

ORDINANCE NO. 1444-20

AN ORDINANCE RELATING TO ZONING; AMENDING TUALATIN DEVELOPMENT CODE CHAPTER 41 RELATING TO THE MEDIUM LOW DENSITY RESIDENTIAL (RML) ZONE; AND CREATING NEW PROVISIONS.

WHEREAS, the Council wishes to amend the Tualatin Development Code Chapter 41 to amend the Medium Low Density (RML) zone provisions;

WHEREAS, upon the application of Venture Properties, Inc. and Lennar Homes, Inc., and with support of the property owners, a public hearing was held before the City Council on August 10, 2020, September 28, 2020, and October 12, 2020, to consider adopting the proposed amendments to the Tualatin Development Code;

WHEREAS, the City provided notice of proposed amendments to the Oregon Department of Land Conservation and Development, as provided in ORS 197.610;

WHEREAS, the City provided notice of the public hearing, as required by TDC 32.240 and TDC 33.070;

WHEREAS, at the public hearing, the Council heard and considered the testimony and evidence presented by City staff, the applicants, and those appearing at the public hearing, and approved the proposed amendments; and

WHEREAS, the Council finds the proposed amendments to be in the best interest of the City and the public, the public interest will be served by adopting the amendments at this time, and the amendments conform to the Tualatin Community Plan and Tualatin Development Code.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1.** TDC 41.220 (Housing Types) and Table 41-2 are amended as follows:

**TDC 41.220. - Housing Types.**

Table 41-2 lists Housing Types permitted in the RML zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N) in the RML zone.

**Table 41-2  
Housing Types in the RML Zone**

| <b>HOUSING TYPE</b>    | <b>STAT US</b> | <b>LIMITATIONS AND CODE REFERENCES</b>   |
|------------------------|----------------|--|
| Single-Family Dwelling | C              | Limited to single-family dwellings in a small lot subdivision, with conditional use permit, subject to TDC 36.410. |

|                             |   |  |
|-----------------------------|---|--|
|                             |   | • <u>Limited to single-family dwellings in a small lot subdivision, with conditional use permit, and if the development is located south of Norwood Road and east of Boones Ferry Road (Basalt Creek Area), subject to TDC 36.410(1) and TDC 41.330.</u> |
| Accessory Dwelling Unit     | P | Subject to TDC 34.600.   |
| 410(1)Duplex                |   |  |
| Townhouse (or Rowhouse)     | P | See TDC definition in 31.060.  |
| Multi-Family Structure      | P | See TDC definition in 31.060.  |
| Manufacturing Dwelling      | N | See TDC definition in 31.060.  |
| Manufactured Dwelling Park  | P | Limited to locations designated by the Tualatin Community Plan Map and subject to TDC 34.190.  |
| Retirement Housing Facility | C | Subject to TDC 34.400.   |
| Residential Home            | P | See TDC definition in 31.060.  |

**Section 2. TDC 41.300 (Development Standards) is amended as follows:**

**TDC 41.300. - Development Standards.**

Development standards in the RML zone are listed in Table 41-3. Additional standards may apply to some uses and situations, see TDC 41.310 and TDC 41.330. The standards in Table 41-3 may be modified for greenway and natural area dedications as provided in TDC 36.420. The standards for lot size, lot width, building coverage, and setbacks that apply to single-family dwellings in small lot subdivisions are provided in TDC 36.410(2)(b).

**Table 41-3  
Development Standards in the RML Zone**

| STANDARD   | REQUIREMENT       | LIMITATIONS AND CODE REFERENCES   |
|--|-------------------|---|
| <b>MAXIMUM DENSITY</b>                                   |                   |   |
| Household Living Uses                                    | 10 units per acre |   |
| Manufactured Dwelling Parks                              | 12 units per acre | Limited to single-wide dwelling parks or any part of a single-wide dwelling park. |
| Retirement Housing Facility, or Congregate Care Facility | 15 units per acre |   |
| Nursing Facility   | 15 units per acre |   |
| Group Living Uses  | 15 units per acre |   |
| <b>MINIMUM LOT SIZE</b>                                  |                   |   |
| Townhouse (or Rowhouse)                                  | 1,400 square feet |   |

|  |                            |  |
|--|----------------------------|--|
| Multi-Family Structure and Duplex                  |                            |  |
| • Development on Less than One Acre                | 10,000 square feet         | For up to two units, plus an additional 4,195 square feet for each unit exceeding two. |
| • Development on More than One Acre                | 4,356 square feet per unit |  |
| Multi-Family Structure under Condominium Ownership | 20,000 square feet         | Limited to the primary condominium lot.  |
| All Other Permitted Uses                           | 10,000 square feet         |  |
| Conditional Uses                                   | 20,000 square feet         |  |
| Infrastructure and Utilities Uses                  | —                          | As determined through the Subdivision, Partition, or Lot Line Adjustment process       |
| <b>MINIMUM AVERAGE LOT WIDTH</b>                   |                            |  |
| Townhouse (or Rowhouse)                            | 14 feet                    |  |
| Multi-Family Structure                             | 75 feet                    | May be 40 feet on a cul-de-sac street.   |
| Multi-Family Structure under Condominium Ownership | 100 feet                   | Limited to the primary condominium lot. Minimum lot width at street is 40 feet.        |
| All Other Permitted Uses                           | 75 feet                    |  |
| Conditional Uses                                   | 100 feet                   | Minimum lot width at street is 40 feet.  |
| Flag Lots  | —                          | Must be sufficient to comply with minimum access requirements of TDC 73C.              |
| <b>MINIMUM SETBACKS</b>                            |                            |  |
| Front Setback                                      |                            | Minimum setback to a garage door must be 20 feet.                                      |
| • 1 story structure                                | 20 feet                    |  |
| • 1.5 story structure                              | 25 feet                    |  |
| • 2 story structure                                | 30 feet                    |  |
| • 2.5 story structure                              | 35 feet                    |  |
| • Townhouse (or Rowhouse)                          | 0-20 feet                  | As determined through Architectural Review process.                                    |
| Side and Rear Setback                              |                            | Where living spaces face a side yard, the minimum setback must be ten feet             |
| • 1 story structure                                | 5 feet                     |  |
| • 1.5 story structure                              | 7 feet                     |  |
| • 2 story structure                                | 10 feet                    |  |

|   |         |  |
|---|---------|--|
| • 2.5 story structure                                     | 12 feet |  |
| Corner Lots   | —       | On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.                             |
| Minimum Distance Between Buildings within One Development | 10 feet | For Townhouses, determined through the Architectural Review process  |
| Parking and Vehicle Circulation Areas                     | 10 feet | For Townhouses, determined through the Architectural Review process  |
| Conditional Uses  | —       | As determined through Architectural Review process. No minimum setback must be greater than 50 feet  |
| Any Yard Area Adjacent to Basalt Creek Parkway            | 50 feet |  |
| <b>MAXIMUM STRUCTURE HEIGHT</b>                           |         |  |
| All Uses  | 35 feet | May be increased to a maximum of 50 feet with a conditional use permit, if all setbacks are not less than 1½ times the height of the building. |
| <b>MAXIMUM LOT COVERAGE</b>                               |         |  |
| Townhouse (or Rowhouse)                                   | 90%     |  |
| All Other Permitted Uses                                  | 40%     |  |
| Conditional Uses  | 45%     |  |

**Section 3.** TDC 41.330 (Development Standards for Single-Family Dwellings in a Small Lot Subdivision for Certain Basalt Creek Area Properties) and Table 41-4 are created to read as follows:

**TDC 41.330. - Development Standards for Single-Family Dwellings in a Small Lot Subdivision for Certain Basalt Creek Area Properties.**

This section applies only to small lot subdivisions, with a conditional use permit as provided in TDC 36.410(1), in RML zoned properties located south of Norwood Road and east of Boones Ferry Road (Basalt Creek Area). Development standards for Single-Family Dwellings in a small lot subdivision, with conditional use permit are listed in Table 41-4. Additional conditions may be placed on the small lot subdivision through the conditional use process. The small lot subdivision standards in TDC 36.410(2) do not apply to small lot subdivisions subject to this section.

**Table 41-4  
Development Standards in the RML Zone subject to TDC 41.330**

| STANDARD                         | REQUIREMENT              | LIMITATIONS AND CODE REFERENCES  |
|----------------------------------|--------------------------|--|
| <b>MAXIMUM DENSITY</b>           |                          |  |
| Single-Family Dwelling           | 10 units per acre        | <ul style="list-style-type: none"> <li>• Limited subject to the requirement that a minimum of 20% of the dwelling units in the small lot subdivision must include attached housing types, as provided in TDC 41.300 and Table 41-3.</li> <li>• A phasing plan for the timing of construction will be approved through the small lot subdivision process, with conditional use permit, but provided no more than 70% of the approved Single-Family Dwellings may be issued Building Permits prior to the construction and issuance of Certificates of Occupancy for all approved attached housing types (i.e., non-single-family dwellings), or as otherwise determined through the conditional use process.</li> </ul> |
| <b>Minimum Open Space</b>        |                          |  |
|                                  | 5% of gross site acreage | <ul style="list-style-type: none"> <li>• Proposed open space shall be for tree preservation or active and passive open space, as approved through the conditional use process for small lot subdivisions. Stormwater and drainage facilities are not counted toward percentage of open space requirement.</li> <li>• Compliance with this section satisfied TDC 36.410(1)(b).</li> </ul>   |
| <b>MINIMUM AVERAGE LOT SIZE</b>  |                          |  |
| Single Family Lot                | 3,000 square feet        |  |
| <b>MINIMUM AVERAGE LOT WIDTH</b> |                          |  |
| Single Family Detached Lot       | 26 feet                  | Must be sufficient to comply with minimum access requirements of TDC 73C.  |

|  |         |  |
|--|---------|--|
| Single Family Flag Lots                        | —       | Must be sufficient to comply with minimum access requirements of TDC 73C.  |
| <b>MINIMUM SETBACKS</b>                        |         |  |
| Single Family Front Setback                    |         |  |
| • building                                     | 10 feet |  |
| • garage                                       | 20 feet |  |
| Single Family Side Setback                     | 5 feet  |  |
| Single Family Rear Setback                     | 10 feet |  |
| Single Family Street side setback              | 10 feet |  |
| Any Yard Area Adjacent to Basalt Creek Parkway | 50 feet |  |
| <b>MAXIMUM STRUCTURE HEIGHT</b>                |         |  |
| Single Family Uses                             | 35 feet | May be increased to a maximum of 50 feet with a conditional use permit, if all setbacks are not less than 1½ times the height of the building. |
| <b>MAXIMUM LOT COVERAGE</b>                    |         |  |
| Single Family Detached Lot                     | 55%     |  |

**Section 5. Findings.** The Council adopts the Findings as set forth in Exhibit 1, which are attached and incorporated by reference.

**Section 6. Effective Date.** As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this \_\_\_\_ day of October, 2020.

CITY OF TUALATIN, OREGON

BY Frank Bubenik  
Mayor

APPROVED AS TO FORM

ATTEST:

BY Sean Brady  
City Attorney

BY Sherilyn Lombos  
City Recorder

# EXHIBIT 1 - ORDINANCE NO. 1444-20



October 12, 2020

## Analysis and Findings

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|                     |   |
|---------------------|---|
| Case #:             | PTA 20-0003   |
| Project:            | Basalt Creek Medium-Low Density Residential (RML) Code Change |
| Applicant:          | AKS Engineering   |
| Property owners:    | P3 Properties; Autumn Sunrise, LLC                            |
| Additional Parties: | Venture Properties, LLC and Lennar Northwest, Inc.            |

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## I. INTRODUCTION

### A. Applicable Criteria

Applicable Statewide Planning Goals; Divisions 7 and 18 of the Oregon Administrative Rules; applicable Goals and Policies from the City of Tualatin Comprehensive Plan, including Chapters 5 (Residential Planning Growth) and 10 (Community Design); applicable Sections of the City of Tualatin Development Code, including Section 33.070 (Plan Amendments).

### B. Project Description

The properties where the proposed amended RML language would be applicable, if approved by City Council, comprise roughly 58 acres and include Tax Map 2S135D, Lots 100, 400, 401, 500, 501, 800, and 900 as highlighted in Figure 1 below. This area is generally bounded by SW Norwood Road to the north, SW Greenhill Lane to the south, SW Boones Ferry Road to the far west, and Interstate 5 to the east



Figure 1: Map of Proposed Subject Area

The existing RML zone allows development of attached and multi-family homes at 10 units per net acre, and also allows development of subdivisions for detached single-family dwellings subject to approval of a Conditional Use Permit for a “Small Lot Subdivision.” The proposed amendment is intended to allow for modified development standards – smaller lot sizes, reduced setbacks, and increased structural lot coverage – for development of detached single-family dwellings in a “Small Lot Subdivision” as a Conditional Use Permit, limited to developments located south of Norwood Road and east of Boones Ferry Road (Basalt Creek Area) with a requirement to build at least 20 percent of the units in a proposed development as attached single family and 5 percent of the gross site area to be dedicated as open space for the provision of recreational area and/or tree preservation. The proposed changes are provided with Exhibit 13 and summarized below. The current maximum density of 10 units per acre would be unchanged by this proposal. If approved, the Plan Text Amendment would amend Tualatin Development Code Chapter 41.

### C. Site Description and Surrounding Uses

The subject territory comprises approximately 62 acres (approximately 58 of which are zoned RML, and an additional 4 of which are zoned Neighborhood Commercial – CN) in the Basalt Creek Planning Area, east of SW Boones Ferry Road and west of I-5. The land is primarily undeveloped, with a three



residential homes and agricultural structures near the south end at SW Greenhill Lane. The northern section is wooded, while the southern section is relatively open meadow and agricultural field. The eastern section of the territory generally slopes down westward toward I-5, and the remainder of the south territory slopes gradually down to SW Boones Ferry.

**Surrounding uses:**

- North:** Medium Low-Density Residential (RML)
- Norwood Heights residential subdivision including both detached single-family dwellings and attached homes on individual lots
- Low Density Residential RL
- Tualatin Woods subdivision
- South:** Washington County FD-20
- Agriculture and low-density residential
  - Wilsonville Planning Area—Planned as High Tech Employment District
- West:** Institutional (IN)
- Horizon Community Church/Christian School campus
  - City of Tualatin water towers
- Washington County FD-20/Tualatin Urban Planning Area RH
- Single dwelling. Planned for future multi-family development
- Washington County FD-20/Tualatin Urban Planning Area RML
- Individual dwellings on large lots
- East:** Washington County---outside UGB
- Interstate 5 Right-of-Way

**D. Public Comments**

Public comments are provided as Exhibit 10 to this staff report. Comments received by phone and prior to the notice period for this land use case have related to future development, and highlighted concerns about tree removal and environmental resource protection and transportation impacts. While these development concerns will be more specifically addressed during future land use review phases for Subdivision or other development, the subject proposal does include changes to the standards that would be applied during a Subdivision. No changes to the standards related to tree protection or transportation have been proposed.

**E. Exhibit List**

1. Application Narrative
2. Final Revised Text Changes
3. Other Application Materials
4. Supplemental Text Changes
5. 2019 Housing Needs Analysis
6. Agency Comment
7. Tualatin Planning Commission Comments
8. Housing Strategies
9. Applicant Memo (Revision) 8-4-20
10. Public Comments
11. Applicant's City Council Presentation for 8-10-20

12. Applicant's Revised Proposal for 9-28-20

13. Final Proposed Text

## 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:

Public notice pertaining to the proposed changes have been mailed to surrounding property owners and advertised in the newspaper of record, and posted on the City's website. The applicant held a Neighborhood-Developer meeting on June 10, 2020. The proposal was also discussed at the July 16, 2020 meeting of the Tualatin Planning Commission.

The proposed changes would modify the review process for future phases of development insofar as a Small Lot Subdivision, reviewed through Conditional Use Permit, would no longer be required. Public notice would still be given for a future Subdivision application and the notification processes would not be themselves be modified. 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 proposed amendments conform to Goal 2.

#### Goal 5 – Open Spaces, Scenic and Historic Area, and Natural Resource

##### Finding:

Applicability of Goal 5 to post-acknowledgment plan amendments is governed by OAR 660-023-0250. The proposed amendments do not modify the acknowledged Goal 5 resource list, or a policy that addresses specific requirements of Goal 5. The proposed amendments do not allow uses that would conflict with a particular Goal 5 resource site on an acknowledged resource list. The impact of a specific proposed development would be reviewed by Clean Water Services for potential natural resource impacts as part of that future land use application. The proposed amendments conform 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. The proposed amendments conform to Goal 6.

### **Goal 7 – Areas Subject to Natural Disasters and Hazards**

#### **Finding:**

The proposed amendments do not affect policies associated with Goal 7 established by the Comprehensive Plan. Approval of the proposed amendments will not eliminate the requirement for future development to meet the requirements of the Chapters 70 and 72 of the Tualatin Development Code. The proposed amendments conform to Goal 7.

### **Goal 10 – Housing**

**To provide for the housing needs of citizens of the state.**

#### **Finding:**

The City of Tualatin completed a Buildable Lands Inventory and Housing Needs Analysis in 2019 as part of the City's ongoing efforts to improve local housing policies and development regulations to create a broader range of housing responsive to the region's needs and fully responsive to the charge to provide needed housing presented by Goal 10. The City Council accepted the Housing Needs Analysis and Housing Strategy Analysis through Resolution No. 5479-19, on December 9, 2019.

The 2019 Housing Needs Analysis acknowledged a need for a broader range of housing types at a wider range of price points than the current housing stock provides. Additionally, the City's Housing Strategy calls for "Recommendation 1.2b: Evaluate opportunities to re-zone Residential Low Density and Residential Medium Low Density residential land for higher-density housing." This proposal does not conform to that recommendation as it does not increase high-density housing. The density of housing would remain unchanged, and the addition of more single family detached will not expand housing types. Similarly, Action 2.1 of the Housing Strategy calls for the City to "encourage development of duplexes, cottage housing, townhomes, row houses, and triplexes and quadplexes in lower-density residential zones," including the RML zone. The applicant has proposed to reduce development standards – lot sizes in particular - for detached single-family dwellings in the RML zone, subject to approval of a conditional use permit, and a requirement that 20 percent of the proposed units in a development be single-family detached housing. The existing development code allows for detached single-family dwellings in the RML zone, on relatively large lots compared to the permitted density, subject to approval of a conditional use permit, with no requirement for construction of attached house. To that end, the proposed amendment – which would reduce lot sizes and require development of attached housing in conjunction with detached housing, would better facilitate development at a higher density, and would help facilitate development of a broader range of housing types at a wider range of price points than the existing development code provides. Therefore, the proposed amendments conform to Goal 10.

### **Goal 11 – Public Facilities and Services**

**Finding:**

The proposed amendments would not change the available residential density planned for this area; therefore, no additional impacts to public facilities and services are anticipated over what the existing development code would allow. Future development would be subject to a land use application that would evaluate the development's impact to public facilities and the transportation system; therefore no amendments to the public facilities plans are necessary in order to accommodate the proposed text and map amendment. The proposed amendments conform to Goal 11.

### **Goal 12 – Transportation**

**Finding:**

The proposed amendments would not change the available residential density planned for this area; no additional impacts to transportation facilities and services are anticipated. The proposed amendments conform to Goal 12.

### **B. Oregon Administrative Rules**

#### **OAR Chapter 660 Division 7 (Metropolitan Housing)**

[...]

##### **660-007-0030: New Construction Mix**

**(1) Jurisdictions other than small developed cities must either designate sufficient buildable land to provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing or justify an alternative percentage based on changing circumstances. Factors to be considered in justifying an alternate percentage shall include, but need not be limited to:**

- (a) Metro forecasts of dwelling units by type;**
- (b) Changes in household structure, size, or composition by age;**
- (c) Changes in economic factors impacting demand for single family versus multiple family units; and**
- (d) Changes in price ranges and rent levels relative to income levels.**

**(2) The considerations listed in section (1) of this rule refer to county-level data within the UGB and data on the specific jurisdiction.**

[...]

##### **660-007-0035: Minimum Residential Density Allocation for New Construction**

**The following standards shall apply to those jurisdictions which provide the opportunity for at least 50 percent of new residential units to be attached single family housing or multiple family housing:**

[...]

**(2) Clackamas and Washington Counties, and the cities of Forest Grove, Gladstone, Milwaukie, Oregon City, Troutdale, Tualatin, West Linn and Wilsonville must provide for an overall density of eight or more dwelling units per net buildable acre.**

[...]

**Finding:**

The applicant's proposed amendments will still permit the development of attached housing types, and as such, would continue to provide the opportunity for attached single family housing within the RML zone. Likewise, the proposed amendments do not affect the residential density of the RML zone, which at a maximum of 10 dwelling units per acre, is consistent with the above requirement. Therefore, the proposed amendments are consistent with these requirements.

**660-018-0020: Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation**

**(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 (Exemptions to Notice Requirements Under OAR 660-018-0020) apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.**

**(2) The submittal must include applicable forms provided by the department, be in a format acceptable to the department, and include all of the following materials:**

**(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan, as provided in section (3) of this rule;**

**(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the relevant portion of the map that is created or altered;**

**(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director and members of the public of the effect of the proposed change;**

**(d) The date set for the first evidentiary hearing;**

**(e) The notice or a draft of the notice required under ORS 197.763 (Conduct of local quasi-judicial land use hearings) regarding a quasi-judicial land use hearing, if applicable; and**

**(f) Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.**

**(3) The proposed text submitted to comply with subsection (2)(a) of this rule must include all of the proposed wording to be added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal or its purpose, by itself, is not sufficient. For map changes, the material submitted to comply with Subsection (2)(b) must include a graphic depiction of the change; a legal description, tax account number, address or similar general description, by itself, is not sufficient. If a goal exception is proposed, the submittal must include the proposed wording of the exception.**

**(4) If a local government proposes a change to an acknowledged comprehensive plan or a land use regulation solely for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal, or a rule implementing the statutes or goals, the local government may adopt such a change without holding a public hearing, notwithstanding contrary provisions of state and local law, provided:**

**(a) The local government provides notice to the department of the proposed change identifying it as a change described under this section, and includes the materials described in section (2) of this rule, 35 days before the proposed change is adopted by the local government, and**

**(b) The department confirms in writing prior to the adoption of the change that the only effect of the proposed change is to conform the comprehensive plan or the land use regulations to the new requirements.**

**(5) For purposes of computation of time for the 35-day notice under this rule and OAR 660-018-0035 (Department Participation)(1)(c), the proposed change is considered to have been “submitted” on the day that paper copies or an electronic file of the applicable notice forms and other documents required by section (2) this rule are received or, if mailed, on the date of mailing. The materials must be mailed to or received by the department at its Salem office.**

**Finding:**

Notice of a proposed Post-Acknowledgement Plan Amendment was submitted to the Department of Land Conservation and Development (DLCD) via the PAPA Online portal on June 24, 2020, 47 days before the scheduled hearing.

**C. Tualatin Comprehensive Plan**

**Chapter 5 Residential Planning Growth**

**TDC 5.030- General Objectives**

**(1) Provide for the housing needs of existing and future City residents.**

**(2) Provide housing opportunities for residents with varied income levels and tastes that are esthetically and functionally compatible with the existing community housing stock.**

[...]

**Finding:**

The housing needs of existing and future City residents have most recently been evaluated in Tualatin’s Housing Needs Analysis (HNA) (2019) (Exhibit 5). The City Council accepted the Housing Needs Analysis and Housing Strategy Analysis through Resolution No. 5479-19, on December 9, 2019. The HNA identified housing affordability as a growing challenge, and identified actions to better accommodate growing needs than present policy, including greater allowances for a range of housing types include single-family attached and multi-family housing, investing in affordable housing, and finding ways to encourage development of multi-family housing (Exhibit 5, Page 87). The existing RML zone allows housing types such as attached single-family housing and multi-family housing types; detached single-family dwellings are a Conditional Use, allowed in conjunction with a Small Lot Subdivision.

The 2019 HNA identified: (1) that the City has a surplus of land zoned for detached single-family housing; (2) the City has a need to plan to increase its share of non-detached single family dwelling types. The existing development code allows for detached single-family dwellings in the RML zone, on relatively large lots compared to the permitted density, subject to approval of a conditional use permit, with no requirement for construction of attached house. The applicant has proposed to reduce development standards – lot sizes in particular - for detached single-family dwellings in the RML zone, subject to approval of a conditional use permit, and a requirement that 20 percent of the proposed units in a development be single-family detached housing. The proposal would reduce the development of

single-family housing compared to what is allowed under the existing development code, and would facilitate an increase in development of non-detached single-family dwellings. Both of these actions would help to provide the housing needs of existing and future citizens identified in the 2019 HNA and help to provide housing opportunities for residents with varied income levels and tastes that are esthetically and functionally compatible with the existing community housing stock. Therefore these objectives are met.

**(12) Encourage the development of attached housing in accordance with the RML Planning District in the area of the Norwood Expressway/Boones Ferry Road intersection.**

[...]

**Finding:**

The subject area is within the RML zone (Planning District) in the area of what was then known as the Norwood Expressway/Boones Ferry Road. The proposed amendments would by requiring development of attached housing in conjunction with detached housing, applicable to the RML Planning District in the area of the Norwood Expressway/Boones Ferry Road intersection, encourage the development of attached housing. Therefore, this objective is met.

**TDC 5.040. - Planning District Objectives.**

[....]

**(2) *Medium-Low Density Residential Planning District (RML).* To provide areas of the City suitable for commonwall dwellings such as condominiums, townhouses, duplexes, triplexes, and other multi-family dwellings. Condominiums and small lot subdivisions may be allowed by conditional use permit. Owner occupancy of dwelling units shall be encouraged. Parks for manufactured dwellings shall be allowed in those portions of the district designated on the Plan Map. Except for retirement housing and nursing and convalescent homes which shall not exceed 15 dwelling units per net acre and manufactured dwelling parks with single-wide manufactured dwellings which shall not exceed 12 dwelling units per net acre, the maximum density of any residential use shall not exceed ten dwelling units per net acre. The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the District designated on the Plan Map.**

[...]

**Finding:**

The above objective states that the RML zone is intended to provide areas of the City suitable for attached and multi-family dwellings, with detached single family dwellings within a Small Lot Subdivision allowed by Conditional Use Permit. The applicant's proposed amendments would modify the Development Code consistent with this objective. Therefore, this objective is met.

**Chapter 10 – Community Design**

[...]

**TDC 10.020. - Design Objectives.**

**The City Council also adopted the following objectives as a part of the ordinance establishing the Architectural Review Board.**

**(1) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.**

**(2) Discourage monotonous, drab, unsightly, dreary and inharmonious development.**

**(3) Promote the City's natural beauty and visual character and charm by insuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the esthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures and other improvements.**

[...]

**(6) Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and thus decrease the cost of governmental services.**

**(7) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.**

**(8) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment; and thus promote and protect the peace, health and welfare of the City.**

**TDC 10.040. - Implementation.**

To improve the City's appearance, it will be necessary to implement steps that will increase the effectiveness of the design review process. To accomplish this, the following specific community design objectives are described. These objectives are in addition to those included in the enabling ordinance of the Architectural Review Board and are intended to aid implementation of those objectives. These additional objectives are to:

[...]

**(2) Prepare and adopt specific and enforceable design standards for all private and public development.**

[...]

**TDC 10.050. - Tree Preservation and Street Tree Objectives.**

This section describes the purpose of tree preservation and street tree provisions in the Planning District Standards.

**(1) Develop a program for tree conservation within the City, including control over tree removal, in order to protect and enhance the esthetic character of Tualatin, protect and improve air and water quality, provide and protect buffering and screening between land uses, and provide and protect habitat for wildlife, in order to create and preserve a desirable community in which to live, work, and invest.**

**(a) Tualatin's tree preservation goal is consistent with the general purpose of the Tualatin Community Plan, which is to guide the physical development of the City so as to preserve the natural beauty of the area while accommodating economic growth.**

**(b) Tualatin's tree preservation goal shall be implemented through adoption and administration of Planning District Standards consistent with this goal.**

**Finding:**

The applicant has proposed a requirement that 5 percent of gross site area be dedicated as open space, for active or passive recreation and tree retention, as determined through the Conditional Use Process in conjunction with a Small Lot Subdivision in the RML Planning District in the subject area of Basalt Creek. This proposal supports the above referenced goals to create a specific standard, which by providing open space that can facilitate the Objectives of TDC 10.020 and the Objectives of TDC 10.050, if applicable, will contribute towards the improvement of the overall appearance of the City. These criterion are met.



**D. Tualatin Development Code**  
**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.**

**(3) Procedure Type.**

[...]

**(b) 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 text amendments are proposed for a limited number of properties and quasi-judicial in nature and will be processed consistent with the Type IV-A procedures in Chapter 32. A Post-Adoption Plan Amendment notice was filed with DLCD on June 24, 2020, 47 days before the scheduled hearing. Public notice has been mailed on July 6, 2020, 35 days before the first scheduled hearing. These criteria are 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 applicant states that the proposed text amendment would allow RML-zoned properties within the Basalt Creek area to develop with single-family detached as well as single-family attached dwellings. The applicant further states that the City of Tualatin's Housing Needs Analysis identifies that single-family detached dwellings are needed housing and over 1,000 new dwelling units are required during the period of 2020-2040 and that over 400 of these households are forecast to be located within Basalt Creek. The applicant concludes that the construction of a wide variety of housing types will allow the City to meet its housing goals over the 20-year planning period, and that providing needed housing is in the best interests of the public and preparing for future needs protects the public interest over the long term.

The 2019 HNA concludes that Tualatin will need to plan for about 1,014 new dwelling units to accommodate forecasted household growth between 2020 and 2040. The HNA also concludes that in order to meet the need for a broader range of housing types with a wider range of price points, the City would need to increase the amount of single-family attached housing. "Tualatin will plan for more single-family attached and multifamily dwelling units in the future to meet the City's housing needs. Historically, about 53% of Tualatin's housing was single-family detached. New housing in Tualatin is

forecast to be 40% single-family detached, 15% single-family attached, and 45% multifamily.” (Exhibit 5, Page 92). The proposed text amendment, which would require a minimum of 20% of units in a development to be detached single-family would further this goal. Therefore, the proposed amendments are in the public interest and timely. These criteria are met.

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

**Finding:**

Tualatin Community Plan objectives are addressed in greater depth in Section C above. The proposed amendments have been found to be in conformity with the applicable objectives of the Tualatin Community Plan. Therefore, this criterion is met.

**(d) The following factors were consciously considered:**

**(i) The various characteristics of the areas in the City;**

**Finding:**

The area immediately south of SW Norwood Road and extending toward SW Greenhill Road is a suburban edge area poised for change following the adoption of the Basalt Creek Concept Plan in 2018. The majority of the subject area is recently annexed territory of the City of Tualatin. A portion of the property to which the proposed amendments would apply, is in process for annexation as of the writing of this staff report.

To the north is a developed residential neighborhood characterized by a mix of detached and attached housing, much of it developed in the 1990's, including duplex and triplex development on individual lots. To the east is I-5, and beyond that to the east are areas outside of the City of Tualatin and beyond the Urban Growth Boundary, with large lot residential development (often on multiple acres) and agricultural uses. To the south, and west of Boones Ferry, is additional large-lot residential development outside of city limits. To the immediate west and north of the site is a church and school campus. There is additional zoning potential along SW Boones Ferry for multifamily housing, although the property within that zone is currently developed with a detached single-family residence.

Based on the surrounding characteristics of the areas of the City, both detached and attached housing types would be functionally and visibly consistent with the characteristics of the existing development. This criterion is met.

**(ii) The suitability of the areas for particular land uses and improvements in the areas;**

**Finding:**

This area has already been zoned for residential uses at ten units per acre. The suitability for infrastructure service has been recently analyzed with the Basalt Creek Master Plan and the impacts are not anticipated to change as a result of the proposed change of allowed housing type. This criterion is met.

**(iii) Trends in land improvement and development;**

**Finding:**

Tualatin's Housing Needs Analysis (2019) is the most recent and applicable evaluation of trends in land improvement and development with regard to housing. The applicant has correctly observed that housing is needed. The applicant is seeking to approval to allow for detached single-family housing with a Conditional Use Permit, as currently required by the Development Code, with reduced lot sizes and other modified development standards, while also committing to providing a minimum of 20 percent of a project as attached housing. Facilitating development of more attached housing is a need which is identified in the 2019 HNA. As such, the proposed amendments support Tualatin's trends in land improvement and development. This criterion is met.

**(iv) Property values;**

**Finding:**

The applicant has not provided specific findings in support of this objective. It does not appear that allowing detached single-family dwellings as an outright Permitted rather than Conditional Use would impact property values in Tualatin. This objective 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:**

There is no evidence in the record that the proposed amendments adversely impact the needs of economic enterprises and the future development of the area or needed right-of-way and access for an to particular sites in the area. 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:**

Natural resources are identified and protected through applicable regulations of the TDC, and protection and conservation of said resources is implemented by the City, as well as Clean Water Services. No amendments are proposed that would explicitly affect the protection and conservation of natural resources. Future impacts to natural resources represented by development would be evaluated as part of a future land use application. This criterion is met.

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

**[...]**

**Finding:**

The development of single-family homes as opposed to attached housing types does not pose a specific health, safety, or aesthetic impact. Residential aesthetics vary just as much between attached housing types as between detached housing types. 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:**

The proposed change does not affect the maximum residential density and as such, would not pose a major difference in projected school attendance from future families in this area as compared with the existing code language. The properties are within the Sherwood School District, which has been notified of the proposed Plan Text Amendment. 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:**

The proposed change does not affect the maximum residential density and as such, would not be predicted to impact the number of trips necessarily associated with future development as compared with existing code allowances. More specific transportation impacts of future development will be evaluated with a future land use application. This criterion is met.

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

**Finding:**

The proposed amendments will remain consistent with Titles 1-14 of the Metro Urban Growth Management Functional Plan as addressed below:

***Title 1 – Housing Capacity: requires a city or county maintain or increase its housing capacity***

The proposed amendments would not change the maximum residential density, and as such, would not impact the overall housing capacity.

***Title 2 – Regional Parking Policy: repealed***

***Title 3 – Water Quality and Flood Management: protects Water Quality and Flood Management Areas***

Water Quality and Flood Management are addressed in Tualatin Development Code Chapters 70, 71, and 74. No amendments are proposed to these chapters.

***Title 4 – Industrial and Other Employment Areas: promotes "clustering" of industries that operate more productively and efficiently when in proximity to each other***

This Title is not applicable.

***Title 5 - Neighbor Cities and Rural Reserves: repealed***

***Title 6 – Centers, Corridors, Station Communities and Main Streets: enhancements of these areas as principal centers of urban life via actions and investments***

This Title is not applicable.

**Title 7 – Housing Choice:** *implements policies regarding establishment of voluntary affordable housing production goals to be adopted by local governments*

This Title pertains to Tualatin’s obligation to meet the affordable housing needs of households with incomes between 0 and 50 percent of the regional median income. This change neither moves Tualatin toward meeting affordable production goals, nor does it necessarily move it away from those goals.

**Title 8 – Compliance Procedures:** *ensures all cities & counties are equitably held to the same standards*  
Tualatin continues to partner with state and regional authorities to comply with the Functional Plan.

**Title 9 – Performance Measures:** *repealed*

**Title 10 – Definitions**

**Title 11 – Planning for New Urban Areas:** *guides planning of areas brought into the UGB*

The proposed amendments would apply to land that is within the UGB and within the City of Tualatin or its Urban Planning Area (UPA).; therefore amendments do not affect planning areas outside of the UGB.

**Title 12 – Protection of Residential Neighborhoods:** *protects existing residential neighborhoods from pollution, noise, crime, and provides adequate levels of public services*

The change in permitted housing types, lot size, and lot coverage would not influence the neighborhood access goals of Title 12.

**Title 13 – Nature in Neighborhoods:** *conserves, protects and restores a continuous ecologically viable streamside corridor system integrated with upland wildlife habitat and the urban landscape*

Natural resources are addressed in Chapter 72 of the Tualatin Development Code and supported by the City’s partnership with Clean Water Services. No amendments to this chapter are proposed under this application.

**Title 14 – Urban Growth Boundary:** *prescribes criteria and procedures for amendments to the UGB*

No amendments are proposed to the UGB under this application.

**(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 proposed changes do not include a change to the allowed residential density; as such, no transportation impact over and above what is allowed under the existing code is anticipated. 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:**

Future structural development on the site will require approval of a land use application, at which time these issues will be addressed in greater detail. The change is allowed housing type, lot size, and coverage will not directly change the ability to serve the site with needed utilities. This criterion 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 majority of the subject area is currently within the City of Tualatin. One parcel, Lot 100, is currently under review for annexation by File No. ANN 20-0003. The applicant has not proposed a development agreement.

**Signature:** 

**Email:** fbubenik@tualatin.gov

**Signature:**   
Sherilyn Lombos (Oct 15, 2020 10:54 PDT)

**Email:** slombos@tualatin.gov

**Signature:** 

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# Ord 1444-20 -RML - PTA 20-0003

Final Audit Report

2020-10-15

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