Cultural Institutions	N	N	N
Day Care	R ³⁹	R ³⁹	R ³⁹
Emergency Services	P	P	P
Medical Centers	N	N	N
Postal Service	P	P	P
Public Support Facilities	P	P	P
Religious Institutions	N	N	N
Schools	N	N	N
Social/Fraternal Clubs/Lodges	N	N	N
COMMERCIAL			
Commercial Lodging	P	N	N
Eating and Drinking Establishments	R ²	N	N
Entertainment-Oriented			
- Major Event Entertainment	N	N	N
- Outdoor Entertainment	P	N	N
- Indoor Entertainment	P	N	N
- Adult Entertainment	N	N	N
General Retail			
- Sales-Oriented	R ²	N	N
- Personal Services	R ²	N	N
- Repair-Oriented	P	N	N
- Bulk Sales	R ^{4, ii}	N	N
- Outdoor Sales	N	P	P
- Animal-Related	P	P	P
Motor Vehicle Related			
Motor Vehicle Sales/Rental	NR ^{2,4}	P	P
Motor Vehicle Servicing/Repair	C	P	P
- Vehicle Fuel Sales	P	P/C ⁷	P
Office	P	N	N
Self-Service Storage	P	P	P
Non-Accessory Parking	P	P	P

Changes in
Additions in bold
Deletions in strike-through

TABLE 18.530.1
(CON'T)

<u>USE CATEGORY</u>	<u>I-P</u>	<u>I-L</u>	<u>I-H</u>
INDUSTRIAL			
Industrial Services	N	P	P
Manufacturing and Production			
- Light Industrial	P	P	P
- General Industrial	N	P	P
- Heavy Industrial	N	N	P
Railroad Yards	N	N	P
Research and Development	P	P	P
Warehouse/Freight Movement	N	P	P
Waste-Related	N	N	P
Wholesale Sales	R ⁴	P	P
OTHER			
Agriculture/Horticulture	P ⁵	P ⁵	P ⁵
Cemeteries	N	C	N
Detention Facilities	C	N	C
Heliports	C	C	C
Mining	N	N	P
Wireless Communication Facilities	P/R ⁶	P	P
Rail Lines/Utility Corridors	P	P	P
Other	NA	NA	P ⁸

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹A single-family detached dwelling or single-family mobile or manufactured home allowed for caretaker or kennel owner/operator when located on the same lot as the permitted use and is exclusively occupied by the caretaker or kennel owner/operator and family.

²These limited uses, separately or in combination, may not exceed 20% of the entire square footage within a development complex. No retail uses shall exceed 60,000 square feet of gross leasable area per building or business.

³In-home day care which meets all state requirements permitted by right.

⁴Permitted if all activities, except employee and customer parking, are wholly contained within a building(s).

⁵When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁶See Chapter 18.798, Wireless Communication Facilities, for definition of permitted and restricted facilities in the I-P zone.

⁷Vehicle fuel sales permitted outright unless in combination with convenience sales, in which case it is permitted conditionally.

⁸Explosive storage permitted outright subject to regulations of Uniform Fire Code. ⁹Day care uses with over 5 children are permitted subject to an Environmental Impact Assessment in accordance with

**Proposed Amendments to
Development Code
Exhibit A to Application
of Bruce & April Berg
October 3, 2008**

°Limited to outdoor Recreation on (1.) land classified as floodplain on City flood maps, when the recreational use does not otherwise preclude future cut and fill as needed in order to develop adjoining industrially zoned upland; and (2.) land located outside the floodplain as shown on City flood maps, when the Recreation Use is temporary and does not otherwise preclude allowed uses or Conditional Uses other than Recreation within the district.

These limited uses, shall only be allowed in IP zoned property east of SW 72nd Avenue. These uses, separately or in combination shall not exceed 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way. (Ord. 04-14)

PRE-APPLICATION NOTES
Bruce & April Berg, NW Ski and Wake Sports
September 23, 2008

STAFF PRESENT: Gary Pagenstecher

APPLICANT: Bruce & April Berg, NW Ski and Wake Sports

PROPERTY LOCATION: 16055 SW 74th Avenue.

TAX MAP/ LOT #: 2S1135AB00800

PROPOSAL DESCRIPTION:

To change the development code text for the I-P zone in Table 18.530.1 to allow motor vehicle sales as a permitted restricted (R) use (limited in size and contained wholly within a building.

COMP PLAN DESIGNATION: Industrial Park

ZONING: I-P

NEIGHBORHOOD MEETING

A neighborhood meeting is not required for the CDC text change.

NARRATIVE

Include a narrative that responds to the applicable review criteria. The narrative must contain the text of the applicable review criteria, findings of fact relative to each criterion, and a conclusion as to whether the criterion has been met.

(Note: the following list is intended to provide guidance in preparation of your application. Additional criteria may be identified dependant upon the nature of the specific application, or ~~as other issues are raised. In other words, this is not an exhaustive list of all criteria. It is the applicant's responsibility to ensure that all applicable standards are met.~~)

APPLICABLE REVIEW CRITERIA:

Zoning Map and Text Amendments 18.380.020

A. Legislative amendments. Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

18.390.060

Based on the information provided, the text amendment request will be a Type IV Process, with a public hearing before the planning commission. The Planning Commission then makes a recommendation to City Council to either approve the request as proposed, modify the request, or deny the request. A subsequent hearing (or hearings) is then held by the City Council.

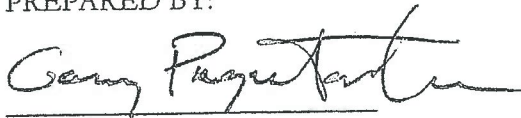
The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; [Goals 1) Public Involvement and 9) Economic Development]
2. Any federal or state statutes or regulations found applicable;
3. Any applicable METRO regulations; [Title 1 (Metro Code Sections 3.07.110 – 3.07.170) – Requirements for Housing and Employment Accommodation, Title 4 (Metro Code Sections 3.-07.410 – 3.07.440) – Industrial and Other Employment Areas]
4. Any applicable comprehensive plan policies; (Goals: 1) Public Involvement, and 9) Economic Development); and
5. Any applicable provisions of the City's implementing ordinances [TDC 18.130, 18.380, 18.390, and 18.530].

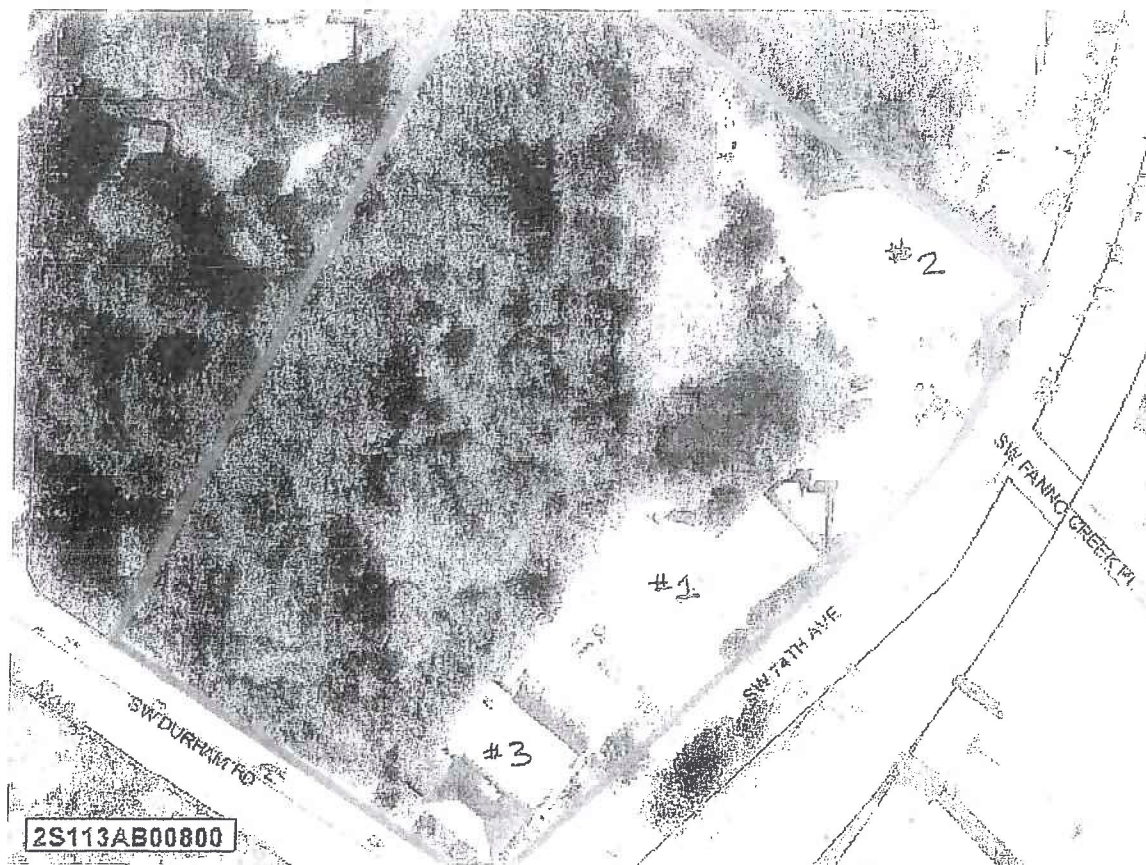
Application Fees for Zoning Text Amendment (Legislative): \$3,493.

Decision timeline is at least 4 months from receipt of a complete application. The 120-day rule is not applicable to legislative changes.

PREPARED BY:



Gary Pagenstecher
Associate Planner



Subject Property Complex

Building #1: 16055 SW 74th Av. 10,097 sq.ft.

Office / Reception / Internet / Service Area	2,900 sq.ft.
Boat Accessories / Sales	3000 sq.ft.
Boat Showroom	3000 sq.ft.
Service Area - Tenant B - Not NWSW	1,197 sq.ft.
<i>note: retail sq.ft. of 6,000 sq.ft. less then allowed 6,847 sq.ft. of retail</i>	

Building #2: 15995 SW 74th Av. 13,970 sq.ft.

Office / Flex Space / Loading / Service Area	13,970 sq.ft.
Retail Area	0 sq.ft.

Building #3: 16135 SW 74th Av. 10,168 sq.ft.

Office / Flex Space / Loading / Service Area	10,168 sq.ft.
Retail Area	0 sq.ft.

Total Complex Sq.Ft.: 34,235 sq.ft.

20% of Project Complex: 6,847 sq.ft.

PROJECT INFORMATION

OWNER/DEVELOPER: JOAN DUNCAN
 10800 PALMERWAY
 BEAVERTON OREGON 97007
 503/670-7133

ARCHITECT: JEFFREY L. JONES
 10800 PALMERWAY
 BEAVERTON OREGON 97007
 503/670-7133

ENGINEER: NIGOLI ENGINEERING INC
 3639 SW CENTER ST.
 TIGARD OREGON 97223
 503/675-2666

CONTACT: JEFF JONES

SITE INFORMATION

ADDRESS: 4285 SE 14th AVENUE
 1st INDUSTRIAL PARK

CURRENT ZONING: I-1 INDUSTRIAL PARK
CURRENT USE: VACANT LOT

PROPOSED USE: FIRST FLOOR WAREHOUSE
 SECOND FLOOR OFFICE

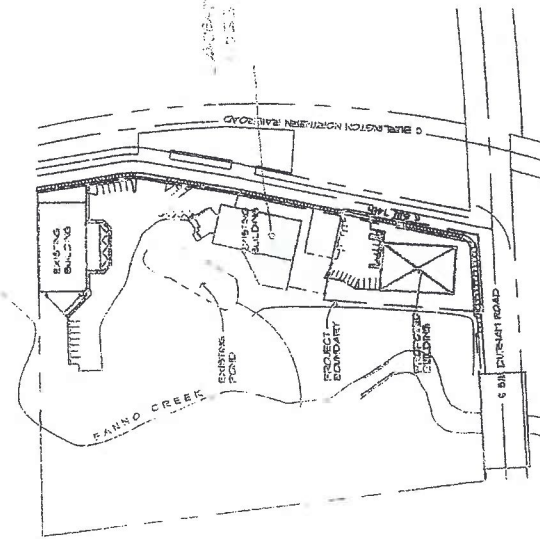
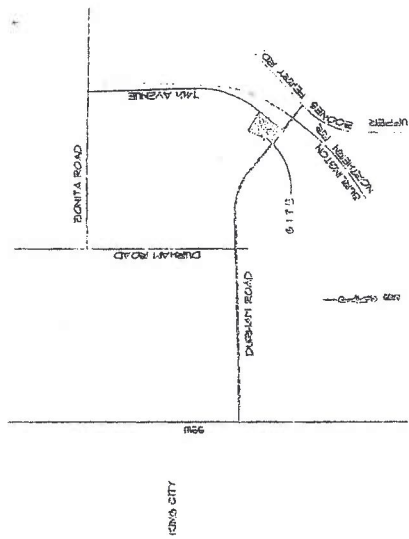
LEGAL DESCRIPTION: TAX MAP 281144D
 TAX LOT 569

SITE AREA: 5.1 ACRES
PROJECT BOUNDARY: 29,330 SF

BUILDING AREA: 1324 SF
ASPHALT PAVEMENT: 9990 SF
LANDSCAPING: 9340 SF
PARKING: 21 TOTAL
 STANDARD SPACES: 10
 ADA (HIC) SPACES: 1
 BICYCLE PARKING: 0

BUILDING INFORMATION

BUILDING CODE: 1991 IBC, 17 OREGON AMENDMENTS
BUILDING: 3 STORY
CONSTRUCTION TYPE: CONCRETE MASONRY UNIT
OCCUPANCY: B-1/F
CONSTRUCTION TYPE: V-A



OVERALL SITE PLAN

TAX MAP NO. 281144D
 TAX LOT NO. 569
 5.1 AC.

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- 00. GENERAL INFORMATION
- 01 COVER SHEET
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- 03 BUILDING CODE INFORMATION
- 10. SITE INFORMATION
- 11 SITE DEVELOPMENT PLAN
- 20. BUILDING PLANS
- 21 FLOOR PLAN
- 22 FOUNDATION PLAN
- 23 FOUNDATION PLAN
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- 32 FINISHING ELEVATIONS
- 40. BUILDING SECTIONS
- 41 SECTIONS
- 50. DETAILS
- 51 FOUNDATION DETAILS
- 52 STAIR AND BALCONY DETAILS

DESIGN LOADS

SOIL BEARING: 3000 PSF
FLOOR: DL-10 SF
ROOF: UNIFORM - 20 PSF
(WAREHOUSE / OFFICE): UNIFORM - 20 PSF
WIND: SEE PLANS
2nd FLOOR / OFFICE: DL - 15 PSF
1st FLOOR: DL - 15 PSF
PERMITTING: 20 PSF
WIND: 60 MPH / EXPOSURE B
SEISMIC: ZONE 3 / 1-10

DEFERRED PERMITS

- ELECTRICAL (LIGHTING)
- MECHANICAL AND PLUMBING
- CONTRACTORS ARE RESPONSIBLE FOR SECURING NECESSARY PERMITS AND/OR APPROVALS.

BUILDING PERMIT SET BUILDING SHELL

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
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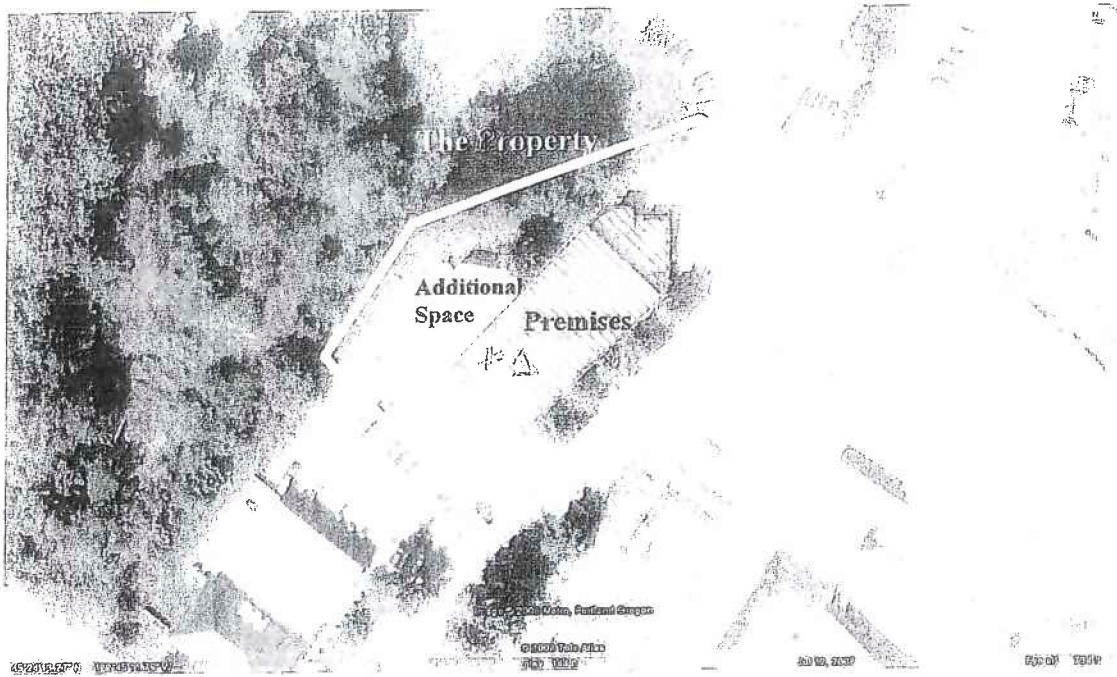
LEGIBILITY STRIP

Subject Property

Building #1:

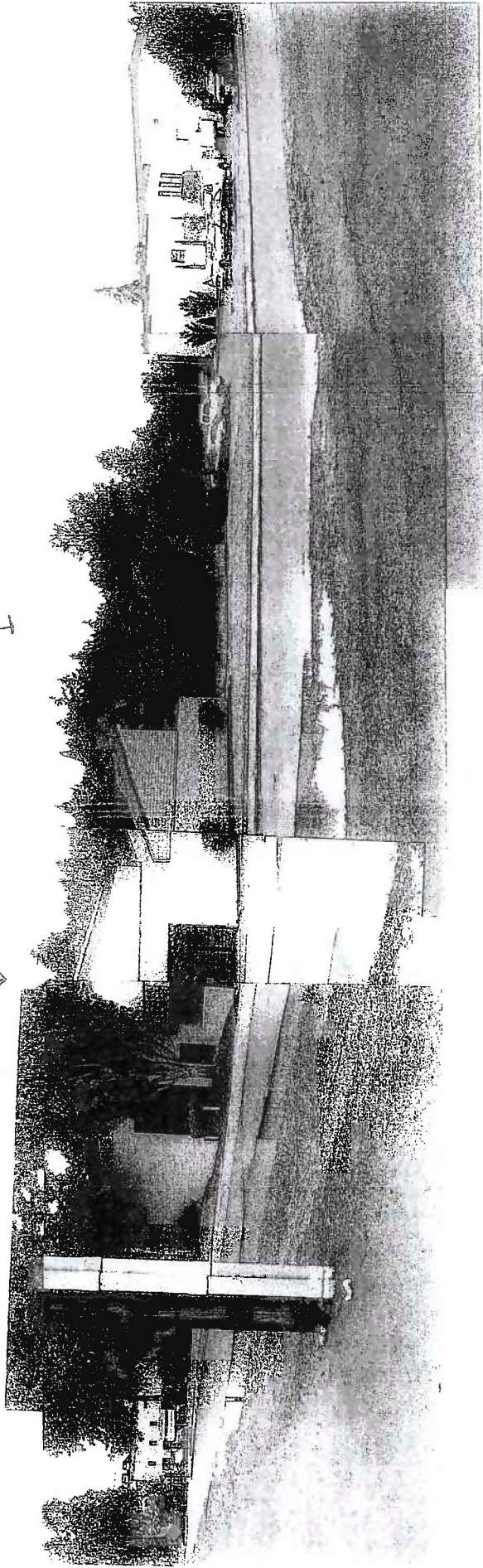
16055 SW 74th Av.

10,097 sq.ft.



Subject Property Complex

Middle Building



Sales Overview

Boat Accessories Sales:

- Life vests, ski ropes, handles, wakeboard and waterski sales
- Boat cleaner, boat products, filters,
- Apparel, decals, cups, key chains, hats,
- Wet suits, dry suits, gloves

Boat Sales and Service

- Approximately 5 to 10 boats in interior showroom area
- Service and seasonal maintenance of boats

Catalog and Internet Sales

- Life vests, ski ropes, handles, wakeboard and waterski sales
- Boat cleaner, boat products, filters,
- Apparel, decals, cups, key chains, hats,
- Wet suits, dry suits, gloves

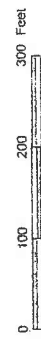
Staffing / Community Benefits

- Current staff of (5) employees - Forecast to increase staffing by 100%.
- High-End Products - Bring consumers into the Tigard Area with household incomes of \$150,000 to \$500,000.
- Majority of sales are from the internet/phone - Low traffic impact on transportation systems.
- Majority of sales are from the internet/phone - Impact of the proposed use of surrounding uses and public facilities is minimal.
- Improves current profile along 74th Avenue between Durham and Bonita. See enclosed photos.

Building Uses:

- Office / Reception Area - Approximately 1,700 sq.ft.
- Internet Sales Area - approximately 300 sq.ft.
- Boat Accessories / Sales - approximately 3,000 sq.ft.
- Boat Showroom - approximately 3,000 sq.ft.
- Boat Service - approximately 900 sq.ft.

VICINITY MAP
16055 SW 74TH



Information on this map is for general location only and should be verified with the Development Services Division.
 13125 SW Heit Blvd
 Tigard, OR 97223
 (503) 638-4171
<http://www.ci.tigard.or.us>

Zoning Districts City of Tigard Oregon

Zoning Classifications

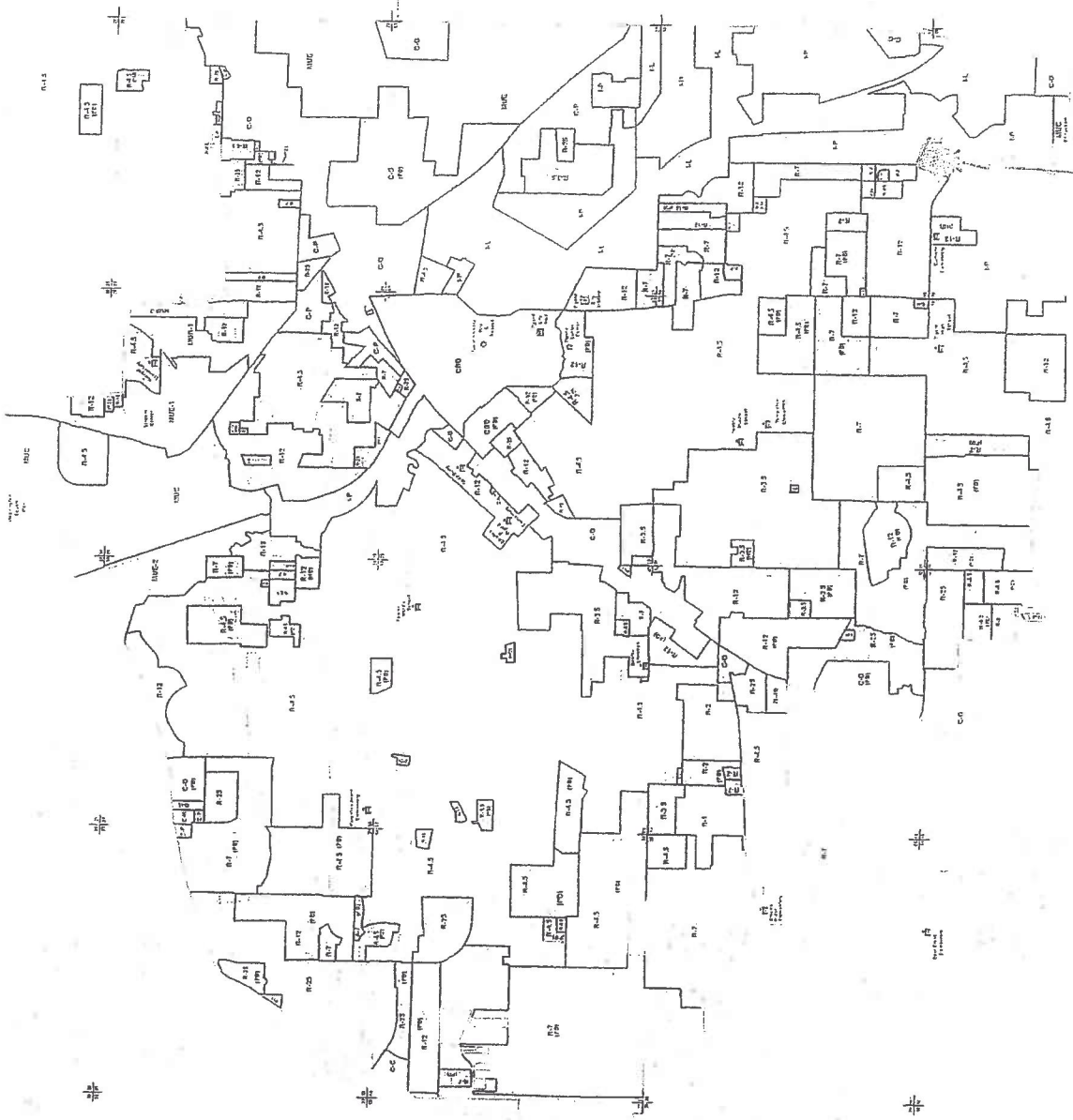
- C-C Community Commercial
- C-CA General Commercial
- C-N Neighborhood Commercial
- C-PC Professional Commercial
- CBD Central Business District
- HR Heavy Industrial
- LI Light Industrial
- I-P Industrial Park
- IMC Mixed Use Commercial
- IME Mixed Use Employment 1
- IME-1 Mixed Use Employment 1
- IME-2 Mixed Use Employment 2
- MUR-1 Mixed Use Residential 1
- MUR-2 Mixed Use Residential 2
- R-1 30,000 Sq Ft Min Lot Size
- R-2 20,000 Sq Ft Min Lot Size
- R-3 15,000 Sq Ft Min Lot Size
- R-4 10,000 Sq Ft Min Lot Size
- R-5 7,500 Sq Ft Min Lot Size
- R-6 5,000 Sq Ft Min Lot Size
- R-7 40 Units Per Acre
- R-8 Planned Development Overlay
- (PD) Planned Development Overlay
- (HD) Historic District Overlay

- Water
- Tripod City Limits
- Tripod Local Wetland Inventory
- FEMA 100yr Floodplain
- Trial Boundary

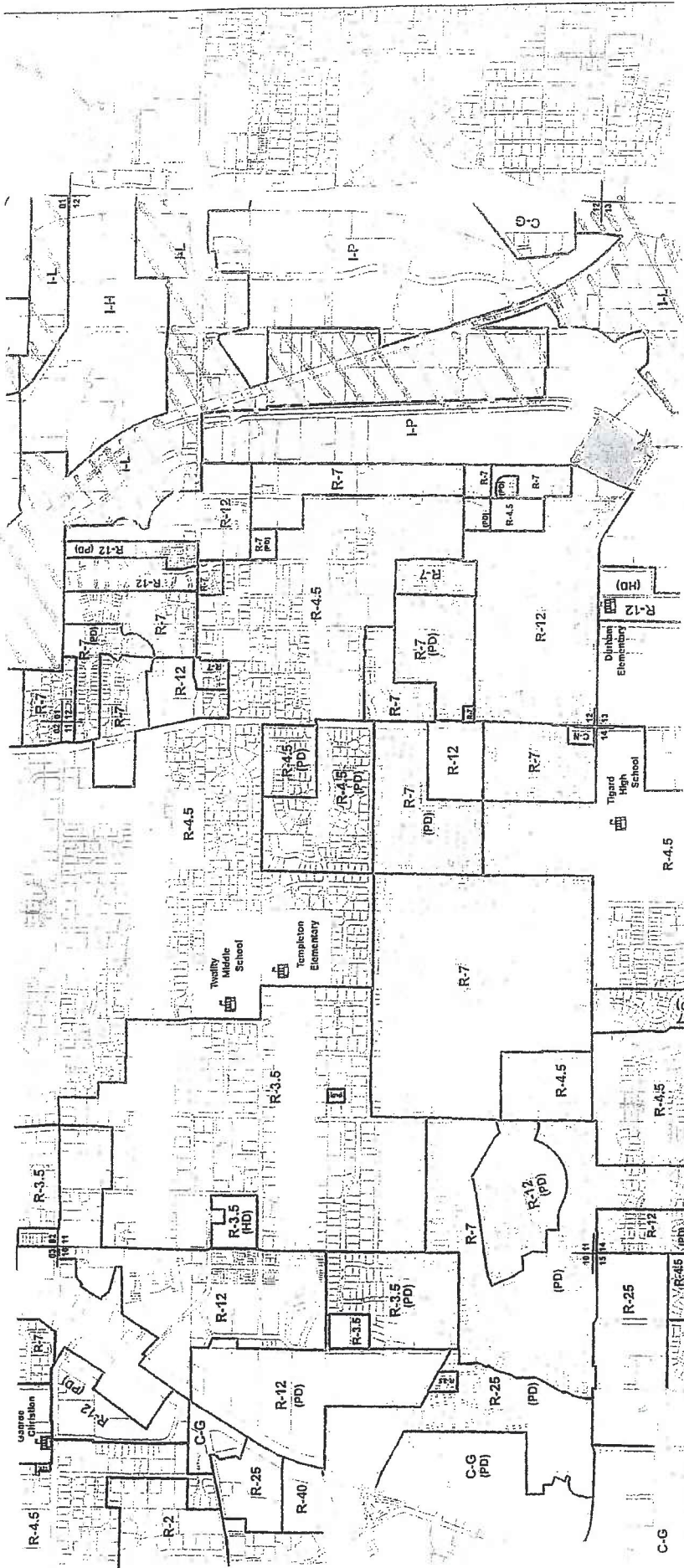
This information is for informational purposes only. It is not intended to be used for any other purpose. The City of Tigard is not responsible for any errors or omissions in this information. It is the user's responsibility to verify the accuracy of this information.



City of Tigard
1000 NE Oregon Street
Tigard, Oregon 97138
503.325.2200
www.tigardoregon.gov

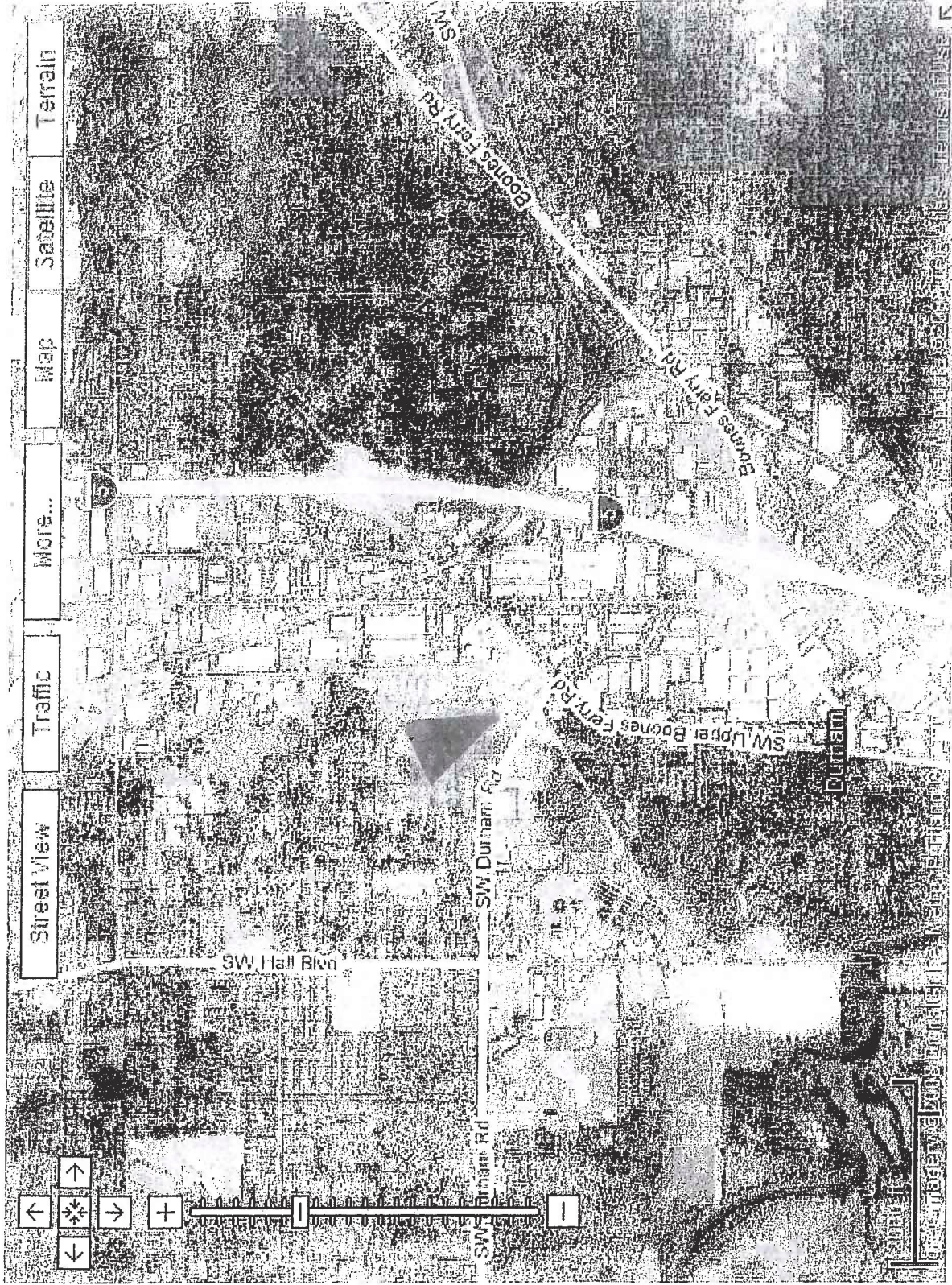


Subject Property Complex

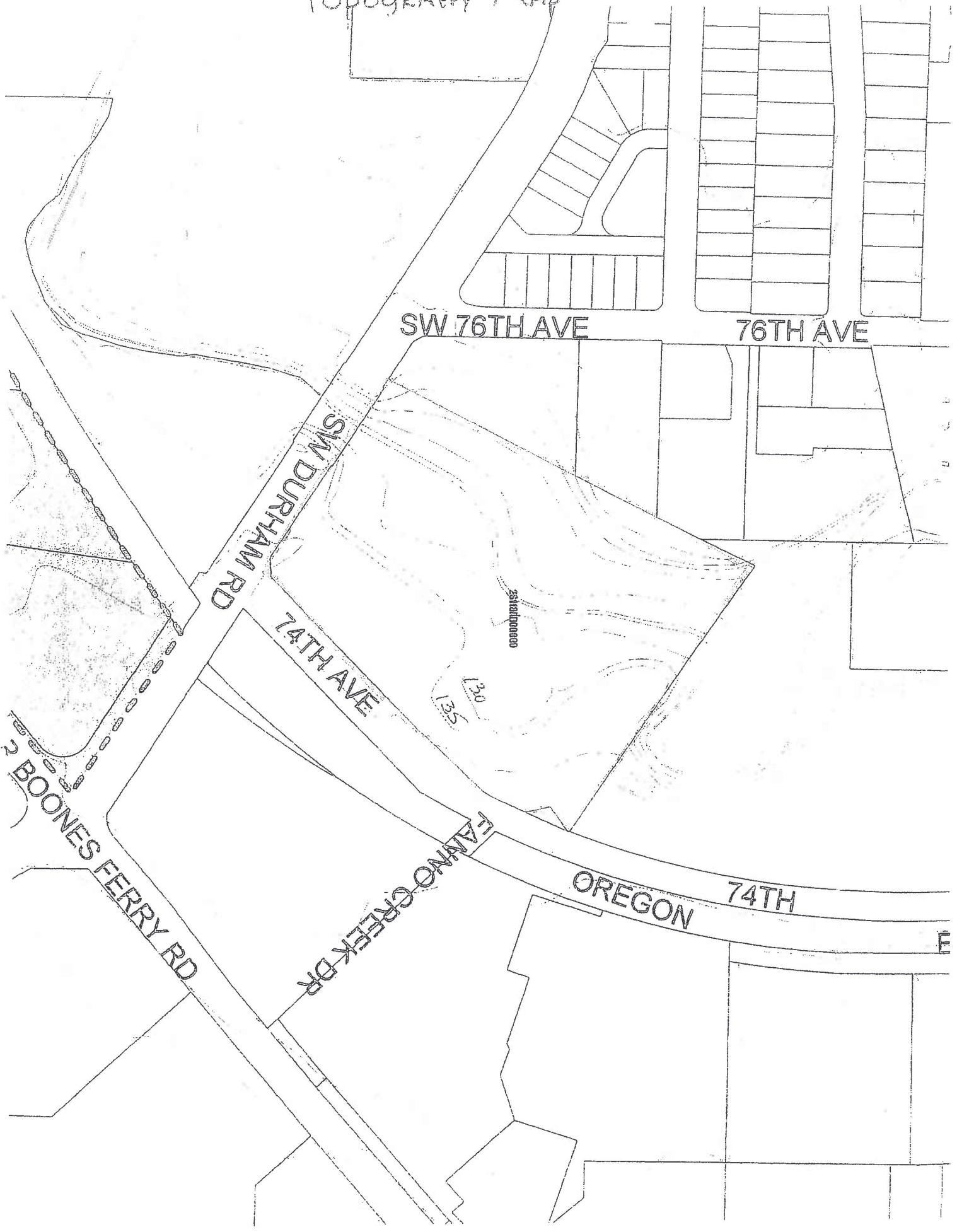


Subject Property Complex

VICINITY / Zoning MAP



TOPOGRAPHY MAP





METRO

Mr. Gary Pagenstecher
Associate Planner
City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

Dear Mr. Pagenstecher:

Metro received a copy of Tigard Development Code Amendment (DCA) 2008-00004, Motor Vehicle Sales in the I-P Zone for review and comment. I reviewed this proposed amendment for compliance with the Metro Urban Growth Management Functional Plan (Functional Plan), specifically Title 4: Industrial and other Employment Areas. Please note my review was completed, not in the context of a specific development application, but rather on the merits of the code amendment itself as it relates to Title 4.

Title 4 is intended to protect the supply of sites for employment by limiting the types and scale of non-industrial uses in Title 4 designated Regionally Significant Industrial Areas (RSIAs), Industrial and Employment areas. Each of the three Title 4 designated land categories has specific regulatory measures to limit commercial retail uses and/or professional services, so they primarily serve the needs of the workers in the area. Title 4 also limits a local jurisdiction's ability to amend their land use regulations to authorize the retail and professional services mentioned above in areas designated as RSIA, Industrial or Employment lands.

Proposed Development Code Amendment 2008-00004 would allow Motor Vehicle Sales in the Industrial Park zone. Chapter 18.530 of the Tigard Development Code contains Table 18.530.1, a use table for the three industrial zones in Tigard; Industrial Park (I-P), Light Industrial (I-L) and Heavy Industrial (I-H). The Commercial use category in the table separates general retail uses from motor vehicle related uses, including sales. General retail uses, including sales oriented and personal services uses, are restricted in the I-P zone and not permitted in the I-L and I-H zones. Motor vehicle sales are allowed in the I-L and I-H zones. I interpreted the existing city code's separation of these two use categories to mean that the motor vehicle sales use as defined by the city is not the same as the retail use or professional services use that is regulated by Title 4. Therefore, I determined that allowing motor vehicle sales in the I-P zone is not in conflict with Metro Code Section 3.07.430(A) of Title 4. Additionally, since the motor vehicle sales use is currently allowed in the I-L and I-H zones, which the City preserves for more intensive industrial uses, the City's authorization of this use in the I-P zone is not in conflict with Title 4 (3.07.430(c)) as it is already allowed in Title 4 regulated zones.

In reviewing local jurisdiction plan amendments, it is Metro's policy to submit a letter into the record if staff determines there is a conflict with a requirement of the Functional Plan. If Metro remains silent on the proposal, it may be interpreted that a conflict was not identified in Metro's review.

If you have any questions, please feel free to contact me at 503-797-1840.

Sincerely,

Tim O'Brien, AICP
Principal Regional Planner

c: Jack Hoffman, Dunn Carney Allen Higgins & Tongue LLP

Recycled Paper
www.metro-region.org
TDD 797 1804

January 6, 2009

Mr. Gary Pagenstecher, Associate Planner
~~Mr. Dick Bewersdorff, Planning Manager~~
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

RE: Northwest Ski & Wake Sports, LLC
Development Code Amendment (DCA) 2008-0004
Motor Vehicle Sales in the I-P Zone Code Amendment

Dear Mr. Pagenstecher & Mr. Bewersdorff,

I understand from the Planning Board Meeting yesterday that you will be drafting the appropriate verbiage for the zoning text to be forwarded to the City Counsel for approval. As such, I wanted to remind and clarify to all parties that we sell boats and boat trailers and while Commissioner/President Inman stated that she realized that boats needed to be licensed under the DMV requirements,,,,, it is actually the boat trailers that need to be licensed under the DMV requirements.

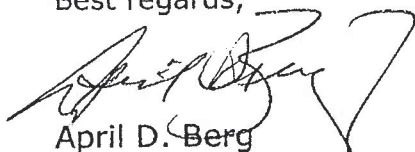
As a business that is required to license the boat trailers under the DMV codes, one of the requirements is to obtain certification that your business location meets the local zoning requirements. In order to meet this requirement it will be necessary for the City to complete the DMV form for "Location Approval" which is a "Certification of Local Zoning and Business Regulatory Compliance. ORS 822.005 requires a vehicle dealer license,". I have attached a copy of the form for your reference.

It is imperative that the proposed zoning language for approval satisfies the City's requirements to the extent that they will sign and certify as to the local zoning and business regulations certification on the DMV form.

Should you, staff or any commissioners have further questions, please feel free to contact me as listed below.


Again, thank you for your time and review of our application during this process.

Best regards,



April D. Berg
Northwest Ski & Wake Sports, LLC
503.708.0600
april_berg@comcast.net

cc: Mr. Jack Hoffman
Mr. & Mrs. John Duncan





DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES
1905 LANA AVE NE, SALEM OREGON 97314

APPLICATION TO CORRECT DEALER / REBUILDER VEHICLE DEALER CERTIFICATE

CUSTOMER NUMBER

EFFECTIVE DATE

EXPIRATION DATE

DEALER NUMBER

CURRENT BUSINESS NAME

INSTRUCTIONS:

Use this form for a name change, address change, name and address change, add or remove an owner, partner, LLC member or corporate officer, and change type of organization (like LLC to corporation, partner to corporation). **Complete both sides of this form** and submit it to DMV Business License Unit, 1905 Lana Ave NE, Salem Oregon 97314. **NOTE:** If the dealership has been sold, the new owner(s) must obtain their own vehicle dealer certificate using Form 370 Packet since a vehicle dealer certificate is not transferable.

- The fee for a corrected certificate to change your business name, location, organization structure or to add/remove owners is \$30.
- The fee for a corrected certificate to change your business name AND location is \$60.
- Each new owner must complete and sign Lines 12-16 or 17-21.
- Each owner being removed must sign Line 22 or 23.
- One owner must sign Line 24.
- Provide copy of photo ID if changing residence address.
- Your dealer number and expiration date will stay the same.

VALIDATION USE ONLY

1 Check the reason you are applying for a correction: Name Change (\$30) Address Change (\$30) Add. / Removing Owners (\$30)
 Name & Address Change (\$60) Org. / Structure Change (\$30)

NAME CHANGE

2 NEW BUSINESS NAME (If assumed business name, fill in Registry Number.) OREGON REGISTRY NUMBER BUSINESS TELEPHONE
()

Any alteration of Line 3 voids location approval.

ADDRESS CHANGE

3 NEW LOCATION WHERE BUSINESS WILL BE CONDUCTED (STREET ADDRESS) RESIDENCE PREVIOUS SUPPLEMENTAL BUSINESS TELEPHONE
()

4 CITY ZIP CODE COUNTY

5 RESIDENCE ADDRESS CITY ZIP CODE

6 MAILING ADDRESS CITY ZIP CODE

7 PREVIOUS LOCATION CITY ZIP CODE

LOCATION APPROVAL - Required only if dealer is changing business location

Certification of Local Zoning and Business Regulatory Compliance. ORS 822.005 requires a vehicle dealer license, unless exempt under ORS 822.015, for any person who:

(a) Buys, sells, brokers, trades or exchanges vehicles either outright or by means of any conditional sale, bailment, lease, security interest, consignment or otherwise; OR

(b) Displays a new or used vehicle, trailer or semitrailer; OR

(c) Acts as any type of agent for the owner of a vehicle to sell the vehicle or acts as any type of agent for a person interested in buying a vehicle to buy a vehicle.

THE CERTIFICATION BELOW IS TO BE COMPLETED BY THE LOCAL ZONING OFFICIAL. Your approval below should be based upon whether the applicant can do ANY of the activities listed in (a) through (c) above under your ordinances, at the location of the business given on Line 3. Pursuant to ORS 822.025(6)(b)(A)(B), applicant meets requirements below.

As the zoning official for the locality in which this business is located, I verify by my signature below that the location of this business as stated on this application, complies with any land use ordinances and business regulatory ordinances of the city or county, as appropriate pursuant to ORS 822.025.6(a)

8 CITY OF: COUNTY OF: TELEPHONE NUMBER
()

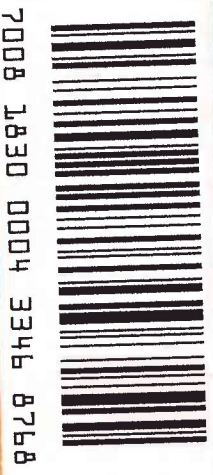
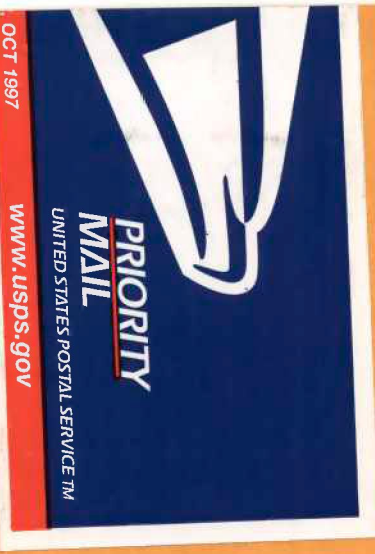
9 PRINT NAME TITLE

10 SIGNATURE DATE
X

▽ Place stamp or seal here ▽

WE MUST LICENSE BOAT TRAILERS AND THEREFORE ARE REQUIRED TO HAVE A DEALER VEHICLE LICENSE.

CITY OF TIGARD
CURRENT PLANNING
13125 SW HALL BLVD.
TIGARD, OR 97223-8189



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

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



RETURN RECEIPT
REQUESTED