



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/28/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Tigard Plan Amendment  
DLCD File Number 001-11

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, July 12, 2011

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

Cc: Gary Pagenstecher, City of Tigard  
Gloria Gardiner, DLCD Urban Planning Specialist  
Anne Debbaut, DLCD Regional Representative  
Thomas Hogue, DLCD Regional Representative

<paa> YA



PROF 2

DLCD

# Notice of Adoption

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

In person  electronic  mailed

**DATE  
STAMP**

**DEPT OF**

**JUN 22 2011**

**LAND CONSERVATION  
AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **City of Tigard**

Local file number: **CPA2011-00001**

Date of Adoption: **6/14/11**

Date Mailed: **6/21/11**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 3/22/11

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".

**A Comprehensive Plan Map Amendment and Zoning Map Amendment to change the Comprehensive Plan Designations and Zoning Map Classifications for a single 7.44-acre lot from Professional/Administrative Commercial (C-P) to Mixed-Use Employment (MUE). The applicant proposes a zone change to accommodate a school use not permitted under the existing zoning.**

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Professional/Administrative Commercial** to: **Mixed-Use Employment**

Zone Map Changed from: **C-P** to: **MUE**

Location: **8200 sw Pfaffle Street (Bounded by SW Pfaffle on the north, Hwy. 217 on the west, and Pacific Hwy. on the south.)**

Acres Involved: **7.44** Specify Density: Previous: **Minimum 32 units/net acre** New: **Maximum 25 units/acre**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

**DLCD file No.** 001-11 (18764) [16682]

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

Oregon Department of Transportation

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Local Contact: **Gary Pagenstecher**

Phone: (503) 718-2434 Extension:

Address: 13125 SW Hall Blvd.

Fax Number: 503-718-2748

City: Tigard

Zip: 97223

E-mail Address: [garyp@tigard-or.gov](mailto:garyp@tigard-or.gov)

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### **ADOPTION SUBMITTAL REQUIREMENTS**

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
ORDINANCE NO. 11- 03**

AN ORDINANCE APPROVING A COMPREHENSIVE PLAN MAP AMENDMENT (CPA2011-00001) AND ZONE MAP AMENDMENT (ZON2011-00001) FOR 8200 SW PFAFFLE STREET, CHANGING THE COMPREHENSIVE PLAN DESIGNATION FROM PROFESSIONAL COMMERCIAL TO MIXED USE EMPLOYMENT AND CHANGING THE ZONING CLASSIFICATION FROM (C-P) TO (MUE), SUBJECT TO A CONDITION OF APPROVAL IMPOSING A TRIP CAP ON THE SITE. THE SUBJECT PROPERTY IS TAX LOT 100, WASHINGTON COUNTY TAX ASSESSOR'S MAP 1S136CC.

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WHEREAS, Section 18.380.030.A of the City of Tigard Community Development Code requires quasi-judicial zoning map amendments to be undertaken by means of a Type III-PC procedure, as governed by Section 18.390.050, using standards of approval contained in Subsection 18.380.030.B; and

WHEREAS, Section 18.380.030.A.2 of the City of Tigard Community Development Code requires the commission to make a recommendation to the council on an application for a comprehensive plan map amendment; and

WHEREAS, Section 18.380.030.B.1 of the City of Tigard Community Development Code requires demonstration of compliance with all applicable comprehensive plan policies and map designations; and

WHEREAS, Section 18.380.030.B.2 of the Tigard Development Community Development Code requires demonstration of compliance with all applicable standards of any provision of this code or other applicable implementing ordinances; and

WHEREAS, Section 18.380.030.B.3 of the City of Tigard Community Development Code requires evidence of change in the neighborhood or community, or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application; and

WHEREAS, pursuant to Section 18.390.060.G of the Tigard Development Code, a recommendation by the commission, and a decision by the council, shall be based on consideration of Statewide Planning Goals and guidelines adopted under Oregon Revised Statutes; any federal or state statutes or regulations found applicable; and any applicable Metro regulations; and

WHEREAS, the Tigard Planning Commission held a public hearing on May 16, 2011, and recommended approval of CPA2011-00001/ZON2011-00001 by motion with a vote of seven in favor and one abstention; and

WHEREAS, the Tigard City Council held a public hearing on June 14, 2011, to consider the request for a quasi-judicial comprehensive plan and zone map amendment and determined that the amendments will not adversely affect the health, safety and welfare of the city and meet all applicable review criteria.

*Certified to be a true copy of the original document  
on file at City of Tigard City Hall*  
By: Catherine A. Steatley  
Date: 6/16/2011



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

SECTION 1: Comprehensive Plan Amendment (CPA2011-00001) and Zone Change (ZON2011-00001) are hereby approved by the City Council, subject to the condition of approval in the May 5, 2011 Staff Report to the Planning Commission.

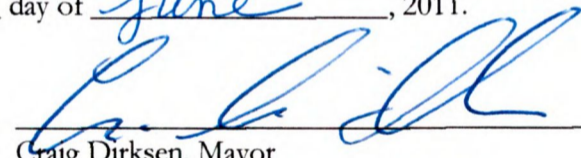
SECTION 2: The attached findings in the May 5, 2011 Staff Report to the Planning Commission are hereby adopted in explanation of the council's decision (**Exhibit "A"**).

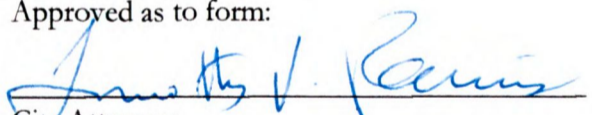
SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 14<sup>th</sup> day of June, 2011.

  
Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 14<sup>th</sup> day of June, 2011.

  
Craig Dirksen, Mayor

Approved as to form:  
  
City Attorney

June 14, 2011  
Date

Exhibit A  
Ordinance No. 11-03

Agenda Item: 5.1  
Hearing Date: May 16, 2011 Time: 7:00 PM

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



120 DAYS = NA

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** WESTSIDE CHRISTIAN HIGH SCHOOL  
**FILE NOS.:** Comprehensive Plan Amendment **CPA2011-00001**  
Zone Change Amendment **ZON2011-00001**

**PROPOSAL:** The applicant is requesting a Comprehensive Plan Map Amendment and Zoning Map Amendment to change the Comprehensive Plan Designation and Zoning Map Classification for a single 7.44-acre lot from Professional/Administrative Commercial (C-P) to Mixed-Use Employment (MUE). The applicant proposes a zone change to accommodate a school use not permitted under the existing zoning. If the request is approved, the applicant anticipates applying for a Conditional Use Permit and Site Development Review to redevelop the site and reuse the existing building.

**APPLICANT** Andy Sears, Principal **OWNER:** City Bible Church  
Westside Christian High School 9200 NE Freemont Street  
4565 Carman Drive Portland, OR 97220  
Lake Oswego, OR 97035-2574

**LOCATION:** The property is located at 8200 SW Pfaffle Street. The site is bounded by SW Pfaffle on the north, Hwy 217 on west, and Pacific Hwy on the south; Washington County Tax Assessor's Map 1S136CC Tax Lot 100.

**CURRENT ZONE/  
COMP. PLAN  
DESIGNATION:** C-P: Professional/Administrative Commercial District. The C-P zoning district is designed to accommodate civic and business/professional services and compatible support services, e.g., convenience retail and personal services, restaurants, in close proximity to residential areas and major transportation facilities. Within the Tigard Triangle and Bull Mountain Road District, residential uses at a minimum density of 32 units/net acre, i.e., equivalent to the R-40 zoning district, are permitted in conjunction with a commercial development. Heliports, medical centers, religious institutions and utilities are permitted conditionally. Developments in the C-P zoning district are intended to serve as a buffer between residential areas and more-intensive commercial and industrial areas.

**PROPOSED ZONE/  
COMP. PLAN  
DESIGNATION:** MUE: Mixed-Use Employment. The MUE zoning district is designed to apply to a majority of the land within the Tigard Triangle, a regional mixed-use employment district bounded by Pacific Highway (Hwy. 99), Highway 217 and I-5. This zoning district permits a wide range of uses including major retail goods and services, business/professional offices, civic uses and housing; the latter includes multi-family housing at a maximum density of 25 units/acre, equivalent to the R-25 zoning district. A wide range of uses, including but not limited to community recreation facilities, religious institutions, medical centers, schools, utilities and

transit-related park-and-ride lots, are permitted conditionally. Although it is recognized that the automobile will accommodate the vast majority of trips to and within the Triangle, it is still important to (1) support alternative modes of transportation to the greatest extent possible; and (2) encourage a mix of uses to facilitate intradistrict pedestrian and transit trips even for those who drive. The zone may be applied elsewhere in the City through the legislative process.

**APPLICABLE  
REVIEW  
CRITERIA:**

Community Development Code Chapters 18.380 and 18.390; Comprehensive Plan Goals: 1, Citizen Involvement; 2, Land Use Planning; 9, Economic Development; 10, Housing; 11, Public Facilities and Services; 12, Transportation; 13, Energy Conservation; Statewide Planning Goals 1, 2, 9, 10, 11, 12, and 13; and the Oregon State Transportation Planning Rule (TPR);

**SECTION II. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend **APPROVAL** to City Council of the proposed Comprehensive Plan Amendment and Zone Change subject to the Findings in Section IV of this Staff Report and the following proposed condition of approval.

**CONDITION OF APPROVAL**

1. The site shall be limited to a maximum of 373 a.m. peak hour trips and 561 p.m. peak hour trips. If the applicant or future property owners wish to allow for more trips, a Comprehensive Plan Amendment (CPA) with Transportation Planning Rule OAR 660-012-0060 analysis will be required to determine whether the limit can be revised or removed. The trip cap shall be implemented as a condition of approval on subsequent land use permits for proposed development and will be listed as a condition of approval in the ordinance adopting the zone change, if approved by the City Council.

**SECTION III. BACKGROUND INFORMATION**

**Site History**

The subject 7.44 acre site is approximately 415 feet in width by 800 feet in length occupying a hill with a high elevation of approximately 245 feet and a low elevation of approximately 220 feet at both Pfaffle and Pacific Hwy. The site includes a filbert orchard and open lawn on the north with the existing building surrounded by parking at the center and high point of the property. Access is from SW Pfaffle.

Staff reviewed the zoning history of the subject property utilizing old zoning maps and city records. The 1983 Comprehensive Plan and Zoning Map and all subsequent maps show the subject property designated Professional Commercial (C-P).

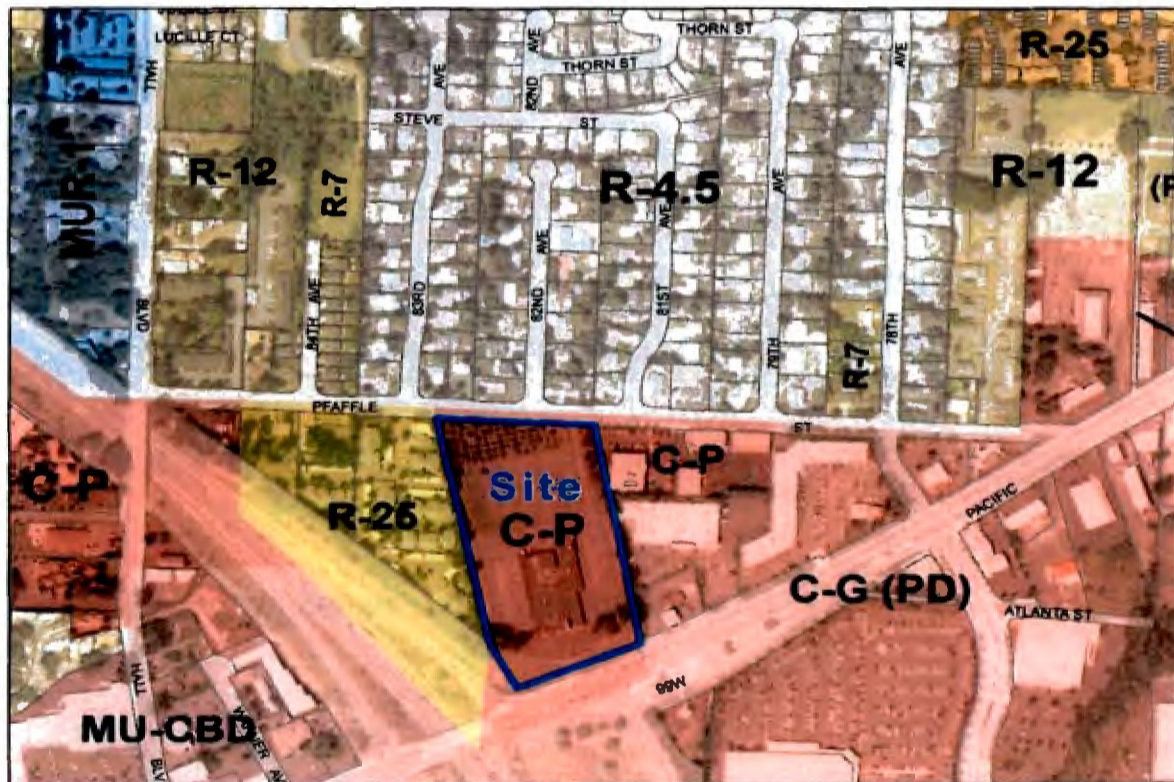
The existing 38,000 single-story building was designed as a General Motors automotive training center that operated at the site until 2002. After being vacant for a number of years, the property was purchased by City Bible Church for its "217 Campus" satellite. The church planned a major renovation and expansion of the site in 2005 and received a Site Development Review permit (SDR2005-00010) to construct two new 35,000 square foot commercial office buildings, a 1,000-seat (41,000 sq. ft.) auditorium addition to the existing building, and 366 parking spaces. The church's entitlement has since expired. Except for a small pre-school program that operates weekday mornings, the church's activities are primarily Sunday-based.

**Vicinity Information**

The site (see figure below) is bounded by SW Pfaffle on the north, Hwy 217 and multi-family residential development on west, commercial development on the east, and SW Pacific Hwy on the south. Initially the adjacent properties west and east were also zoned C-P, but have since been rezoned to Medium-High Density Residential (R-25) on the west and General Commercial (C-G) on the southeast.

North of SW Pfaffle there is an established low density residential neighborhood served by five streets from SW 79<sup>th</sup> to SW 84<sup>th</sup> Avenues. SW 82<sup>nd</sup> Avenue is located directly across Pfaffle from the subject site which terminates in a cul-de-sac serving seventeen residences. This neighborhood would be affected by increased traffic to the subject site.

Increased use of Pfaffle can be expected resulting from a recent closure of vehicular access from SW Pacific Hwy on the south. With Pfaffle providing sole access to the subject site, increased impact to the intersections with SW Hall to the west and SW Pacific Hwy to the east, would be expected.



**Site Information and Proposal Description**

The applicant is requesting a Comprehensive Plan Map Amendment and Zoning Map Amendment to change the Comprehensive Plan Designation and Zoning Map Classification for a single 7.44-acre lot from Professional/Administrative Commercial (C-P) to Mixed Use Employment (MUE). The applicant proposes a zone change to accommodate a school use not permitted under the existing zoning. Schools would be allowed as a conditional use in the MUE zone.

The applicant states that if a zone change is obtained for the site that permits the high school as a conditional use, Westside Christian High School (WCHS) proposes a major renovation of the existing building with two expansions: on the north side for additional classrooms (2,700 gsf) and in the southwest corner to provide a gymnasium, student commons and related facilities (20,000 gsf) (Phase 1). At a later date, WCHS hopes to add an auditorium in the southeast corner (13,600 gsf) (Phase 2).



## **SECTION IV. APPLICABLE REVIEW CRITERIA AND FINDINGS**

### **TIGARD DEVELOPMENT CODE CHAPTER 18.380:**

#### **18.380.030 Quasi-Judicial Amendments and Procedures to this Title and Map**

Quasi-judicial zoning map amendments shall be undertaken by means of a Type III-PC procedure, as governed by Section 18.390.050, using standards of approval contained in Subsection B below.

**A. The Commission shall make a recommendation to the Council on a zone change application which also involves a concurrent application for a comprehensive plan map amendment. The Council shall decide the applications on the record as provided by Section 18.390.**

The proposed zone change application to change the zoning on the subject site from C-P to MUE also involves a comprehensive plan map amendment from Professional Commercial to Mixed Use Employment. Therefore, the Planning Commission shall make a recommendation to Council on the proposed zone change application and comprehensive plan map amendment.

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

#### **18.380.030. B.1**

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

### **APPLICABLE CITY OF TIGARD COMPREHENSIVE PLAN POLICIES**

The City has an acknowledged Comprehensive Plan consistent with the statewide planning goals. Therefore, consistency with the applicable Comprehensive Plan goals and policies as addressed in this section of the staff report constitute consistency with the applicable statewide planning goals.

The Transportation Planning Rule (TPR) OAR 660-012-0060 is applicable to this application and is addressed under the Transportation Goal, below.

### **CITIZEN INVOLVEMENT**

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

The applicant's representative sent out notices to surrounding property owners and neighborhood representatives, posted a sign on the property, and held a neighborhood meeting on February 7, 2011 in accordance with the City of Tigard's neighborhood meeting notification process. According to the minutes of the neighborhood meeting contained in the record, 14 people attended. Discussion related primarily to expected traffic on SW Pfaffle and questions about the proposed school.

In addition, the City mailed notice of the Planning Commission hearing to property owners within 500 feet of the subject site, interested citizens, and agencies, published notice of the hearing and posted the site pursuant to TDC 18.390.050 for Type III Procedures. These parties have the opportunity to attend the Planning Commission hearing and provide testimony.

**FINDING:** As shown in the analysis above, the proposed comprehensive plan and zone change is consistent with the applicable Citizen Involvement Goal.

### **LAND USE PLANNING**

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

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

Request for comments for the proposed zone change were sent to Department of Land Conservation and Development (DLCD), Metro, Washington County and Oregon Department of Transportation (ODOT). DLCD was provided the opportunity to comment and coordinate the application for the Post Acknowledgement Plan Amendment process per ORS 197.610. ODOT submitted comments on the proposal, which are included in their entirety under the Transportation Goal section, below. This policy is met.

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

The 2040 Growth Concept, the region's 50-year land use plan adopted in 1995 by Metro, identifies centers for compact urban development. It also protects existing neighborhoods and natural areas within the urban growth boundary as well as farm and forestlands outside of the boundary. The plan calls for high capacity transit service to support the identified centers, and facilitate travel between housing and employment centers. The 2035 Regional Transportation Plan (RTP), along with the 2040 Growth Concept, emphasizes the need to coordinate land use decision-making and transportation investment. These policies direct future projects to be developed as multimodal transportation and land use planning efforts. State, Metro, and local policies and plans seek to promote the integration of land use transportation planning investment to promote dense, efficient, compact urban development in centers.

The City of Tigard is currently engaged in a regional coordinated planning effort being referred to as the "Southwest Corridor Plan." The SW Corridor Plan is comprised of five separate plans. These include land use plans for the cities of Tigard, Tualatin, and Portland that are focused on identifying land uses to support future transit investments. In conjunction with these land use plans, Metro, ODOT, and TriMet are leading efforts specifically addressing multi-modal transportation analyses, needs, and solutions. The TGM: *Tigard High Capacity Transit Corridor Land Use Plan (HCT Corridor Land Use Plan)* will identify locations and land use characteristics for potential future high capacity transit (HCT) stations. The purpose of the HCT Corridor Land Use Plan is to help the Tigard community identify the best land use and development alternatives in a way that integrates transportation with land use planning, and supports Tigard's vision for the future. The *HCT Corridor Land Use Plan* is expected to be completed in 2012.

One key principle and priority of the project is to inform current planning in Tigard to ensure that its land use designations and urban design principles will support future community, transit, and other transportation investments. The proposed up-zoning of the subject site, located within the Southwest corridor on Pacific Hwy, from C-P to MUE is in keeping with this policy as well as the visions for nearby Downtown Tigard to the southwest and the Tigard Triangle to the southeast. This policy is met.

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

The following excerpt from Table 18.520.1, Use Table: Commercial Zones shows a comparison of uses between the C-P and MUE zones where they differ. In sum, the proposed MUE zone permits a number of residential, civic, commercial, and industrial uses not currently permitted in the C-P zone. Where no residential or industrial uses are permitted in the C-P zone, the MUE permits multifamily residential (R-25), light industrial, research and development, and some warehouse/freight movement. Civic uses are expanded in the MUE to include colleges, schools, and community recreation. Commercial uses such as commercial lodging, eating drinking establishments and sales oriented retail where limited to a percentage of permitted uses in the C-P, are permitted outright in the MUE. Only two uses, outdoor entertainment and heliports are permitted in the C-P but not in the MUE.

**TABLE 18.520.1  
USE TABLE: COMMERCIAL ZONES  
(Excerpt)**

USE CATEGORY	C-P	MUE <sup>[20]</sup>
<b>RESIDENTIAL</b>		
Household Living	R	R <sup>[21]</sup>
<b>CIVIC(INSTITUTIONAL)</b>		
Colleges	N	C
Community Recreation	N	C
Schools	N	C
<b>COMMERCIAL</b>		
Commercial Lodging	R <sup>[14]</sup>	P
Eating and Drinking Establishments	R <sup>[15]</sup>	P
Outdoor Entertainment	R <sup>[15]</sup>	N
Sales-Oriented	R <sup>[16]</sup>	R <sup>[22]</sup>
Personal Services	P	R <sup>[22]</sup>
Repair-Oriented	N	R <sup>[22]</sup>
Bulk Sales	N	R <sup>[22]</sup>
Animal-Related	N	P
Motor Vehicle Servicing/Repair	N	R <sup>[22]</sup>
<b>INDUSTRIAL</b>		
Light Industrial	N	R <sup>[23]</sup>
Research and Development	N	R <sup>[24]</sup>
Warehouse/Freight Movement	N	R <sup>[24]</sup>
<b>OTHER</b>		
Heliports	C	N

P=Permitted    R=Restricted    C=Conditional Use    N=Not Permitted

- [14] Restaurant permitted with restriction in size in conjunction with and on the same parcel as a commercial lodging use.
- [15] As accessory to offices or other permitted uses, the total space devoted to a combination of retail sales and eating/drinking establishments may not exceed more than 20% of the entire square footage within the development complex.
- [16] May not exceed 10% of the total square footage within an office complex.
- [20] All permitted and conditional uses subject to special development standards contained in Section 18.520.050.C.
- [21] Multifamily residential, at 25 units/gross acre, allowed outright. Pre-existing detached and attached single-family dwellings are permitted outright.
- [22] New retail and sales uses may not exceed 60,000 gross leasable area per building within the Washington Square Regional Center or Tigard Triangle except for those areas zoned C-G at the time the MUE zoning district was adopted in the Tigard Triangle.
- [23] All activities associated with this use, except employee and customer parking, shall be contained within buildings.
- [24] Permitted as accessory to a permitted use as long as this use is contained within the same building as the permitted use, and does not exceed the floor area of the permitted use.

In addition, special limitations in the MUE zoning district (18.520.050.C) include: 1) a maximum floor area ratio (FAR) for all commercial and industrial use types and mixed-use developments shall not exceed 0.40, exempting residential use; and 2) on lots greater than three acres, general retail sales uses are limited to 30,000 square feet of gross leasable area plus one additional square foot of gross leasable area of general retail sales use for each additional four square feet of non-general retail sales use.

The footnote restriction for certain commercial uses (note [22]) may not apply to the proposed zone change as the subject site is not located in either the Washington Square Regional Center or the Tigard Triangle. However, the 0.40 FAR limitation for all permitted MUE uses and the 30,000 square foot limitation for general retail use would apply to the subject site. Because these limitations do not apply to uses permitted in the C-P zone, some development types (applicant's medical office example) could result in less development potential under the MUE zone. Residential uses are not subject to the FAR limitation.

The city wishes to promote the development and maintenance of a range of land use types which are of sufficient economic value to fund needed services and advance the community's social and fiscal stability. Notwithstanding the more limited build out potential of the site under the proposed MUE zone, the greater variety of uses allowed (presumably of sufficient economic value underlying their application to the Tigard Triangle) will, in the case of this applicant, permit redevelopment of an underutilized development and site. This policy is met.

**Policy 7. The City's regulatory land use maps and development code shall implement the Comprehensive Plan by providing for needed urban land uses including:**

**C. Mixed use;**

The subject site is suited to mixed use zoning because of its location on SW Pacific Highway, a High-Capacity Transit Corridor, proximity to Downtown Tigard and the Tigard Triangle, and adjacency to Highway 217. The proposed MUE zone permits a number of residential, civic, commercial, and industrial uses not currently permitted in the C-P zone. Where no residential or industrial uses are permitted in the C-P zone, the MUE permits multifamily residential (R-25), light industrial, research and development, and some warehouse/freight movement. Civic uses are expanded in the MUE to include colleges, schools, and community recreation. Commercial uses such as commercial lodging, eating drinking establishments and sales oriented retail where limited to a percentage of permitted uses in the C-P, are permitted outright in the MUE. This policy is met.

**Policy 12. The City shall provide a wide range of tools, such as planned development, design standards, and conservation easements that encourage results such as:**

**B. Land use compatibility;**

As shown in the excerpt from Table 18.520.1 above, additional uses would be permitted under the proposed comprehensive plan amendment and zone change request. Permitted uses under the new zone should be generally compatible with the existing uses in the area to approve the request. However, the goal speaks to tools that encourage land use compatibility for those uses otherwise allowed under the code. For example, the specific school use proposed for the subject site will be processed under a concurrent Conditional Use/Site Development Review. The conditional use review provides discretion by the hearings officer to adequately condition a proposal to be compatible with surrounding uses. This policy is met.

**E. Regulatory flexibility necessary for projects to adapt to site conditions.**

As noted above, the city has the opportunity to provide regulatory flexibility in the Conditional Use process that will apply to the specific use, a high school, proposed for the subject site, with additional flexibility provided by the process for Variances and Adjustments. This policy is met.

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

As shown in the findings in this staff report, the applicant's submittal demonstrates consistency with applicable criteria and requirements of the Tigard Development Code, Comprehensive Plan, and state agencies. This policy is met.

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

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

In Chapter III of the applicant's submittal, the applicant included a preliminary impact analysis to demonstrate that the proposed new zoning district, MUE, and proposed conditional use, a high school, will not unduly tax the public infrastructure system for water, sanitary sewer and stormwater disposal. To address the transportation impacts, the applicant proposes a trip cap for the site to ensure the proposed re-zoning will not exceed existing or future roadway capacity. The proposed trip cap is supported by ODOT as evidenced in their comment letter included under the Transportation Goal section, below. A detailed impact analysis for all of these types of infrastructure would be provided in the subsequent concurrent Conditional Use/Site Development Review applications. This policy will be met.

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

As noted above, the applicant requests that the city condition the approval of the requested re-zoning with a trip cap that does not exceed the total number of automobile trips associated with the most intense use, a medical/dental office, allowed by right in the existing C-P zone. With a condition of approval implementing a trip cap on the subject site, this policy is met.

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

As shown above in Table 18.520.1, the proposed Mixed Use Plan Designation would allow a number of residential, civic, commercial, and industrial uses not currently permitted in the C-P zone. The subject site is located on Pacific Hwy which is a designated transit corridor and a route for High Capacity Transit in the future. Mixed use zones would support the intensity and density of development needed to support the enhanced transit use. This policy is met.

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

As documented in the applicant's submittal in Chapter III pages 6-8, an alternatives analysis finds that there are no alternative vacant sites of adequate size, appropriate zoning, availability, and development readiness within the Tigard city limits to accommodate the proposed 400-student high school. The analysis evaluates 7 sites within the city limits between 3.7 and 12.5 acres in size. The applicant's suitability criteria included a site of at least 7.4 acres, available for sale or lease, and without major development constraints.

As mentioned above, the proposed MUE zoning designation is more appropriate for the site in general given changes in surrounding areas and in keeping with the evolving vision for this portion of Tigard, including SW Pacific Highway as a High-Capacity Transit Corridor and redevelopment envisioned for Downtown Tigard and the Tigard Triangle to the west and east of the site, respectively. This policy is met.

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

The subject site does not include any overlay districts at present. Subsequent Conditional Use and/or Site Development Reviews would ensure development would comply with all applicable development code regulations. This policy can be met.

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

The subject site is high ground in Tigard and does not contain any sensitive lands. Surrounding land uses include low and medium residential, retail, office, and motor vehicle fuel sales. The range of uses permitted in the MUE zone would require Conditional Use and/or Site Development Review to ensure development would comply with all applicable development code regulations. This policy can be met.

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

The subject site is high ground in Tigard and does not contain any sensitive lands. This policy is met.

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

The applicant has proposed, and ODOT has recommended a condition, to comply with the Transportation Planning Rule by implementing a trip cap to ensure development allowed under the MUE zone does not contribute any more trips to the surrounding transportation facilities than is already allowed under the C-P zone. Given approval of the zone change, the applicant has stated they will apply for a conditional use permit to develop the specific school use on the site. Under this policy, the Planning Commission could recommend and City Council could approve a definite land use, such as the proposed school use, and specific design/development requirements, such as the proposed trip cap, and/or other uses or requirements for development if they determine through the hearings process that it would be appropriate to the site and adjacent development.

**Policy 17. The City may allow concurrent applications to amend the Comprehensive Plan/Zoning Map(s) and for development plan approval of a specific land use.**

Concurrent review is allowed but would occur subject the developer's risk in applying for concurrent review. The applicant represented that they would apply sequentially to avoid the risk of losing substantial investment in specific land use reviews with the possibility of denial of the zone change. This policy is met.

**FINDING:** As shown in the analysis above, the applicable Land Use goals and policies have been met. The Planning Commission could recommend and City Council could approve a definite land use and specific design/development requirements if they determine through the hearings process that it would be appropriate to the site and adjacent development.

**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.**

As indicated in the applicant's submittal, when it relocates to Tigard from Lake Oswego, WCHS will have a combined faculty/staff of 38 full- and part-time employees, which will increase to 40 when the school reaches its maximum size of 400 students. As most of these employees are teachers and administrators, these jobs command family wages and full benefits. Recommendation by the Commission and approval by Council of the proposed zone change and comprehensive plan amendment would actively encourage WCHS to locate in Tigard, consistent with this policy.

**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 applicant proposes a change in the zoning of the subject site to allow a school use. The standards in TDC 18.380 provide for amendments to the comprehensive plan and zoning map. Provided the standards for a zone change and map amendment can be met, and the required infrastructure is available as indicated in the transportation findings below, the school use may be accommodated, thereby promoting the anticipated development allowed by the comprehensive plan and zoning map amendment. This policy is met.

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

The subject site is significantly under-utilized. The proposed re-zoning from C-P to MUE will permit the relocation of WCHS from Lake Oswego to Tigard. As noted above, the school plans to renovate the existing facilities extensively, expand the building footprint and make other site improvements including the landscaping of existing parking lots and creation of outdoor sports facilities. As a result, the use of the site will be extended throughout the work week in addition to the part-time use of the site by City Bible Church, which will remain a weekend tenant. The rezone and comprehensive plan amendment would facilitate redevelopment of underutilized commercial land, consistent with this policy.

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

The proposed MUE zone includes a full range of civic and institutional uses, including schools, which makes an important contribution to the community's livability. By approving the proposed re-zoning, the city will facilitate several things: 1) permit the re-use of an archaic building with few options for alternative use; 2) increase the intensity of use of an under-utilized site in a critical location; 3) upgrade the facility by adding additional landscaping and outdoor sports facilities; 4) provide additional potential transit riders among students, staff and faculty. This policy is met.

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

**Policy 1. The City shall focus a significant portion of future employment growth and high-density housing development in its Metro-designated Town Center (Downtown); Regional Center (Washington Square); High Capacity Transit Corridor (Hwy 99W); and the Tigard Triangle.**

The subject site lies on the SW Pacific Highway Corridor between downtown Tigard to the west and Tigard Triangle to the east. By approving the proposed re-zoning request, the city will permit this partially-vacant, under-utilized site to redevelop. As noted above, the applicant states that the proposed high school will bring 38 new professional, family-wage jobs into Tigard, which will expand to as many as 40 such jobs when the school grows to its maximum student body of 400. This policy is met.

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

As noted in the policy statement, educational facilities contribute to the quality of community life. The proposed re-zoning will permit the subject site, which is partially vacant and significantly under-utilized, to be redeveloped for a high school with up to 400 students and 40 faculty/staff, in support of this policy.

FINDING: As show in the analysis above, the applicable Economic Development goals and policies have been met.

## HOUSING

**Goal 10.1: Provide opportunities for a variety of housing types to meet the diverse housing needs of current and future City residents.**

**Policy 5. The City shall provide for high and medium density housing in the areas such as town centers(Downtown), regional centers (Washington Square), and along transit corridors where employment opportunities, commercial services, transit, and other public services necessary to support higher population densities are either present or planned for in the future (SW Pacific Hwy).**

Although the purpose of this quasi-judicial request is to re-zone the subject site to allow its redevelopment for a high school, the proposed zoning designation, MUE, does permit housing at 25 units/acre, considered "medium high-density" in the city's Development Code, as an outright use. Should the high school close or be relocated, the site could redevelop to include housing, most likely in a mixed-use configuration with the vertical or horizontal mix of residential and nonresidential uses. Thus, re-zoning expands future housing options on the site, something that the current C-P zone does not permit. The allowed density in the MUE zone of 25 units/acre is consistent with the R-25 zoning immediately to the west. This policy is met.

**Goal 10.2: Maintain a high level of residential livability.**

**Policy 3. The City shall commit to improving and maintaining the quality of community life public safety, education, transportation, community design; a strong economy, parks and recreation, etc.) as the basis for sustaining a high-quality residential environment.**

As noted above, educational facilities are considered an important contribution to the community's quality of life and social fabric. Approving this request to re-zone the subject site from C-P, where schools are prohibited, to MUE, where schools are permitted conditionally, facilitates the redevelopment of the subject site for a 400-student high school. This policy is met.

**Policy 7. The City shall insure that residential densities are appropriately related to locational characteristics and site conditions such as the presence of natural hazards and natural resources, availability of public facilities and services, and existing land use patterns.**

The proposed MUE zoning designation allows housing at a density of 25 units/acre by right. This is the appropriate density given that the apartment complex immediately to the west of the subject site is zoned R-25, the equivalent residential zone to MUE. At the same time, the MUE designation recognizes the subject site's critical location on SW Pacific Highway, a designated High-Capacity Transit Corridor, at the juncture of Highway 217 and between downtown Tigard and the Tigard Triangle. The zoning adjacent to the site to the south, east and west include C-G, MU-CBD and MUE, reflecting the city's intent to transition the area to a broader mix of uses at higher densities/intensities. This policy is met.

**Policy 8. The City shall require measures to mitigate the adverse impacts from differing, or more intense, land uses on residential living environments, such as: A. Orderly transitions from one residential density to another.**

The proposed MUE zoning designation features the same maximum density, 25 units/acre, as the apartment complex immediately to the west. This policy is met.

**FINDING:** As shown in the analysis above, the applicable Housing goals and policies have been met.

#### **PUBLIC FACILITIES**

**Goal 11.4: Maintain adequate public facilities and services to meet the health, safety, education, and leisure needs of all Tigard residents.**

**FINDING:** The applicant has demonstrated through their alternatives analysis that the proposed MUE zone is needed to locate their school in the City of Tigard. To ensure maintenance of adequate transportation facilities for the proposed MUE zone the applicant has requested a trip cap be a condition of approval. ODOT and the city Development Review Engineer concur that the rezone conditioned by a trip cap would result in no significant effect on the transportation system as defined under Oregon's Transportation Planning Rule (see findings under Transportation Goal, below). This Goal is met.

#### **TRANSPORTATION**

**Goal 12.1: Develop mutually supportive land use and transportation plans to enhance the livability of the community.**

**Policy 5. The City shall develop plans for major transportation corridors and provide appropriate land uses in and adjacent to those corridors.**

The proposed rezoning from C-P to MUE would permit more intensive uses in close proximity to SW Pacific Hwy, an existing transit way. Expansion of this corridor to include High Capacity Transit (HCT), through planning processes currently underway, suggest that increased density and intensity of uses should apply to the subject site. Approval of the proposed zone change would provide appropriate land uses adjacent to the Pacific Hwy corridor. This Goal is met.



**Goal 12.5: Coordinate planning, development, operation, and maintenance of the transportation system with appropriate agencies.**

The Oregon Department of Transportation (ODOT) submitted the following comment letter dated April 26, 2011 (Attachment #4) for the proposed comprehensive plan amendment and zone change:

We have reviewed the applicant's proposal to change the classification of a 7.44 acre lot from Professional/Administrative Commercial (C-P) to Mixed-Use Employment (MUE). The site is adjacent to 99W and Highway 217. ODOT has jurisdiction of these State highway facilities and an interest in assuring that the proposed zone change/comprehensive plan amendment is consistent with the identified function, capacity and performance standard of these facilities. For zone changes and comprehensive plan amendments, local governments must make a finding that the proposed amendment complies with the Transportation Planning Rule (TPR), OAR 660-012-0060. There must be substantial evidence in the record to either make a finding of "no significant effect" on the transportation system, or if there is a significant effect, require assurance that the land uses to be allowed are consistent with the identified function, capacity, and performance standard of the transportation facility. After reviewing the applicant's proposal and associated TPR Analysis prepared by Lancaster Engineering dated February 10, 2011, we have determined that while the zone change has the potential to have a significant effect on the transportation system, the applicant's proposed trip cap can accommodate the trips generated by the intended school use and allow the city to make a finding of no significant effect.

The applicant's TPR analysis shows a comparison between a Medical/Dental office allowed outright under the proposed zoning/comp plan designation with a larger Medical/Dental office allowed outright under the existing zoning/comprehensive plan designation (this is commonly referred to as the "reasonable worst case" traffic analysis). ODOT did not have the opportunity to review and concur with the mix of land uses and square footage used for the "reasonable worst case" traffic analysis for both existing and proposed zoning. Although the flexibility inherent in the MUE district makes determining a reasonable worst case mix of uses difficult, after consulting with city staff, ODOT has determined that the MUE zoning allows a broad range of uses (particularly retail and eating and drinking establishments) that could reasonably generate more trips than the existing zoning. In addition, the FAR and maximum retail use restrictions on the MUE zone are not sufficient to determine that there will not be a significant effect when compared to the restrictions on the C-P zone.

Nevertheless, ODOT and the city concur with the applicant's proposal to limit the trips allowed under the proposed zoning to the amount generated by a Medical/Dental office building as allowed under the existing zoning. This trip cap can accommodate the intended conditional school use while placing a reasonable limit on trip generation for allowed uses should this parcel redevelop in the future. In order to ensure that the zone change will not result in a significant effect upon State facilities, ODOT requests that the City of Tigard condition a trip cap to be placed on the zone change:

A condition of this zone change is that the site is limited to a maximum of 373 a.m. peak hour trips and 561 p.m. peak hour trips. If the applicant or future property owners wish to allow for more trips, a Plan Amendment with Transportation Planning Rule OAR 660-012-0060 analysis will be required to determine whether the limit can be revised or removed.

It is important that any proposal to allow more trips be addressed in the Plan Amendment process and will trigger a new evaluation of TPR compatibility at that time to determine whether or not the new proposal will have a significant effect on State highway facilities and the limit can be revised or removed.

ODOT is supportive of the city's efforts to implement transit supportive zoning in this corridor. Based on this proposal as well as the previous Knoll development, ODOT recommends that the city review their mixed use zones to ensure that land use implementation is reflective of the city's vision. In the current case, while there are some restrictions on the MUE zone, we encourage the city to consider additional measures such as limiting drive-through uses, parking maximums, and more clarification of the type of retail intended for this zone. The Knoll zone change showed that the MUR-1 zone allows development density far greater than the approved 49 unit apartment complex and could generate significantly more trips than the 300 daily trips assumed. Both cases show that trip generation under the mixed use zones is difficult to determine and neither zone change has been proposed with a mixed use development in mind. ODOT will continue to work with the city and Metro to refine the code in the HCT corridor and Town Center.

Note: The applicant's preliminary site plan shows an emergency access directly across from the highway 217 ramp terminal. No access can be approved in this vicinity due to safety concerns and state rules (OAR 734.51).

As identified in the ODOT comment letter and concurred on by the city Development Review Engineer, limiting trip generation to that allowed under the existing C-P zone, as shown in the Lancaster Engineering analysis dated February 10, 2011 (373 a.m. peak hour trips and 561 p.m. peak hour trips), would avoid a significant effect finding. Approval of the proposed code amendment would comply with the Transportation Planning Rule, OAR 660-012-0060. The city's request for comment, staff consultation between ODOT and the city, and incorporation of ODOT comments and recommendations within the staff report to the Planning Commission constitute a coordinated approach to planning, development, operation, and maintenance of the transportation system with appropriate agencies. This goal is met.

**FINDING:** As shown in the analysis above, with the requirement of the following condition of approval, the applicable Transportation goals and policies are met.

**CONDITION:**

The site shall be limited to a maximum of 373 a.m. peak hour trips and 561 p.m. peak hour trips. If the applicant or future property owners wish to allow for more trips, a Plan Amendment with Transportation Planning Rule OAR 660-012-0060 analysis will be required to determine whether the limit can be revised or removed. This condition shall be a condition of any land use decision on the subject property.

## **ENERGY**

### **Goal 13.1: Reduce energy consumption.**

**Policy 1. The City shall promote the reduction of energy consumption associated with vehicle miles traveled through:**

#### **A. Land use patterns that reduce dependency on the automobile.**

Up-zoning the subject site from C-P to MUE per this request will permit a broader range of land uses, if not more potential intensity, due to the FAR limitation of the zone. The potential mix of uses can facilitate intradistrict pedestrian and transit trips and support alternative modes of transportation. The proposal to redevelop the site for a 400-student high school will intensify the use of this under-utilized site and potentially increase use of transit. However, the full benefits of the MUE zone may not be realized until the site included a mix of uses. This policy is met.

#### **B. Public transit that is reliable, connected, and efficient.**

The SW Pacific Highway Corridor already is well-served by bus transit and will be even better served if the corridor is selected for the extension of Light Rail Transit (LRT). The proposed up-zoning of the site will provide a significant number of potential transit riders to support the maintenance and expansion of transit service. This policy is met.

**FINDING:** As shown in the analysis above, the applicable Energy goals and policies are met.

**FINDING:** Pursuant to 18.380.030. B.1, and as shown in the analysis above, the proposed zone change and comprehensive plan map amendment comply with, or have been conditioned to comply with, all applicable comprehensive plan goals and policies.

**18.380.030.B.2**

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

**Note:** During review for this staff report, staff discovered several errors in the code and inconsistencies between the zone descriptions for the C-P and MUE zones and the Use Tables 18.510.1 (Residential) and 18.520.1 (Commercial). A finding is provided here to address those inconsistencies pertaining to the subject request:

- 1) Table 18.510.1 Use Table, Residential Zoning Districts, erroneously carries a footnote [13], which correctly applies to "Major Event Entertainment" but not to "Schools."
- 2) The List of Zoning Districts (18.520.020) includes zone descriptions for each zone. The description for C-P includes outdated language referring to residential use on Triangle properties zoned C-P prior to the change to MUE in 1997(Ord. 97-02). The Use Table 18.520.1 shows "R" under C-P for "Household Living" when it should be changed to "N". There is no residential use permitted in the C-P zone.
- 3) The description for the MUE zone includes "religious institutions" as a conditional use, "C". However, the Use Table 18.520.1 shows that use as permitted, "P". Ordinance 09-13 amended Table 18.520.1, but did not amend the description, resulting in the inconsistency. Therefore, in this case the Table governs. "Religious institutions" are permitted outright in the MUE zone.

To address needed changes to the code to correct these inconsistencies an item has been added to the Development Code Database to flag review under the Regulatory Improvement Initiative.

For the purposes of the proposed comprehensive plan amendment and zone change, the applicant has satisfactorily addressed the applicable Sections of Chapter 18.380, Zoning Map and Text Amendments, of the Tigard Development Code. The standards of Chapter 18.390.050 for Type III-PC procedures are applicable to this proposal, as identified in 18.380.030. The applicant has submitted an Impact Statement as required under 18.390.050.B.e. Potential impacts to the transportation system have been addressed under the Transportation goal, above.

The proposed comprehensive plan amendment and zone change do not include a specific development proposal at this time. However, the applicant states that if a zone change is obtained for the site that permits the high school as a conditional use, Westside Christian High School (WCHS) proposes a major renovation of the existing building with two expansions: on the north side for additional classrooms (2,700 gsf) and in the southwest corner to provide a gymnasium, student commons and related facilities (20,000 gsf) (Phase 1). At a later date, WCHS hopes to add an auditorium in the southeast corner (13,600 gsf) (Phase 2). See Figure II-5 in the applicant's submittal (Attachment #3) for a proposed development site plan. Any proposed development must meet all of the applicable Tigard Development Code standards in effect at the time an application is submitted.

**FINDING:** As shown in the analysis above, the proposed comprehensive map and zone change amendment is consistent with the applicable standards of the Tigard Development Code.

**18.380.030.B.3**

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

As the applicant points out, since the last Comprehensive Plan Map was adopted, the segment of SW Pacific Highway on which the subject site is located has been designated in the Metro 2040 Growth Management Plan Concept as a "Corridor" design type and in the Regional Transportation Plan (RTP) as a "High-Capacity Transit Corridor". In addition, Metro has designated the corridor as the next priority for the extension of light rail transit (LRT) from downtown Portland to Sherwood. Although detailed land use and transportation planning for the corridor is just beginning, the city envisions up-zoning of sites along the corridor to increase the mix of uses, including residential, retail, office, industrial, institutional and civic activities, and development density/intensity to support transit. Significant redevelopment of Downtown Tigard as a Metro-designated "Town Center", and likely extension of that designation to include the Tigard Triangle, is planned. Together, these planning actions represent change in the neighborhood of the subject site and the community.

**FINDING:** The proposal demonstrates that there is evidence of change in the neighborhood and community. Long-range planning for the neighborhood of the subject site is toward higher density and an increase in mixed use. The proposed rezone would be consistent with this direction as the MUE zone permits a wider range of civic, commercial, and industrial uses and introduces residential use (Medium-High Density) not permitted in the existing C-P zone. The proposal is consistent with this standard for zone changes.

**18.380.030.C Conditions of approval. A quasi-judicial decision may be for denial, approval, or approval with conditions as provided by Section 18.390.050. A legislative decision may be approved or denied.**

**FINDING:** The land use action requested is quasi-judicial as it is limited to a specific parcel and does not apply generally across the city. Therefore, the Planning Commission recommendation to Council may be for denial, approval, or approval with conditions.

#### **SECTION V. OUTSIDE AGENCY AND ADDITIONAL CITY STAFF COMMENTS**

ODOT, Metro, LCDC, and Washington County were notified and requested to comment on the subject proposal. Of these agencies, only ODOT provided comment.

**Oregon Department of Transportation (ODOT)** commented on the proposal, whose comments are included under the Transportation goal section of this staff report.

**Clean Water Services (CWS)** processed a Sensitive Area Pre-Screening Assessment (File No. 11-000250) stating that the proposal does not meet the definition of development. An earlier CWS Assessment (05-004310) indicated that sensitive areas do not appear to exist on site or within 200 feet of the site.

**The City of Tigard's Development Review Engineer** reviewed the proposal and provided information, which is included in the findings for the Transportation section of the staff report.

#### **SECTION VI. STAFF ANALYSIS, CONCLUSION, AND RECOMMENDATION**

##### **ANALYSIS:**

##### **Zone Change Request**

The applicant has requested a zone change on the subject site in order to permit a school use not permitted under the current C-P zone. The applicant's alternative analysis showed few options suitable for locating the Westside Christian High School (WCHS) that offered vacant sites of adequate size, appropriate zoning, availability, and development readiness within the Tigard city limits to accommodate the proposed 400-student high school. The analysis evaluates 7 sites within the city limits between 3.7 and 12.5 acres in size. The applicant's suitability criteria included a site of at least 7.4 acres, available for sale or lease, and without major development constraints. The subject site meets the applicant's suitability criteria, provided a zone change can be approved.

#### Land Use Zone Analysis

Schools are conditionally permitted in all residential and mixed use zones and are permitted outright in the MU-CBD zone. Given the characteristics of the zone and circumstances of the subject site, staff believes the MUE zone would be the most applicable zone to allow the school use and to address long range land use and transportation planning:

1) The MUE zoning district is designed to apply to a majority of the land within the Tigard Triangle. At the time the Tigard Triangle District was adopted, the MUE zoned lands were zoned C-P. The subject site is located adjacent to one of the three boundary roads that make up the Triangle. Unlike other mixed use zones, the code's MUE description explicitly anticipates the application of the MUE zone "elsewhere in the city through the legislative process."

2) The MUE zone is compatible with adjacent uses. The adjacent zones include Medium-High Density Residential (R-25) on the west, General Commercial (C-G) on the southeast and Professional Commercial (C-P) on the northeast. Low Density Residential (R-4.5) is across SW Pfaffle Street to the north. The adjacent properties are built out with multifamily housing on the west and commercial and office uses on the east. The MUE zone permits multifamily residential at 25 units/acre consistent with residential densities to the west.

The MUE permits a range of other uses not permitted in the C-P including: light industrial and research and development (restricted to interior locations) and some warehouse/freight movement; civic uses are expanded in the MUE to include colleges, schools, and community recreation; commercial uses such as commercial lodging, eating drinking establishments and sales oriented retail (where limited to a percentage of permitted uses in the C-P) are permitted outright in the MUE.

Mixed use development is difficult to predict both in terms of how uses might be mixed and which uses would be mixed. Complicating factors for development include the high visibility of the site's hilltop location to Pacific Hwy and Hwy. 217 but access to the site from Pfaffle only. Reuse or redevelopment of the existing development on the site is both an opportunity (for the applicant) and potentially a limitation to development of mixed uses on the site, at least in the near term.

3) The Pacific Hwy High Capacity Corridor Planning process is designed to integrate land use planning and transportation/transit planning. This proposed rezone comes in advance of any recommendations that may result from the HCT process and plan for rezoning along the corridor, and this site in particular. However, it is likely that mixed use zoning will be applicable to the site given the potential for mixed uses to facilitate intradistrict pedestrian and transit trips and support alternative modes of transportation.

4) Other mixed use zones are geographically specific or are less compatible to the site: MU-CBD applies to the Tigard Town Center which terminates west of Hwy 217; MUC-1 applies to the Durham Quarry area; MUE-1/MUE-2, MUR-1/MUR-2, and MUC are tied to the Washington Square Regional Center and are subject to the Center's development standards. There is no prohibition in the code to prevent the more appropriate of these zones (arguably MUR-2) being applied to the subject site, but they lack the MUE zone's explicit direction for "application elsewhere in the city."

5) The applicant hopes to keep City Bible Church as a tenant on sale of the property. The MUE zone continues to permit religious institutions outright.

#### Transportation Planning Rule

ODOT is supportive of the city's efforts to implement transit supportive zoning in this corridor. As identified in the ODOT comment letter and concurred on by the city Development Review Engineer, limiting trip generation (as proposed by the applicant) to that allowed under the existing C-P zone, as shown in the Lancaster Engineering analysis dated February 10, 2011 (373 a.m. peak hour trips and 561 p.m. peak hour trips), would avoid a significant effect finding.

Outstanding Issues

Currently, application of the MUE zone carries with it the 1) 0.40 FAR limitations for commercial and industrial use types and 2) the 30,000 square foot limitation for general retail use. Because these limitations do not apply to uses permitted in the C-P zone, some commercial uses could result in less development potential under the MUE zone. Residential uses are not subject to the FAR limitation. The limit on intensity of uses within the Southwest Corridor Study Area is under review and may be adjusted at some point in the years ahead based on a number of factors including revised mobility standards for the corridor. Also, new zoning for station area plans may not use the MUE zone and avoid any potential conflict.

ODOT commented that recent mixed use zone changes have not had mixed uses in mind in the case of the Knoll apartments and WCHS and asks that the city review the mixed use zones to ensure that land use implementation is reflective of the city's vision. Additionally, ODOT suggests the city consider additional measures such as limiting drive-through uses, parking maximums, and more clarification of the type of retail intended for this zone.

The applicant's preliminary site plan shows an emergency access directly across from the Highway 217 ramp terminal. ODOT has commented that no access can be approved in this vicinity due to safety concerns and state rules (OAR 734.51).

CONCLUSION:

Based on the foregoing findings and analysis, staff finds that the proposed comprehensive plan map and zone change amendments are consistent with applicable provisions of the Tigard Comprehensive Plan, Tigard Development Code, statewide planning goals and the Transportation Planning Rule, and provides evidence of change in the neighborhood as it relates to the property which is the subject of the development application.

RECOMMENDATION:

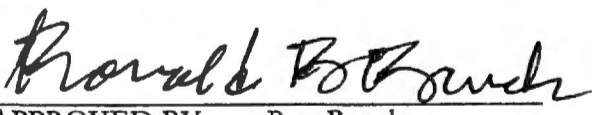
Staff recommends that the Planning Commission recommend to City Council approval of the proposed comprehensive plan map and zone change amendments with the following condition of approval and any others they deem appropriate through the public hearing process:

**Recommended Condition of Approval**

The site shall be limited to a maximum of 373 a.m. peak hour trips and 561 p.m. peak hour trips. If the applicant or future property owners wish to allow for more trips, a Comprehensive Plan Amendment (CPA) with Transportation Planning Rule OAR 660-012-0060 analysis will be required to determine whether the limit can be revised or removed. The trip cap shall be implemented as a condition of approval on subsequent land use permits for proposed development and will be listed as a condition of approval in the ordinance adopting the zone change, if approved by the City Council.

  
PREPARED BY: Gary Pagenstecher  
Associate Planner

\_\_\_\_\_  
May 5, 2011  
DATE

  
APPROVED BY: Ron Bunch  
Community Development Director

\_\_\_\_\_  
May 5, 2011  
DATE

Exhibits

- A. Vicinity Map
- B. Current Zoning Map
- C. Preliminary Site Plan
- D. 4/26/11 Letter from ODOT

**FIGURE II-1  
VICINITY MAP**

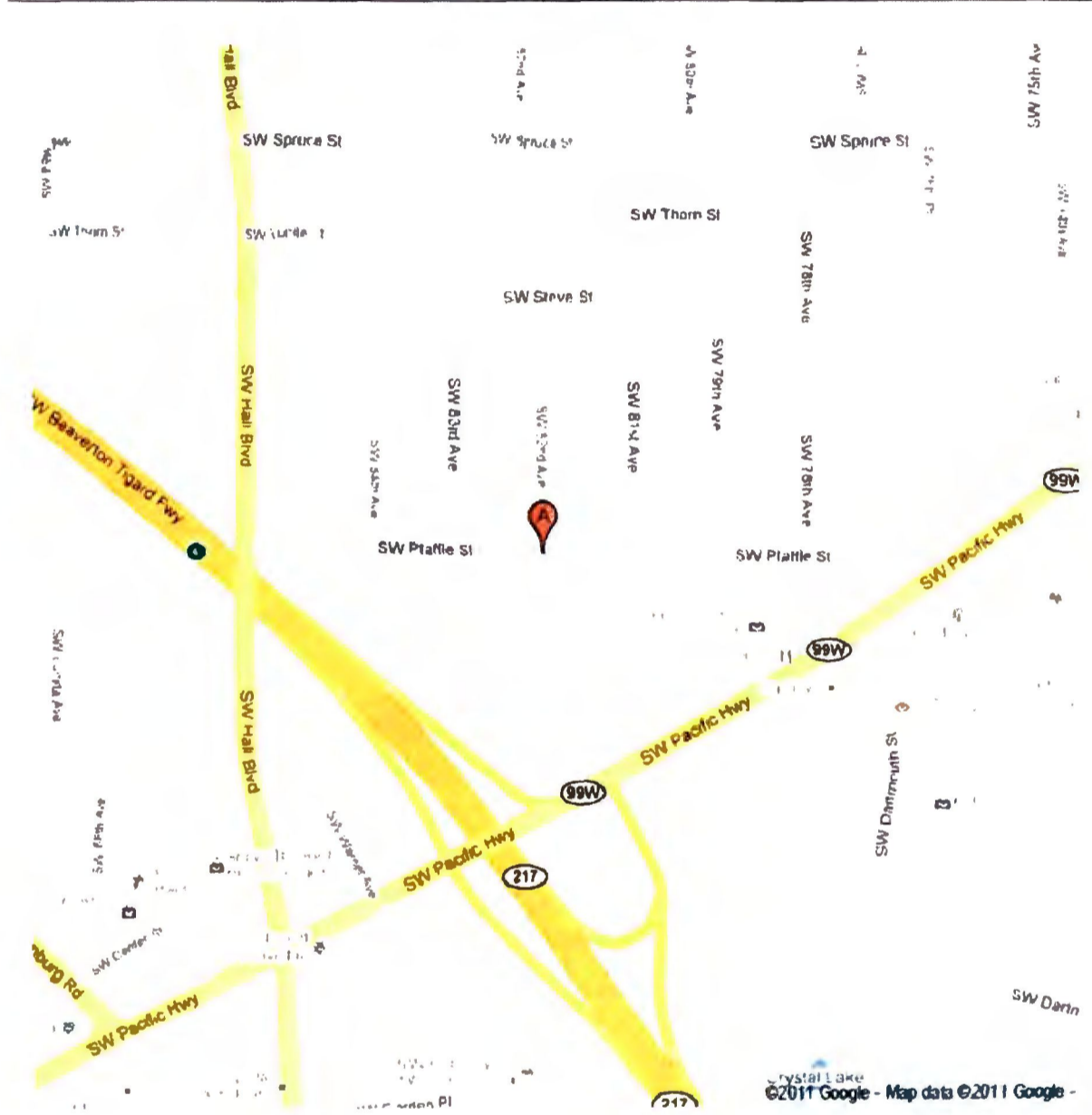
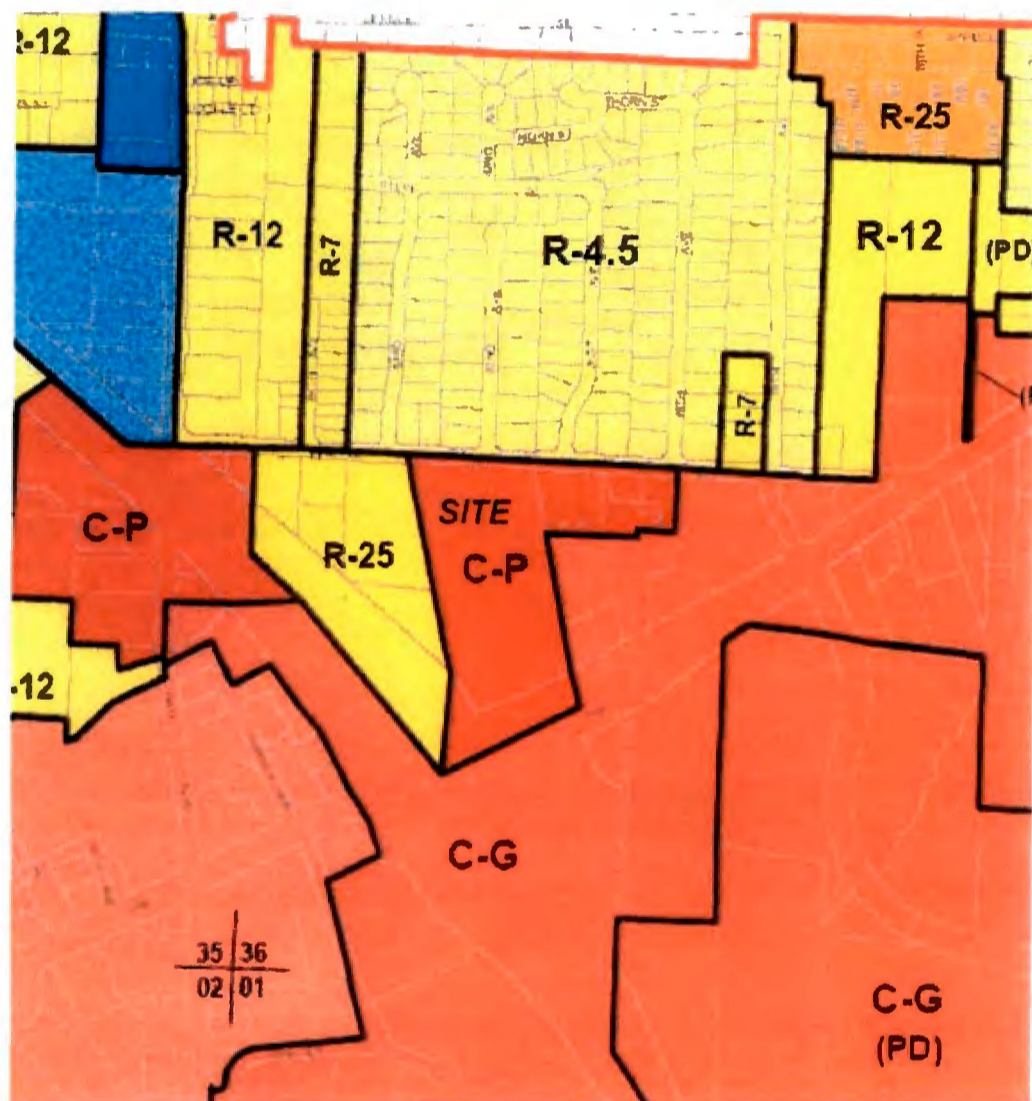
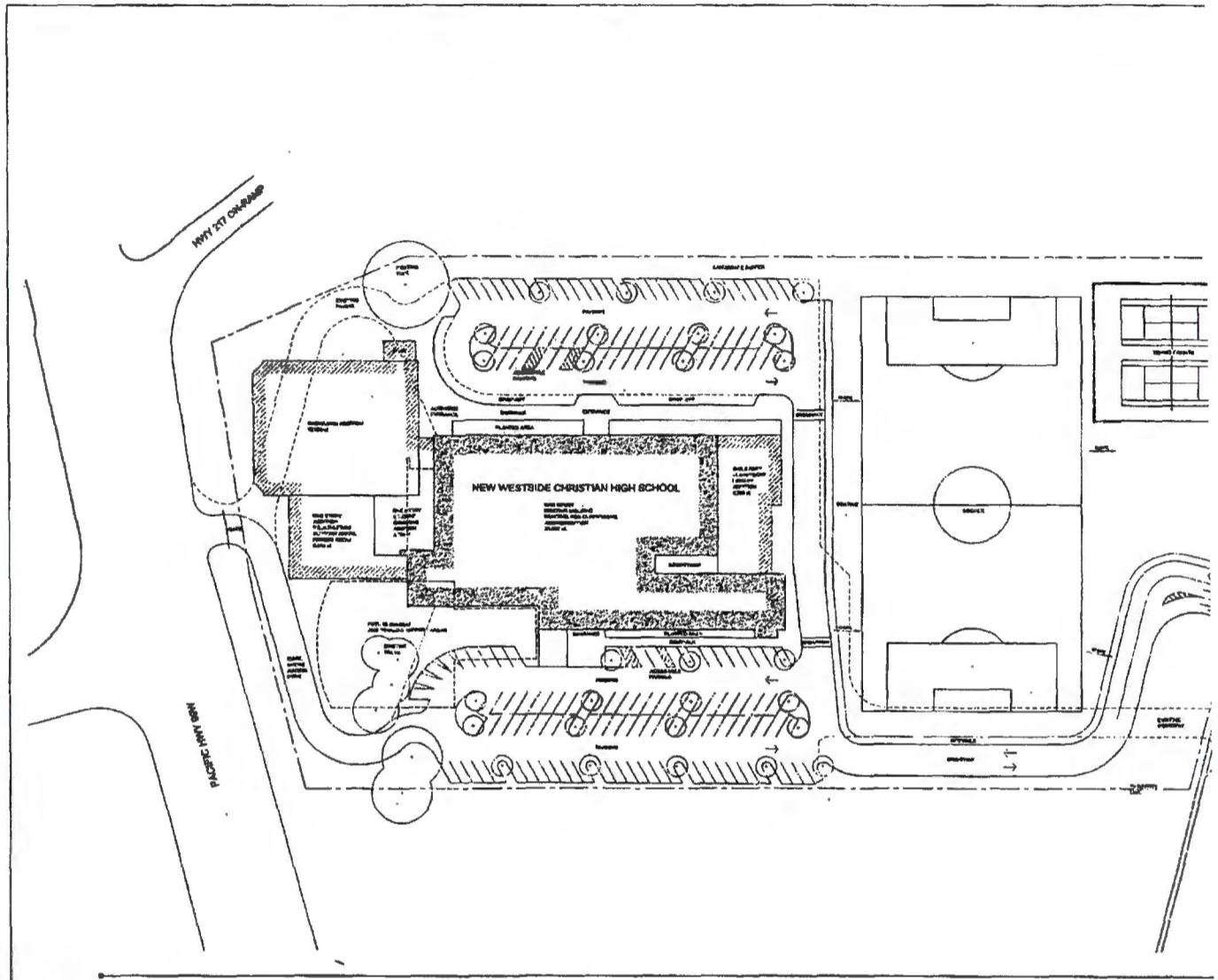


FIGURE II-2  
ZONING MAP







BILL OGDEN WENNER  
architects inc.

**NEW WESTSIDE CHRISTIAN HIGH SCHOOL**  
WESTSIDE CHRISTIAN HIGH SCHOOL  
PACIFIC HIGHWAY 35W & HWY 217  
TIGARD, OR

FI

EXHIBIT D



**Oregon**

John A. Kitzhaber, MD, Governor

**Department of Transportation**

Region 1 Headquarters  
123 NW Flanders Street  
Portland, OR 97209  
(503) 731.8200  
FAX (503) 731.8531

4/26/11

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

ATTN: Gary Pagenstecher, Associate Planner

RE: CPA2011-00001/ZON2011-00001: Pacific Highway (99W) and Highway 217

We have reviewed the applicant's proposal to change the classification of a 7.44 acre lot from Professional/Administrative Commercial (C-P) to Mixed-Use Employment (MUE). The site is adjacent to 99W and Highway 217. ODOT has jurisdiction of these State highway facilities and an interest in assuring that the proposed zone change/comprehensive plan amendment is consistent with the identified function, capacity and performance standard of these facilities. For zone changes and comprehensive plan amendments, local governments must make a finding that the proposed amendment complies with the Transportation Planning Rule (TPR), OAR 660-012-0060. There must be substantial evidence in the record to either make a finding of "no significant effect" on the transportation system, or if there is a significant effect, require assurance that the land uses to be allowed are consistent with the identified function, capacity, and performance standard of the transportation facility. After reviewing the applicant's proposal and associated TPR Analysis prepared by Lancaster Engineering dated February 10, 2011, we have determined that while the zone change has the potential to have a significant effect on the transportation system, the applicant's proposed trip cap can accommodate the trips generated by the intended school use and allow the City to make a finding of no significant effect.

The applicant's TPR analysis shows a comparison between a Medical/Dental office allowed outright under the proposed zoning/comp plan designation with a larger Medical/Dental office allowed outright under the existing zoning/comprehensive plan designation (this is commonly referred to as the "reasonable worst case" traffic analysis). ODOT did not have the opportunity to review and concur with the mix of land uses and square footage used for the "reasonable worst case" traffic analysis for both existing and proposed zoning. Although the flexibility inherent in the MUE district makes determining a reasonable worst case mix of uses difficult, after consulting with City staff, ODOT has determined that the MUE zoning allows a broad range of uses (particularly retail and eating and drinking establishments) that could reasonably generate more trips than the existing zoning. In addition, the FAR and maximum retail use restrictions on the MUE zone are not sufficient to determine that there will not be a significant effect when compared to the restrictions on the C-P zone.

Nevertheless, ODOT and the City concur with the applicant's proposal to limit the trips allowed under the proposed zoning to the amount generated by a Medical/Dental office building as

allowed under the existing zoning. This trip cap can accommodate the intended conditional school use while placing a reasonable limit on trip generation for allowed uses should this parcel redevelop in the future. In order to ensure that the zone change will not result in a significant effect upon State facilities, ODOT requests that the City of Tigard condition a trip cap to be placed on the zone change:

A condition of this zone change is that the site is limited to a maximum of 373 a.m. peak hour trips and 561 p.m. peak hour trips. If the applicant or future property owners wish to allow for more trips, a Plan Amendment with Transportation Planning Rule OAR 660-012-0060 analysis will be required to determine whether the limit can be revised or removed.

It is important that any proposal to allow more trips be addressed in the Plan Amendment process and will trigger a new evaluation of TPR compatibility at that time to determine whether or not the new proposal will have a significant effect on State highway facilities and the limit can be revised or removed.

ODOT is supportive of the City's efforts to implement transit supportive zoning in this corridor. Based on this proposal as well as the previous Knoll development, ODOT recommends that the City review their mixed use zones to ensure that land use implementation is reflective of the City's vision. In the current case, while there are some restrictions on the MUE zone, we encourage the City to consider additional measures such as limiting drive-through uses, parking maximums, and more clarification of the type of retail intended for this zone. The Knoll zone change showed that the MUR-1 zone allows development density far greater than the approved 49 unit apartment complex and could generate significantly more trips than the 300 daily trips assumed. Both cases show that trip generation under the mixed use zones is difficult to determine and neither zone change has been proposed with a mixed use development in mind. ODOT will continue to work with the City and Metro to refine the code in the HCT corridor and Town Center.

Note: The applicant's preliminary site plan shows an emergency access directly across from the highway 217 ramp terminal. No access can be approved in this vicinity due to safety concerns and state rules (OAR 734.51).

Thank you for providing ODOT the opportunity to participate in this land use review. If you have any further questions regarding this matter, please contact me at 503-731-8234.

Sincerely,



Seth Brumley  
Development Review Planner

C: Kirsten Pennington, ODOT Region 1 Planning Manager  
Marah Danielson, ODOT Region 1 Planning  
Doug Baumgartner, ODOT Region 1 Traffic




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

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

DEPT OF

JUN 22 2011

LAND CONSERVATION  
AND DEVELOPMENT