CITY OF TUALATIN
Planning Division

December 16, 2021

Analysis and Findings for
Tualatin Height Apartments Rezone Map Amendment

Case #:	PMA 21-0001
Project:	Tualatin Heights Rezone Map Amendment
Applicant:	Andrew Lavaux of United Dominion Realty, Inc.

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I. INTRODUCTION

A. Applicable Criteria

Applicable Statewide Planning Goals; Divisions 7 and 18 of the Oregon Administrative Rules; applicable Sections of the City of Tualatin Development Code including Chapters 32 and 33; Metro Chapter 3.07

B. Project Description

The requested Plan Map Amendment (PMA) would change the existing zoning from Medium Low Residential (RML) to Medium High Residential (RMH). Approving the PMA would change the maximum density of 10 dwelling units per acre to a maximum density to 15 dwelling units per acre. Future development would require submittal and approval of an Architectural Review application subject to compliance with design and siting standards applicable to the RMH District. The applicant has included a Conceptual Site Plan (Exhibit B) demonstrating how additional development could be accommodated. The applicant has also included a Parking Study (Exhibit D) showing on and off-site parking utilization.

II. FINDINGS

A. Oregon Statewide Planning Goals

Goal 1 – Citizen Involvement
To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:
The Planning Commission will review the proposed amendment at a public meeting on December 16, 2021. The Planning Commission is the City's acknowledged Committee for Citizen Involvement (CCI), in compliance with Goal 1. The proposed amendment will also be considered at a public hearing conducted by the City Council, which is scheduled for January 24, 2022.

Further, the City has followed its acknowledged public notice procedures for quasi-judicial Comprehensive Plan Amendments, found in TDC 32.240, which includes mailed notice of the City Council hearing to surrounding property owners, publishing notice of the City Council hearing in the Tualatin Times, notice of the hearing to the Department of Land Conservation and Development at least 35 days prior to the first hearing, notice to affected government entities, and publicly posting notice of the hearing.

The proposed amendments conform to Goal 1.

Goal 2 – Land Use Planning
To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding:
The City of Tualatin's Comprehensive Plan and Development Code provide an acknowledged and established land use planning process and policy framework which serve as the basis for all decisions and actions related to use of land, which include requirements to assure than an adequate factual base is provided for those decisions and actions. The proposed amendment has been processed in accordance with these procedures.

The proposed amendments conform to Goal 2.

Goal 5 – Open Spaces, Scenic and Historic Area, and Natural Resource
Goal 5 establishes a process for each resource to be inventoried and evaluated. OAR 660-015-0000(5) and OAR 660.023 (Procedures and Requirements for Complying with Goal 5)

Finding:
The proposed amendment does not modify the City's existing open space and natural resources requirements or include any text changes or changes to the regulations for those Goal 5 resources regulated by TDC Chapter 71 (Wetlands Protection District) and TDC Chapter 72 (Natural Resource Protection Overlay District). All redevelopment will be reviewed under the Architectural Review (AR) process to ensure that any new construction will be reviewed consistent with these requirements.

The proposed amendment conforms to Goal 5.

Goal 6 – Air, Water and Land Resources Quality

Finding:
The Oregon Department of Environmental Quality (DEQ) regulates air, water and land with Clean Water Act (CWA) Section 401 Water Quality, Water Quality Certificate, State 303(d) listed waters, Hazardous Wastes, Clean Air Act (CAA), and Section 402 NPDES Construction and Stormwater Permits. The Oregon Department of State Lands and the U.S. Army Corps of Engineers regulate jurisdictional wetlands and CWA Section 404 water of the state and the country respectively. Clean Water Services (SWC) coordinates storm water management, water quality and stream enhancement projects throughout the city. Future development will still need to comply with these state, national and regional regulations and protections for air, water and land resources. Tualatin has an acknowledged Comprehensive Plan that complies with this goal. All development will be required to be reviewed consistent with these requirements.

The proposed amendment conforms to Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards

Finding:
Tualatin has an acknowledged Comprehensive Plan that complies with this goal. The proposed amendment does not modify the City's natural hazards requirements or existing goals and policies associated with Goal 7 established by the Comprehensive Plan. Future development would be required to be consistent with the applicable requirements of the Tualatin Development Code.

The proposed amendment conforms to Goal 7.

Goal 8 – Recreation Needs
To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding:
The proposed amendment does not affect policies associated with recreational needs.

The proposed amendment conforms to Goal 8.

Goal 9 – Economy of the State
To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding:
The proposed amendment does not affect policies, lands, or opportunities associated with Goal 9 established by the Comprehensive Plan.

The proposed amendment conforms to Goal 9.

Goal 10 – Housing
To provide for the housing needs of citizens of the state.

Finding:
The proposed amendment would change the site's zoning designation from RML to RMH and allow development at a higher density (up to 15 units per acre).

As shown below, Tualatin's 2019 HNA shows a deficit of land zoned Medium High Density as opposed to a surplus of land zoned Medium Low Density. Therefore, the proposed amendments are consistent with Tualatin's land capacity needs.

Exhibit 4. Comparison of capacity of existing residential land with demand for new dwelling units and land surplus or deficit, Tualatin City Limits and Basalt Creek, 2020 to 2040
Source: Buildable Lands Inventory; Calculations by ECONorthwest. *Note: DU is dwelling unit.*

Residential Plan Designations	Capacity (Dwelling Units)	Demand for New Housing	Remaining Capacity (Supply minus Demand)	Land Surplus or (Deficit) *Gross Acres*
Low Density	523	466	57	10
Medium Low Density	386	71	315	27
Medium High Density	13	122	(109)	(7)
High Density	285	254	31	2
High Density High-Rise	-	101	(101)	(4)

As illustrated above the proposed amendment would help provide for the housing needs of the citizens of the state by providing for opportunity for additional dwellings units and helping to meet Tualatin's land capacity needs. Compliance with Goal 10 for cities within the Portland Metropolitan Urban Growth Boundary, like Tualatin, is also analyzed later in the report for compliance with OAR Chapter 660 Division 7. Findings addressing this OAR are found below.

The proposed amendment conforms to Goal 10.

Goal 11 – Public Facilities and Services

Finding:
The proposed amendment does not affect policies related to public facilities and services including water, sewer, and emergency services.

The proposed amendment conforms to Goal 11.

Goal 12 – Transportation

Finding:
The requirements of Goal 12 are addressed by compliance with Oregon Administrative Rule (OAR) Section 660-012-0060, also known as the Transportation Planning Rule or TPR. The proposed amendment's compliance with the TPR is addressed below under the applicable OAR Section.
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The proposed amendment conforms to Goal 12 and satisfies the applicable OAR requirements.

Goal 13 – Energy

Findings:
The proposed amendment does not include any changes that are related to or intended to impact Tualatin's land use regulations pertaining to energy consumption.

The proposed amendment conforms to Goal 13.

B. Oregon Administrative Rules
OAR 660-012-0060
Plan and Land Use Regulation Amendments
(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:
(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
(b) Change standards implementing a functional classification system; or
(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Finding:
The applicant has proposed an amendment to the Comprehensive Plan and Zoning Map designation of the subject property as Tualatin is a single-map Comprehensive Plan/Zoning Map jurisdiction. The applicant has included a Transportation Planning Rule analysis (Exhibit E) that identifies that the proposed amendment would significantly impact an existing transportation facility. Specifically, the applicant identifies the intersection of Sagert Street and Boones Ferry Road as failing within the 20 year long range planning horizon. However, this intersection would ultimately fail, with or without the proposed Plan Map Amendment, unless a northbound right turn lane is constructed on Boones Ferry Road south of Sagert Street. These criteria are met.

(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section

(11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.
(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.
(c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.
(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if:
(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards;
(B) The providers of facilities being improved at other locations provide written statements of approval; and
(C) The local jurisdictions where facilities are being improved provide written statements of approval.
(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
(a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;
(b) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
[…]
(4) Determinations under sections (1)–(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.
(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.
(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:
(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.
(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems

development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.
(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.
(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.
(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.
(c) Within interstate interchange areas, the improvements included in (b)(A)–(C) are considered planned facilities, improvements and services, except where:
(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or
(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.
(d) As used in this section and section (3):
(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;
(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and
(C) Interstate interchange area means:
(i) Property within one-quarter mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway; or
(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.
(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)–(C) to determine whether there is a significant effect that requires application of the remedies in section (2).
[…]

Finding:
Because the a deficiency has been identified, staff recommends that per Section 2(d) above that the applicant be required to provide a condition of development, development agreement, or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements, and that as part of the amendment, the improvements provided pursuant to this subsection will be provided prior to approval of an Architectural Review application to add additional dwelling units to the site. This criterion is met.

C. Metro Chapter 3.07, Urban Growth Management Functional Plan

The following Chapters and Titles of Metro Code are applicable to the proposed amendments:
Chapter 3.07, Urban Growth Management Functional Plan

Title 7 – Housing Choice
This voluntary section of the functional plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

Finding:
The proposed amendment would provide opportunities for households of all income levels, and, as addressed above under Goal 10, would specifically provide land capacity of a zoning designation identified as a deficit by Tualatin's most recent housing capacity analysis. The proposed amendment is consistent with Title 7.

D. Tualatin Comprehensive Plan
Chapter 3 – Housing & Residential Growth:
GOAL 3.1 HOUSING SUPPLY. Ensure that a 20-year land supply is designated and has urban services planned to support the housing types and densities identified in the Housing Needs Analysis.
POLICY 3.1.1 DENSITY. Maintain a citywide residential density of at least eight (8) dwelling units per net acre.
POLICY 3.1.2 ZONING FOR MULTIFAMILY. Provide zoning for multifamily development, which may be located in areas adjacent to transit.
POLICY 3.1.5 FUNCTIONAL PLANNING. Consider the development-ready residential land supply as part of ongoing functional planning efforts to provide necessary urban services in support of residential development.

Finding:
As discussed above, the proposed amendment would rezone the site to RMH which is a zoning designation for which there is presently identified as a deficit in Tualatin's most recent housing capacity analysis. The density for the RMH zone is greater than 8 acres, and the district itself would provide zoning for multifamily development. Lastly, the amendment would apply to a site that is "development ready" and would be enabled to redevelop as a result of the proposed amendment. This Goal and these Policies are met.

Strategic Actions
Evaluate opportunities to increase development densities to address deficiencies identified in the Housing Needs Analysis within Tualatin's existing zones.
Evaluate opportunities to rezone land to provide additional opportunities for multifamily housing development

Finding:
The proposed amendment would support increasing development density to identify a specific deficiency of RMH zoned land identified in the Housing Needs Analysis. The proposed amendment would also rezone land with the purpose of providing additional opportunities for multifamily housing development. These Strategic Actions are met.

GOAL 3.7 RESIDENTIAL GROWTH AND THE ENVIRONMENT. Plan for housing and residential growth to minimize and mitigate for environmental impacts.
POLICY 3.7.1 ENVIRONMENTAL PROTECTION. Housing and residential growth policies will be evaluated for consistency with the environmental protection goals and policies of Chapter 7 (Parks, Open Space,

and the Environment).

Finding:
The proposed amendment would plan for housing and residential growth in an area of the City that is already development, and thus minimizes the impacts as compared to adding density to greenfield areas within the City and therefore is consistent with the environmental protection goals and policies of Chapter 7. This Goal and Policy are met.

Chapter 10 – Land Use Designations and Zoning
Medium-Low Density Residential Planning District (RML) This district supports household living uses with a variety of housing types at moderately low densities. This district is primarily oriented toward middle housing types including attached dwellings, multi-family development, and manufactured dwelling parks. Medium-High Density Residential Planning District (RMH) This district supports a variety of housing types at moderate densities. This district is primarily oriented toward multifamily development and attached homes.

Finding:
A comparison of the existing (RML) and proposed (RMH) zoning designations finds that the proposed amendment would not be inconsistent with the purpose for the RMH zoning designation. The proposed amendment would support multi-family unit at a moderate density. These Policies are met.

E. Tualatin Development Code
Chapter 32: Procedures
TDC 32.010. - Purpose and Applicability.
(2) Applicability of Review Procedures. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City's land use and development applications and corresponding review procedure(s).
(d)
Type IV-A Procedure (Quasi-Judicial Review—City Council Public Hearing). Type IV-A procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. Type IV-A decisions are made by the City Council and require public notice and a public hearing. Appeals of Type IV-A decisions are heard by the Land Use Board of Appeals (LUBA). (3)

Determination of Review Type. Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

Table 32-1—Applications Types and Review Procedures

Application/Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/ Developer Mtg Required	Applicable Code Chapter
Plan Amendments						
• Map or Text Amendments for a specific property	IV-A	CC	LUBA	Yes	Yes	TDC 33.070

*** City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).**

Finding:
The proposed application is a quasi-judicial Plan Map Amendment in that it would apply to a single property rather than broadly across the City. Accordingly, the proposed application is being processed in accordance with the Type IV-A procedures. These criteria are met.

TDC 32.030. - Time to Process Applications.
(1)Time Limit—120-day Rule. The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)
(3)Time Periods. "Days" means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

Finding:
Because the proposed amendment is an amendment to the City's Comprehensive Plan, the 120-day rule portion of ORS 227.178 is not applicable. To the extent applicable, these criteria are met.

TDC 32.110. - Pre-Application Conference.
(1) Purpose of Pre-Application Conferences. Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
(2) When Mandatory. Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.
(3) Timing of Pre-Application Conference. A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer

meeting.
(4) Application Requirements for Pre-Application Conference.
(a) Application Form. Pre-application conference requests must be made on forms provided by the City Manager.
[…]

Finding:
Table 32-1 requires applicant's for all map amendments to have a pre-application conference. On April 7, 2021, the applicant attended the required pre-application meeting. This criterion is met.

TDC 32.120. - Neighborhood/Developer Meetings.
(1) Purpose. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.
(2) When Mandatory. Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.
(3)Timing. A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.
(4)Time and Location. Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:
(a)If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.
(b)If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.
(5) Notice Requirements.
(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.
(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:
(i) All property owners within 1,000 feet measured from the boundaries of the subject property;
(ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and
(iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.
(c) The City will provide the applicant with labels for mailing for a fee.
(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.
(6) Neighborhood/Developer Sign Posting Requirements. The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.
(7)Neighborhood/Developer Meeting Requirements. The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal

with their land use application.

Finding:
The Neighborhood/Developer Meeting for the proposed application was held on Tuesday, June 8, 2021 at 6:00 PM. Due to COVID-19, the meeting was virtually hosted on GoToMeeting. Documentation demonstrating compliance with these criteria is included within Exhibits B and C. These criteria are met.

TDC 32.240. - Type IV-A Procedure (Quasi-Judicial Review—City Council Public Hearing).
Type IV-A decisions are quasi-judicial decisions made by the City Council after a public hearing. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons. Except as otherwise provided, the procedures set out in this section must be followed when the subject matter of the evidentiary hearing would result in a quasi-judicial decision. City Council decisions may be appealed to the state Land Use Board of Appeals pursuant to ORS 197.805—197.860.
[…]

Finding:
The first evidentiary public hearing before the City Council will be held on January 24, 2022.

(3) Written Notice of Public Hearing—Type IV-A. Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.
(a) Recipients:
(i) The applicant and, the owners of the subject property;
(ii) All property owners within 1,000 feet measured from the boundaries of the subject property;
(iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;
(iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;
(v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;
(vi) Any person who submits a written request to receive a notice;
(vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;
(viii) Utility companies (as applicable); and,
(ix) Members of the City Council.
(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:
(i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
(ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;
(iii) The type of application and a concise description of the nature of the land use action;

(iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;(v)Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
(vi) The date, time and location of the hearing;
(vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
(viii) The name of a City representative to contact and the telephone number where additional information may be obtained;
(ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
(x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.
(c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.
(4) Additional Notice Requirements for Certain Type IV-A Application Types. The following additional notice requirements apply to Type IV-A Hearings where the City Council will be considering the application or removal of a Historic Landmark Designation or a Plan Text or Map Amendment for a particular property or discrete set of properties.
(a) The City Manager will notify in writing the Oregon Department of Land Conservation and Development (DLCD) in accordance with the minimum number of days required by ORS Chapter 197.
(b) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be provided by publication in a newspaper of general circulation in the City.
(c) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be posted in two public and conspicuous places within the City.

Finding:
As discussed in response to the previous criterion, the proposed amendments are quasi-judicial in nature and have been processed consistent with the Type IV-A requirements. The above referenced requirements will be addressed relative to date of the City Council public hearing on January 24, 2022. These criteria can be met.

(5) Conduct of the Hearing—Type IV-A.
The Mayor (or Mayor Pro Tem) must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the Mayor must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the Mayor on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the Mayor in the conduct of the hearing are as follows:
(a) At the commencement of the hearing, the Mayor (or designee) must state to those in attendance all of the following information and instructions:
(i) The applicable approval criteria by Code Chapter that apply to the application;
(ii) Testimony and evidence must concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

(iii) Failure to raise an issue with sufficient detail to give the City Council and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
(iv) At the conclusion of the initial evidentiary hearing, the City Council must deliberate and make a decision based on the facts and arguments in the public record; and
(v) Any participant may ask the City Council for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the City Council grants the request, it will schedule a date to continue the hearing as provided in TDC 32.240(5)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.240(5)(f).
(b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the City Council must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the City Council must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the City Council must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.
(c) Presenting and receiving evidence.
(i) The City Council may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
(ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
(iii) Members of the City Council may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
(d) The City Council, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.
(e) If the City Council decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.
(f) If the City Council leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:
(i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
(ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030(1) (ORS 227.178—120-day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and

(iii) If requested by the applicant, the City Council must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.
(6)Notice of Adoption of a Type IV-A Decision. Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type IV-A Notice of Adoption must contain all of the following information:
(a)A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
(b)The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
(c)A statement a statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
(d)The date the decision becomes final; and
(e)The notice must include an explanation of rights to appeal a City Council decisions to the state Land Use Board of Appeals pursuant to ORS 197.805—197.860.
(7)Effective Date of a Type IV-A Decision.
(a)The written order is the final decision on the application.
(b)The date of the order is the date it is mailed by the Mayor (or designee) certifying its approval by the decision body.
(c)Appeal of a IV-A City Council decision is to the State Land Use Board of Appeals pursuant to ORS 197.805—197.860.

Finding:
The City Council hearing will be conducted according to these requirements. A notice of decision will be mailed and effective consistent with the above provisions. These criteria can be met.

Chapter 33: Applications and Approval Criteria
Section 33.070 Plan Amendments
[…]
(2) Applicability. [...] Legislative amendments may only be initiated by the City Council.
(3) Procedure Type.
(a) Map or text amendment applications which are quasi-judicial in nature (e.g. for a specific property or a limited number of properties) is subject to Type IV-A Review in accordance with TDC Chapter 32.

Finding:
The proposed amendment is quasi-judicial in nature and has been processed according to the Type IV-A procedures, discussed above. These criteria have been or will be satisfied.

(5) Approval Criteria.
(a) Granting the amendment is in the public interest.

Finding:
The proposed amendment will allow the applicant to change the site zoning from RML to RMH. As previously noted, the City's most recent housing capacity analysis in 2019 found that there is a deficit of land zoned RMH and conversely there is a surplus of land zoned RML.

Exhibit 4. Comparison of capacity of existing residential land with demand for new dwelling units and land surplus or deficit, Tualatin City Limits and Basalt Creek, 2020 to 2040
Source: Buildable Lands Inventory; Calculations by ECONorthwest. *Note: DU is dwelling unit.*

Residential Plan Designations	Capacity (Dwelling Units)	Demand for New Housing	Remaining Capacity (Supply minus Demand)	Land Surplus or (Deficit) *Gross Acres*
Low Density	523	466	57	10
Medium Low Density	386	71	315	27
Medium High Density	13	122	(109)	(7)
High Density	285	254	31	2
High Density High-Rise	-	101	(101)	(4)

In addition, as discussed in Section D, addressing compliance with the Comprehensive Plan, the proposed amendment would address several existing Comprehensive Plan Goals, Policies, and Strategic Actions. Both the housing capacity analysis and Comprehensive Plan were developed with significant public input and review. Therefore, granting the proposed amendment is in the public interest. This criterion is met.

(b) The public interest is best protected by granting the amendment at this time.

Finding:
Because the proposed amendment would address deficiencies previously identified in the City's housing capacity analysis from 2019, as well as Comprehensive Plan Goals, Policies, and Strategic Actions, granting the proposed amendment as soon as practicable would protect the public interest. As previously noted, these policies were developed with substantial and recent public input and therefore directly reflect the public interest. Lastly, the cost of housing continues to rise and multiple-family dwellings tend to be less expensive to rent, and therefore, to the extent that the proposed amendment would facilitate development of additional units of multi-family housing, the public interest would also be served by granting the amendment at this time. This criterion is met.

(c) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

Finding:
The proposed amendments are in conformity with the applicable objectives of the Tualatin Community Plan, also known as the Comprehensive Plan, as discussed above in Section D. This criterion is met.

(d) The following factors were consciously considered:
(i) The various characteristics of the areas in the City;
(ii) The suitability of the areas for particular land uses and improvements in the areas;

Finding:
The proposed amendment is limited to a single site and therefore the various characteristics of areas of the City are not applicable. The applicant has within their application materials addressed the suitability of this particular geographic area for the proposed land use which would be multi-family units in addition to those existing, within a previously developed area of the City. Staff concurs with the applicant assessment that this area is suitable for land uses and improvements that would be allowed, if the proposed amendment were granted. These criteria are met.

(iii) Trends in land improvement and development;

Finding:
As noted previously, the proposed amendment is consistent with the findings and conclusions of Tualatin's most recent housing capacity analysis as well as Goals, Policies, and Strategic Actions, which were developed based on this analysis. As these findings and conclusions were developed in 2019, they represent the most recent available evidence that identify trends in land improvement and development. Therefore, the proposed amendment is consistent with trends in land improvement and development. This criterion is met.

(iv) Property values;

Finding:
The proposed amendment is not anticipated to adversely impact property values. Staff is not aware of any evidence within the City's most recent housing capacity analysis that identify that implementation of policy recommendations would have such an impact. This criterion is met.

(v) The needs of economic enterprises and the future development of the area; needed right- of-way and access for and to particular sites in the area;

Finding:
The proposed amendment does not directly impact the needs of economic enterprises as they are not applicable in fully developed residential areas. There is existing right-of-way and access to the site and does not obstruct or conflict with surrounding sites. To the north of the subject property there is an existing railroad right-of-way which, as noted by the applicant, creates a buffer to the north and eliminates the potential for any additional access points north of the subject property. This criterion is met.

(vi) Natural resources of the City and the protection and conservation of said resources;
(vii) Prospective requirements for the development of natural resources in the City;

Finding:
The proposed amendment does not impact natural resource protection nor application of requirements to future development, which would fully apply to any new development. These criteria are met.

(viii) The public need for healthful, safe, esthetic surroundings and conditions;

Finding:
The proposed amendment does not impact regulations governing public need for healthful, safe, or aesthetic surroundings and conditions. The subject property is developed with an existing multi-family project. Any future development must go through an Architectural Review and any future development will be reviewed and required to comply with TDC requirements. This criterion is met.

(e) If the amendment involves residential uses, then the appropriate school district or districts must be able to reasonably accommodate additional residential capacity by means determined by any affected school district.

Finding:
Exhibit C of the applicant's submittal evaluated the impact to Tualatin-Tigard School District. This analysis was provided by the applicant to the school district. As of the date of writing of this report, the City of Tualatin has not received any response from the school district. This criterion is met.

(f) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).

Finding:
As discussed above in Sections A and B, granting the proposed amendment is consistent with Statewide Planning Goals and their implementing Oregon Administrative Rules. Specific to the Transportation Planning Rule (TPR), because the applicant has proposed an amendment to an existing zoning designation, and a deficiency has been identified, staff recommends that per Section 2(d) of the OAR that the applicant be required to provide a condition of development, development agreement, or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements, and that as part of the amendment, the improvements provided pursuant to this subsection will be provided prior to approval of an Architectural Review application to add additional dwelling units to the site. With the addition of the recommended development condition, this criterion is met.

(g) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

Finding:
The proposed amendment will not adversely impact the City's compliance with Titles 1-14 of the Metro Urban Growth Management Functional Plan as discussed in Section II-C of these findings. Therefore, these requirements were consciously considered. This criterion is met.

(h) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Finding:
The applicant provided a TPR analysis that evaluated transportation level of services. With the addition of the recommended development condition, discussed above under subsection (d), this criterion is met.

(i) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.
[…]

Finding:
The proposed amendment does not impact objectives and policies regarding the above referenced utilities. Utilities will be closely evaluated at the time the applicant submits an application for Architectural Review. This criterion is met.