



February 8, 2021

Analysis and Findings

Case #: PTA 21-0001
Project: Stormwater Master Plan

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I. INTRODUCTION

A. Applicable Criteria

Applicable Statewide Planning Goals; Division 11 of the Oregon Administrative Rules Chapter 660; Metro Chapter 3.02 (Waste Water Management Plan); City of Tualatin Comprehensive Plan Chapter 13; City of Tualatin Development Code, Section 33.070, Plan Amendments.

B. Project Description

Plan Text Amendment (PTA) 20-0001 proposes amendments to the Tualatin Comprehensive Plan Chapters 1 and 9 to reflect the updated version of the Stormwater Master Plan (2020) as well as reference changes in Tualatin Development Code Chapter 74.

The proposed amendments would facilitate future development of stormwater management projects throughout the City and aid development by providing reliable information in the City's development code.

C. Exhibit List

- (a) Stormwater Master Plan (2020)

D. Proposed Amendments

The following Text Amendments have been proposed:

Tualatin Comprehensive Plan:

- Addition of Stormwater Master Plan reference in Technical Memoranda section, acknowledging the Master Plan as a support document adopted as part of the Comprehensive Plan.
- Revisions to Chapter 9—Public Facilities and Services, deleting references to previous drainage plan and revising goals and policies consistent with the updated Master Plan.
- Adopting Figure 7-1 of the Stormwater Master Plan (Capital Project Location Overview) as Map 9-3 of the Tualatin Comprehensive Plan.

Tualatin Development Code:

- Replacing references to Tualatin Drainage Plan with reference to Stormwater Master Plan.

The full text amendments are provided in Exhibit A.

II. FINDINGS

A. The following Oregon Statewide Planning Goals are applicable to the proposed amendments:

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 draft Stormwater Master Plan was opened for a public comment period in Fall 2020. An online “open house” featuring project information and synopsis video were available during the comment period to aid public understanding of the project.

Proposed changes the Tualatin Comprehensive Plan and Development Code are to be additionally discussed at the Tualatin Planning Commission in their capacity as an advisory body on January 21, 2021, and these changes are being vetted at a public hearing with opportunity for additional public testimony before City Council in February 2021. 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 proposed amendments have been reviewed pursuant to the City’s established land use planning process and procedures. The existing land use plan references previous documents including the Tualatin Drainage Plan (1979) and Hedges Creek Subbasin Plan, and it is appropriate to incorporate changes into the Comprehensive Plan. The proposed amendments conform to Goal 2.

Goal 6 – Air, Water and Land Resources Quality

Finding:

A functioning stormwater management system is in the best interest of water quality and the protection of other natural resources. The Stormwater Master Plan has been developed in coordination with the applicable regional agencies, including Clean Water Services. The proposed amendments conform to Goal 6.

Goal 11 – Public Facilities and Services

Finding:

The Stormwater Master Plan is intended to serve the needs of present and future development. No extension of services is proposed beyond the Tualatin Urban Planning Area, which is within the Urban Growth Boundary. The proposed amendments conform to Goal 11.

B. The following Oregon Administrative Rules (OAR) are applicable to the proposed amendments:

**Chapter 660-011-0000
Public Facilities Planning**

**660-011-0010
The Public Facility Plan**

(1) The public facility plan shall contain the following items:

- (a) An inventory and general assessment of the condition of all the significant public facility systems which support the land uses designated in the acknowledged comprehensive plan;**
- (b) A list of the significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. Public facility project descriptions or specifications of these projects as necessary;**
- (c) Rough cost estimates of each public facility project;**
- (d) A map or written description of each public facility project's general location or service area;**
- (e) Policy statement(s) or urban growth management agreement identifying the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated;**
- (f) An estimate of when each facility project will be needed; and**
- (g) A discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system.**

(2) Those public facilities to be addressed in the plan shall include, but need not be limited to those specified in [OAR 660-011-0005 \(Definitions\)](#)(5). Facilities included in the public facility plan other than those included in [OAR 660-011-0005 \(Definitions\)](#)(5) will not be reviewed for compliance with this rule.

(3) It is not the purpose of this division to cause duplication of or to supplant existing applicable facility plans and programs. Where all or part of an acknowledged comprehensive plan, facility master plan either of the local jurisdiction or appropriate special district, capital improvement program, regional functional plan, similar plan or any combination of such plans meets all or some of the requirements of this division, those plans, or programs may be incorporated by reference into the public facility plan required by this division. Only those referenced portions of such documents shall be considered to be a part of the public facility plan and shall be subject to the administrative procedures of this division and ORS Chapter 197 (Comprehensive Land Use Planning).

Finding:

The Stormwater System Master Plan (2019) contains information regarding the condition of current stormwater management systems, anticipated capital investments, and details such as location and associated costs. A map and additional descriptions of anticipated capital improvements is included in the plan and proposed to be adopted as Map 9-3 of the Comprehensive Plan. Public facilities have been planned in conjunction with other relevant agencies, especially Clean Water Services. Funding mechanisms including System Development Charges and utility rates is also discussed within the Plan.

Separate sections of the Tualatin Comprehensive Plan address transportation, potable water, and sanitary sewer. No changes to these sections are being proposed with this Plan Text Amendment.

These standards are met.

Rule 660-011-0015

Responsibility for Public Facility Plan Preparation

(1) Responsibility for the preparation, adoption and amendment of the public facility plan shall be specified within the urban growth management agreement. If the urban growth management agreement does not make provision for this responsibility, the agreement shall be amended to do so prior to the preparation of the public facility plan. In the case where an unincorporated area exists within the Portland Metropolitan Urban Growth Boundary which is not contained within the boundary of an approved urban planning area agreement with the County, the County shall be the responsible agency for preparation of the facility plan for that unincorporated area. The urban growth management agreement shall be submitted with the public facility plan as specified in OAR 660-011-0040 (Date of Submittal of Public Facility Plans).

(2) The jurisdiction responsible for the preparation of the public facility plan shall provide for the coordination of such preparation with the city, county, special districts and, as necessary, state and federal agencies and private providers of public facilities. The Metropolitan Service District is responsible for public facility plans coordination within the District consistent with ORS 197.190 and [268.390 \(Planning for activities and areas with metropolitan impact\)](#).

(3) Special districts, including port districts, shall assist in the development of the public facility plan for those facilities they provide. Special districts may object to that portion of the facilities plan adopted as part of the comprehensive plan during review by the Commission only if they have completed a special district agreement as specified under ORS 197.185 and [197.254 \(Bar to contesting acknowledgment, appealing or seeking amendment\)](#)(3) and (4) and participated in the development of such portion of the public facility plan.

(4) Those state agencies providing funding for or making expenditures on public facility systems shall participate in the development of the public facility plan in accordance with their state agency coordination agreement under [ORS 197.180 \(State agency planning responsibilities\)](#) and [197.712 \(Commission duties\)](#)(2)(f).

Finding:

The City of Tualatin is within both Clackamas and Washington Counties and has separate agreements that function as the applicable urban growth management agreement. The City of Tualatin-Clackamas County Urban Growth Management Agreement (1992) ([Exhibit XX](#)) recognizes the City's authority for public facilities planning within the UGB in accordance with this administrative rule. The Washington County—City of Tualatin Urban Planning Area Agreement (2019) ([Exhibit XX](#)) likewise acknowledges that the City is responsible for the preparation, adoption, and amendment of the public facility plan required by this section. The City has coordinated with Clean Water Services and applicable partners in the

development of the Plan proposed for adoption and relevant text amendments. These standards are met.

Rule 660-011-0020

Public Facility Inventory and Determination of Future Facility Projects

(1) The public facility plan shall include an inventory of significant public facility systems. Where the acknowledged comprehensive plan, background document or one or more of the plans or programs listed in [OAR 660-011-0010 \(The Public Facility Plan\)](#) contains such an inventory, that inventory may be incorporated by reference. The inventory shall include:

- (a) Mapped location of the facility or service area;**
- (b) Facility capacity or size; and**
- (c) General assessment of condition of the facility (e.g., very good, good, fair, poor, very poor).**

(2) The public facility plan shall identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan. The public facility plan shall list the title of the project and describe each public facility project in terms of the type of facility, service area, and facility capacity.

(3) Project descriptions within the facility plan may require modifications based on subsequent environmental impact studies, design studies, facility master plans, capital improvement programs, or site availability. The public facility plan should anticipate these changes as specified in [OAR 660-011-0045 \(Adoption and Amendment Procedures for Public Facility Plans\)](#).

Finding:

The Stormwater Master Plan updates the City's inventory of public facility systems. This inventory includes location data, as well as information about the condition and size of existing facilities. The updated Comprehensive Plan will incorporate this updated inventory information by reference. The Stormwater Master Plan additionally identifies significant projects needed to support further growth and development in Tualatin consistent with the acknowledged Comprehensive Plan. The amendments are consistent with these standards.

Rule 660-011-0025

Timing of Required Public Facilities

(1) The public facilities plan shall include a general estimate of the timing for the planned public facility projects. This timing component of the public facilities plan can be met in several ways depending on whether the project is anticipated in the short term or long term. The timing of projects may be related directly to population growth, e.g., the expansion or new construction of water treatment facilities. Other facility projects can be related to a measure of the facility's service level being met or exceeded, e.g., a major arterial or intersection reaching a maximum vehicle-per-day standard. Development of other projects may be more long term and tied neither to specific population levels nor measures of service levels, e.g., sewer projects to correct infiltration and inflow

problems. These projects can take place over a long period of time and may be tied to the availability of long-term funding. The timing of projects may also be tied to specific years.

(2) Given the different methods used to estimate the timing of public facilities, the public facility plan shall identify projects as occurring in either the short term or long term, based on those factors which are related to project development. For those projects designated for development in the short term, the public facility plan shall identify an approximate year for development. For those projects designated for development over the long term, the public facility plan shall provide a general estimate as to when the need for project development would exist, e.g., population level, service level standards, etc. Timing provisions for public facility projects shall be consistent with the acknowledged comprehensive plan's projected growth estimates. The public facility plan shall consider the relationships between facilities in providing for development.

(3) Anticipated timing provisions for public facilities are not considered land use decisions as specified in [ORS 197.712 \(Commission duties\)](#)(2)(e), and, therefore, cannot be the basis of appeal under [ORS 197.610 \(Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development\)](#)(1) and (2) or [197.835 \(Scope of review\)](#)(4).

Finding:

The Stormwater Master Plan includes information on whether anticipated capital projects are “High Priority (2019-2029) or “Lower Priority (Future)” as seen in Table 7-1. This determination is in relationship to identified system capacity needs. These standards are met.

Rule 660-011-0030

Location of Public Facility Projects

(1) The public facility plan shall identify the general location of the public facility project in specificity appropriate for the facility. Locations of projects anticipated to be carried out in the short term can be specified more precisely than the locations of projects anticipated for development in the long term.

(2) Anticipated locations for public facilities may require modifications based on subsequent environmental impact studies, design studies, facility master plans, capital improvement programs, or land availability. The public facility plan should anticipate those changes as specified in [OAR 660-011-0045 \(Adoption and Amendment Procedures for Public Facility Plans\)](#).

Rule 660-011-0035

Determination of Rough Cost Estimates for Public Facility Projects and Local Review of Funding Mechanisms for Public Facility Systems

(1) The public facility plan shall include rough cost estimates for those sewer, water, and transportation public facility projects identified in the facility plan. The intent of these rough cost estimates is to:

(a) Provide an estimate of the fiscal requirements to support the land use designations in the acknowledged comprehensive plan; and

(b) For use by the facility provider in reviewing the provider's existing funding mechanisms (e.g., general funds, general obligation and revenue bonds, local improvement district, system development

charges, etc.) and possible alternative funding mechanisms. In addition to including rough cost estimates for each project, the facility plan shall include a discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system. These funding mechanisms may also be described in terms of general guidelines or local policies.

(2) Anticipated financing provisions are not considered land use decisions as specified in [ORS 197.712 \(Commission duties\)\(2\)\(e\)](#) and, therefore, cannot be the basis of appeal under [ORS 197.610 \(Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development\)\(1\) and \(2\)](#) or [197.835 \(Scope of review\)\(4\)](#).

Finding:

The Stormwater Master Plan includes information about the proposed location of specific capital projects. The Plan also includes cost estimates, including SDC eligible costs associated with the separate projects. The Plan includes additional discussion of funding mechanisms. These standards are met.

Rule 660-011-0040

Date of Submittal of Public Facility Plans

The public facility plan shall be completed, adopted, and submitted by the time of the responsible jurisdiction's periodic review. The public facility plan shall be reviewed under [OAR chapter 660, division 25, "Periodic Review"](#) with the jurisdiction's comprehensive plan and land use regulations. Portions of public facility plans adopted as part of comprehensive plans prior to the responsible jurisdiction's periodic review will be reviewed pursuant to [OAR chapter 660, division 18, "Post Acknowledgment Procedures."](#)

Rule 660-011-0045

Adoption and Amendment Procedures for Public Facility Plans

(1) The governing body of the city or county responsible for development of the public facility plan shall adopt the plan as a supporting document to the jurisdiction's comprehensive plan and shall also adopt as part of the comprehensive plan:

- (a) The list of public facility project titles, excluding (if the jurisdiction so chooses) the descriptions or specifications of those projects;
- (b) A map or written description of the public facility projects' locations or service areas as specified in sections (2) and (3) of this rule; and
- (c) The policy(ies) or urban growth management agreement designating the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated.

(2) Certain public facility project descriptions, location or service area designations will necessarily change as a result of subsequent design studies, capital improvement programs, environmental impact studies, and changes in potential sources of funding. It is not the intent of this division to:

- (a) Either prohibit projects not included in the public facility plans for which unanticipated funding has been obtained;

(b) Preclude project specification and location decisions made according to the National Environmental Policy Act; or

(c) Subject administrative and technical changes to the facility plan to [ORS 197.610 \(Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development\)](#)(1) and (2) or [197.835 \(Scope of review\)](#)(4).

(3) The public facility plan may allow for the following modifications to projects without amendment to the public facility plan:

(a) Administrative changes are those modifications to a public facility project which are minor in nature and do not significantly impact the project’s general description, location, sizing, capacity, or other general characteristic of the project;

(b) Technical and environmental changes are those modifications to a public facility project which are made pursuant to “final engineering” on a project or those that result from the findings of an Environmental Assessment or Environmental Impact Statement conducted under regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508) or any federal or State of Oregon agency project development regulations consistent with that Act and its regulations.

(c) Public facility project changes made pursuant to subsection (3)(b) of this rule are subject to the administrative procedures and review and appeal provisions of the regulations controlling the study (40 CFR Parts 1500–1508 or similar regulations) and are not subject to the administrative procedures or review or appeal provisions of [ORS Chapter 197 \(Comprehensive Land Use Planning\)](#), or [OAR chapter 660](#) division 18.

(4) Land use amendments are those modifications or amendments to the list, location or provider of, public facility projects, which significantly impact a public facility project identified in the comprehensive plan and which do not qualify under subsection (3)(a) or (b) of this rule. Amendments made pursuant to this subsection are subject to the administrative procedures and review and appeal provisions accorded “land use decisions” in [ORS Chapter 197 \(Comprehensive Land Use Planning\)](#) and those set forth in [OAR chapter 660](#) division 18.

Finding:

The proposed Stormwater Master Plan modifies the existing Public Facilities component of Tualatin’s acknowledged Comprehensive Plan. Consistency with urban growth management policies is considered in Section C detailing consistency with applicable Metro Code. The proposed amendments are consistent with these standards.

Rule 660-011-0050

Standards for Review by the Department

The Department of Land Conservation and Development shall evaluate the following, as further defined in this division, when reviewing public facility plans submitted under this division:

(1) Those items as specified in [OAR 660-011-0010 \(The Public Facility Plan\)](#)(1);

(2) Whether the plan contains a copy of all agreements required under [OAR 660-011-0010 \(The Public Facility Plan\)](#) and [660-011-0015 \(Responsibility for Public Facility Plan Preparation\)](#); and

(3) Whether the public facility plan is consistent with the acknowledged comprehensive plan.

Finding:

As discussed above, the proposed amendments to adopt the Stormwater Master Plan (2019) broaden the extent to which the Public Facilities component of the Comprehensive Plan contains current information consistent with the requirements of OAR 660-011-0010. The City of Tualatin works in close partnership with Clean Water Services in implementing stormwater management practices as is further documented with this plan. Consistency with the acknowledged comprehensive plan is further discussed

C. The following Chapter and Titles of Metro Code are applicable to the proposed amendments:

Title 3: Water Quality and Flood Management

3.07.310 Intent

To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 05- 1077C, Sec. 6.]

3.07.320 Applicability

(a) Title 3 applies to:

(1) Development in Water Quality Resource and Flood Management Areas.

(2) Development which may cause temporary or permanent erosion on any property within the Metro Boundary.

(b) Title 3 does not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with the performance standards in Section 3.07.340. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 05-1077C, Sec. 6.]

3.07.330 Implementation Alternatives for Cities and Counties

(a) Cities and counties shall comply with this title in one of the following ways:

(1) Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 3.07.340 and the intent of this title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:

(A) Adopt code language implementing this title which prevails over the map and uses the map as reference; or

(B) Adopt a city or county field verified map of Water Quality and Flood Management Areas based on the Metro Water Quality and Flood Management map implementing this title which prevails over adopted code language. Field verification is a process of identifying or delineating Protected Water Features, Water Quality Resource Areas and Flood Management Areas shown on the Metro Water Quality and Flood Management Areas map. This process includes examination of information such as site visit reports, wetlands inventory maps, aerial photographs, and public

input and review. The field verification process shall result in a locally adopted Water Quality and Flood Management Areas map which:

(i) Applies the Title 10 definitions of Protected Water Feature, Water Quality Resource Areas and Flood Management Areas to all those protected areas on the Metro Water Quality and Flood Management Areas map to show the specific boundaries of those protected areas on the locally adopted Water Quality and Flood Management Areas map; and

(ii) Is subject to amendment by applying adopted code language to add Protected Water Features, Water Quality Resource Areas and Flood Management Areas and to correct errors in the local Water Quality and Flood Management Areas map consistent with Section 3.07.330(d).

(2) Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 3.07.340 and the intent of this title.

(3) Any combination of (1) and (2) above that substantially complies with all performance standards in Section 3.07.340.

(b) Cities and counties shall hold at least one public hearing prior to adopting comprehensive plan amendments, ordinances and maps implementing the performance standards in Section 3.07.340 of this title or demonstrating that existing city or county comprehensive plans and implementing ordinances substantially comply with Section 3.07.340, to add Protected Water Features, and wetlands which meet the criteria in Section 3.07.340(e)(3), to their Water Quality and Flood Management Area map. The proposed comprehensive plan amendments, implementing ordinances and maps shall be available for public review at least 45 days prior to the public hearing.

(c) Cities and counties shall conduct a review of their Water Quality and Flood Management Areas map concurrent with local periodic review required by ORS 197.629.

(d) Some areas which would otherwise be mapped as Protected Water Features, Water Quality Resource Areas and Flood Management Areas do not appear on the Metro Water Quality and Flood Management Areas map because streams had been culverted, wetlands had been filled or a fill permit had been approved, or the area was demonstrated to have existing conflicting water dependent uses, or existing plans or agreements for such uses, or the area was developed or committed to other uses. Notwithstanding any other provision of this title, cities and counties are not required to establish Protected Water Features, Water Quality Resource Areas and Flood Management Areas through adopted code provisions or mapping for areas which were examined but not included on the Water Quality and Flood Management Areas map adopted by the Metro Council. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 15-1357.]

3.07.340 Performance Standards

(a) Flood Management Performance Standards.

(1) The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

(2) All development, excavation and fill in the Flood Management Areas shall conform to the following performance standards:

(A) Development, excavation and fill shall be performed in a manner to maintain or increase flood storage and conveyance capacity and not increase design flood elevations.

(B) All fill placed at or below the design flood elevation in Flood Management Areas shall be balanced with at least an equal amount of soil material removal.

(C) Excavation shall not be counted as compensating for fill if such areas will be filled with water in non-storm winter conditions.

(D) Minimum finished floor elevations for new habitable structures in the Flood Management Areas shall be at least one foot above the design flood elevation.

(E) Temporary fills permitted during construction shall be removed.

(F) Uncontained areas of hazardous materials as defined by DEQ in the Flood Management Area shall be prohibited.

(3) The following uses and activities are not subject to the requirements of subsection(2):

(A) Excavation and fill necessary to plant new trees or vegetation.

(B) Excavation and fill required for the construction of detention facilities or structures, and other facilities such as levees specifically designed to reduce or mitigate flood impacts. Levees shall not be used to create vacant buildable lands.

(C) New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects or designed to not significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossing shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

(b) Water Quality Performance Standards.

(1) The purpose of these standards is to: 1) protect and improve water quality to support the designated beneficial water uses as defined in Title 10, and 2) protect the functions and values of the Water Quality Resource Area which include, but are not limited to:

(A) Providing a vegetated corridor to separate Protected Water Features from development;

(B) Maintaining or reducing stream temperatures;

(C) Maintaining natural stream corridors;

(D) Minimizing erosion, nutrient and pollutant loading into water;

(E) Filtering, infiltration and natural water purification; and

(F) Stabilizing slopes to prevent landslides contributing to sedimentation of water features.

(2) Local codes shall require all development in Water Quality Resource Areas to conform to the following performance standards:

(A) The Water Quality Resource Area is the vegetated corridor and the Protected Water Feature. The width of the vegetated corridor is specified in Table 3.07-3. At least three slope measurements along the water feature, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary.

(B) Water Quality Resource Areas shall be protected, maintained, enhanced or restored as specified in Section 3.07.340(b)(2).

(C) Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area, which cannot be mitigated in accordance with subsection (2)(F).

(D) Native vegetation shall be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive nonnative or noxious vegetation may be removed from the Water Quality Resource Area. Use of native vegetation shall be encouraged to enhance or restore the Water Quality Resource Area. This shall not preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by local surface water management agencies.

(E) Uncontained areas of hazardous materials as defined by DEQ in the Water Quality Resource Area shall be prohibited.

(F) Cities and counties may allow development in Water Quality Resource Areas provided that the governing body, or its designate, implement procedures which: (i) Demonstrate that no practicable alternatives to the requested development exist which will not disturb the Water Quality Resource Area; and (ii) If there is no practicable alternative, limit the development to reduce the impact associated with the proposed use; and (iii) Where the development occurs, require mitigation to ensure that the functions and values of the Water Quality Resource Area are restored.

(G) Cities and counties may allow development for repair, replacement or improvement of utility facilities so long as the Water Quality Resource Area is restored consistent with Section 3.07.340(b)(2)(D).

(H) The performance standards of Section 3.07.340(b)(2) do not apply to routine repair and maintenance of existing structures, roadways, driveways, utilities, accessory uses and other development.

(3) For lots or parcels which are fully or predominantly within the Water Quality Resource Area and are demonstrated to be unbuildable by the vegetative corridor regulations, cities and counties shall reduce or remove vegetative corridor regulations to assure the lot or parcel will be buildable while still providing the maximum vegetated corridor practicable. Cities and counties shall encourage landowners to voluntarily protect these areas through various means, such as conservation easements and incentive programs.

(c) Erosion and Sediment Control.

(1) The purpose of this section is to require erosion prevention measures and sediment control practices during and after construction to prevent the discharge of sediments.

(2) Erosion prevention techniques shall be designed to prevent visible and measurable erosion as defined in Title 10.

(3) To the extent erosion cannot be completely prevented, sediment control measures shall be designed to capture, and retain on-site, soil particles that have become dislodged by erosion.

(d) Implementation Tools to Protect Water Quality and Flood Management Areas.

(1) Cities and counties shall either adopt land use regulations, which authorize transfer of permitted units and floor area to mitigate the effects of development restrictions in Water Quality and Flood Management Areas, or adopt other measures that mitigate the effects of development restrictions.

(2) Metro encourages local governments to require that approvals of applications for partitions, subdivisions and design review actions be conditioned upon one of the following:

(A) Protection of Water Quality and Flood Management Areas with a conservation easement;

(B) Platting Water Quality and Flood Management Areas as common open space; or

(C) Offer of sale or donation of property to public agencies or private non-profits for preservation where feasible.

(3) Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development in the Water Quality and Flood Management Area may be allowed provided that:

(A) The addition, alteration, rehabilitation or replacement is not inconsistent with applicable city and county regulations, and

(B) The addition, alteration, rehabilitation or replacement does not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways or accessory uses and development, and

(C) The addition, alteration, rehabilitation or replacement satisfies Section 3.07.340(c) of this title.

(D) In determining appropriate conditions of approval, the affected city or county shall require the applicant to:

(i) Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and

(ii) If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and

(iii) Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

(4) Cities and counties may choose not to apply the Water Quality and Flood Management Area performance standards of Section 3.07.340 to development necessary for the placement of structures when it does not require a grading or building permit.

(5) Metro encourages cities and counties to provide for restoration and enhancement of degraded Water Quality Resource Areas through conditions of approval when development is proposed, or through incentives or other means.

(6) Cities and counties shall apply the performance standards of this title to Title 3 Wetlands as shown on the Metro Water Quality and Flood Management Areas Map and locally adopted Water Quality and Flood Management Areas maps. Cities and counties may also apply the performance standards of this title to other wetlands.

(e) Map Administration. Cities and counties shall amend their comprehensive plans and implementing ordinances to provide a process for each of the following:

(1) Amendments to city and county adopted Water Quality and Flood Management Area maps to correct the location of Protected Water Features, Water Quality Resource Areas and Flood Management Areas. Amendments shall be initiated within 90 days of the date the city or county receives information establishing a possible map error.

(2) Modification of the Water Quality Resource Area upon demonstration that the modification will offer the same or better protection of water quality, the Water Quality and Flood Management Area and Protected Water Feature.

(3) Amendments to city and county adopted Water Quality and Flood Management Area maps to add Title 3 Wetlands when the city or county receives significant evidence that a wetland meets any one of the following criteria:

(A) The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size; or The wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

(B) The wetland is in the Flood Management Area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or The wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

(C) The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of "water quality limited" water body in OAR Chapter 340, Division 41. Examples of significant evidence that a wetland exists that may meet the criteria above are a wetland assessment conducted using the 1996 Oregon Freshwater Wetland Assessment Methodology, or correspondence from the Division of State Lands that a wetland determination or delineation has been submitted or completed for property in the city or county.

(4) Cities and counties are not required to apply the criteria in Section 3.07.340(e)(3) to water quality or stormwater detention facilities. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 1. Ord. 00-839, Sec. 1. Ord. 02-972A, Sec. 1. Ord. 05- 1077C, Sec. 6. Ord. 15-1357.]

3.07.360 Metro Model Ordinance Required

Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance and map. The Model Ordinance shall represent one method of complying with this title. The Model Ordinance shall be advisory, and cities and counties are not required to adopt the Model Ordinance, or any part thereof, to substantially comply with this title. However, cities and counties which adopt the Model Ordinance in its entirety and a Water Quality and Flood Management Areas Map shall be deemed to have substantially complied with the requirements of this title. [Ord. 97-715B, Sec. 1. Ord. 98-730C, Sec. 2. Ord. 00-839, Sec. 1. Ord. 05-1077C, Sec. 6.]

[...]

Finding:

Compliance with Title 3 is administered in Tualatin by Clean Water Services. Future development in Tualatin will be comply with Clean Water Services' Design and Construction Standards & Service Provider Letters (SPLs) requirements. Sensitive areas such as vegetated corridors surrounding streams and wetland habitat are identified, protected and maintained by Clean Water Services. The proposed amendments are consistent with Title 3.

D. The following Chapters of the Tualatin Comprehensive Plan are applicable to the proposed amendments:

Chapter 9---Public Facilities and Services

Finding:

The adoption of the Stormwater Master Plan (2019) and updated policies is largely relevant to Chapter 9—Public Facilities and Services, which is in turn updated by the plan. The range of proposed amendments remains consistent with the *Goal 9.3, to provide a plan for routing surface drainage through the City, utilizing natural drainages when possible. Update the plan as needed with drainage studies of problem areas and to respond to changes in the drainage pattern caused by urban development.* The proposed Master Plan inherently poses an update to the existing plan with updated data reflecting the present development patterns and addressing problem areas, and provides a plan for managing stormwater flows.

Specific policies are updated to reflect current data as studied in the Stormwater Master Plan and reflect current administrative practices and partnerships. Other than where it is appropriate to update said Comprehensive Plan policies, the changes remain consistent with the Comprehensive Plan.

E. The following Chapters of the Tualatin Development Code are applicable to the proposed amendments:

Chapter 33: Applications and Approval Criteria

Section 33.070 Plan Amendments

[...]

(2) Applicability. Quasi-judicial amendments may be initiated by the City Council, the City staff, or by a property owner or person authorized in writing by the property owner. Legislative amendments may only be initiated by the City Council.

Finding:

A Plan Text Amendment and Plan Map Amendment are proposed. This proposal is legislative in nature and therefore has been processed consistent with the Type IV-B procedures in Chapter 32. This criterion is met.

[...]

(5) Approval Criteria.

a.) Granting the amendment is in the public interest.

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

Finding:

The amendment would adopt and implement the Stormwater Master Plan. In order to ensure that the Tualatin Development Code accurately reflects the current Sewer Master Plan for future implementation, it is necessary to update the corresponding maps and text contained therein.

Without these updates, the development of important infrastructure could be stymied. A functioning sewer system is in the interest of public health, safety, and local prosperity. This amendment is also timely, given that Council has already adopted the Sewer Master Plan and directed staff to further implement its contents through the Comprehensive Plan. Criteria (a) and (b) are met.

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

The applicable goals and policies of the Tualatin Comprehensive Plan have been considered, and are discussed above in Section D. Criterion (c) is met.

d.) The following factors were consciously considered:

- i. The various characteristics of areas in the City.**
- ii. The suitability of the area for particular land uses and improvements.**
- iii. Trends in land improvement and development.**
- iv. Property values.**
- 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;**
- 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.**
- viii. The public need for healthful, safe, aesthetic surroundings and conditions.**
- ix. Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.**

Finding:

The proposed amendments to the plan text do not change any land use designation or zoning, and do not have a direct impact on the mix of allowed uses. A functioning stormwater management system is however important to supporting citywide development potential and property value. The Stormwater Master Plan proposes a coordinated approach to managing infrastructure improvements that will be needed to support new development in Tualatin, preserve development, and allow for daily activities such as transportation to continue in a healthy and safe manner. Furthermore, a functioning stormwater management system is critical to protecting natural resources, limiting the extent to which pollutants enter waterways.

Criterion (d) 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:

The amendment does not involve residential uses. Criterion (e) does not apply.

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:

Section C details findings for the Oregon Planning Rules. Criterion (f) is met.

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

Finding:

The amendments to Chapters 1 and 9 of the Comprehensive Plan do not affect any portion of the Urban Growth Functional Management Plan. Criterion (g) 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:

Amendments to Chapters 1 and 9 of the Comprehensive Plan are not anticipated to add automobile traffic. Criteria (h) 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 amendments have implications for surface water management, which are discussed in Section B. Criterion (i) is met.

j.) The applicant has entered into a development agreement. This criterion applies only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.

Finding:

The proposed amendments are not property specific and this criterion does not apply.

III. RECOMMENDATION

Based on the application and the above analysis and findings, the proposed annexation complies with applicable Oregon Administration Rules, Metro Code, and TDC. Accordingly, staff recommends City Council approval of File No. PTA 21-0001.