



ANALYSIS AND FINDINGS

BASALT CREEK EMPLOYMENT (BCE) ZONE

August 2023

Case #:	PTA/PMA 22-0001
Project:	Basalt Creek Employment (BCE) Zone Project
Procedure:	Type IV-B, Legislative

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I. INTRODUCTION

A. Applicable Criteria

Applicable Statewide Planning Goals; Oregon Administrative Rules Chapter 660, Divisions 9, 12, and 18; Tualatin Comprehensive Plan Chapters 4 and 10 and Tualatin Development Code Chapters 31 and 33.

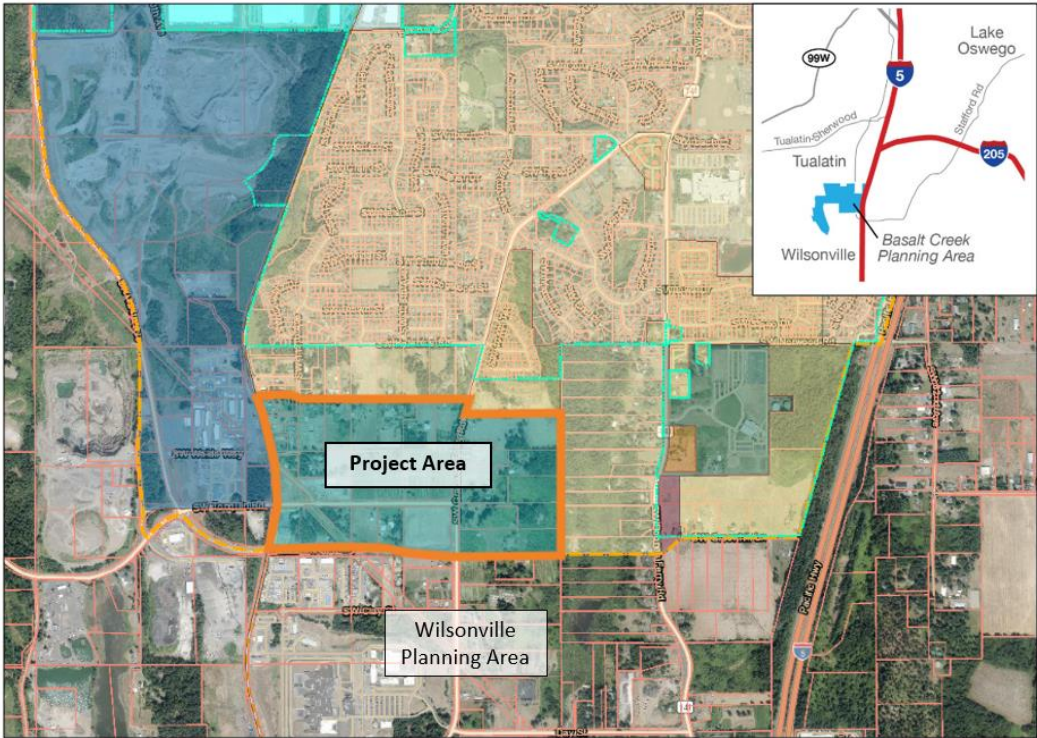
B. Project Description

In 2022, City Council directed staff to work on a legislative amendment that would update and modernize land uses and development standards limited to the Manufacturing Park (MP) zone in the Basalt Creek Planning Area. The council additionally directed staff to support employment and infrastructure goals identified in the adopted Basalt Creek Concept Plan (2019), the Economic Opportunities Analysis (2019), and the Southwest and Basalt Creek Development Area (2021) and in particular:

- Limit warehousing uses and corresponding truck traffic;
- Encourage flexible multi-tenant, multi-use development;
- Permit neighborhood commercial uses; and
- Maintain greenspace or trail connectivity for employees and near-by residents to enjoy.

Plan Map Amendment (PMA) 22-0001 would be applied to land currently designated as Manufacturing Park (MP) within the Basalt Creek Planning Area.

Figure 1—Project Area



Plan Text Amendment (PTA) 22-0001 would add Chapter 65 to the Tualatin Development code in establishment of the Basalt Creek Employment (BCE) Zoning District. Additional amendments are proposed to Tualatin Comprehensive Plan Chapters 4 and 10; Tualatin Transportation System Plan Figure 1; Tualatin Municipal Code Chapter Title 9-10; and Tualatin Development Code Chapters 31, 38, 39, 73A, and 73B in support of the new zoning district.

Table 1—Comparison of Use Categories

Use	MP Zone (Ch. 62)	BCE Zone (Ch. 65)
Commercial parking	Permitted	Not permitted
Commercial Recreation	Permitted uses limited to a health or fitness facility as a limited use	Same; located on a parcel with a minimum of 200 feet of frontage on Graham’s Ferry Road
Eating and Drinking Establishments	Permitted uses limited to a restaurant or deli as a limited use	Permitted as a limited use without drive-through facilities located on a parcel with a minimum of 200 feet of frontage on Graham’s Ferry Road
Marijuana Facilities	Permitted subject to Ch. 80	Not permitted
Mobile Food Unit Development	Not permitted	Permitted as a limited use located on a parcel with a minimum of 200 feet of frontage on Graham’s Ferry Road
Office	Permitted as a limited use	Same
Medical Office	Not permitted	Permitted as a limited use located on a parcel with a minimum of 200 feet of frontage on Graham’s Ferry Road
Other Educational & Vocational Services	Permitted uses limited to: <ul style="list-style-type: none"> • Correspondence, trade, or vocational school as a limited use; • Job training or related services subject to as a limited use. 	Same
Retail Sales & Services	Permitted uses limited to: <ul style="list-style-type: none"> • Sale of goods produced on-site as a limited use; • Child day care center, as a limited use; • Food or convenience store, mailing operations, reproduction or photocopying services, bank, and medical services as limited uses. 	<ul style="list-style-type: none"> • Child day care center, as a limited use. • All other Retail Sales and Services uses without drive-through facilities are permitted as a limited use located on a parcel with a minimum of 200 feet of frontage on Graham’s Ferry Road
Heavy Manufacturing	Not permitted	Permitted uses limited to: <ul style="list-style-type: none"> • Casting or fabrication of metals; • Manufacture, assembly, processing, or packaging of products; • Other similar advanced manufacturing uses.
Light Manufacturing	Permitted uses limited to: <ul style="list-style-type: none"> • Manufacture or assembly of electronic or optical instruments, equipment, devices; musical instruments; toys; and sporting goods • Production of textiles or apparel 	<ul style="list-style-type: none"> • Conditional uses limited to trade and industrial school or training center. • Truck driving schools are prohibited. • All other light manufacturing uses permitted except: building, heating, plumbing and electrical

	<ul style="list-style-type: none"> • Printing, publishing, and lithography shops • Research and development laboratories 	contractor's offices, with on-site storage of equipment or materials.
Warehouse and Freight Movement	Not permitted	Permitted as an accessory use or limited use.
Wholesale Sales	Not permitted	Permitted as a limited use and further limited to: sales of industrial products primarily sold wholesale to other industrial firms or industrial workers
Public Safety Facilities	Allowed as conditional uses, limited to fire station	Same

Table 2—Comparison of Development Standards

Standard	MP Zone (Ch. 62)	BCE Zone (Ch. 65)
Minimum Lot Size	5 acres	2 acres; or 10,000 square feet for standalone commercial uses
Minimum Lot Width	250 feet	None
Minimum Building Setback for Yards Adjacent to Streets or Alleys	60 feet	30 feet; or 10 feet for standalone commercial uses
Minimum Building Setback for Yards Adjacent to Residential District	60 feet	30 feet
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys	0-50 feet, determined through Architectural Review process	10 feet
Minimum Setback for Parking and Circulation Areas Adjacent to Public Right-of-Way	50 feet	20 feet
Minimum Setback for Parking and Circulation Areas Adjacent to Private Property Line	5-25 feet, determined through Architectural Review process	10 feet
Fences from public right-of-way	50 feet	10 feet
Maximum Height	70 feet, with possibility of increase to 85 feet based on the ratio of setback to building height	45 feet
Maximum Height Adjacent to Residential District	28 feet, with possible increase based on a 45-degree plane from the setback line	Any structure within 100 feet of a residential zone (measured from property line or centerline of public

		right of way, if separated by a street) must be limited to the maximum height of that residential zone.
Landscape Percentage Required	25%	20%
Sound Barriers for Certain Equipment	Not required	Required, similar to standards found in TDC Chapters 60, 61, and 64

II. FINDINGS

A. Oregon Statewide Planning Goals

Goal 1 – Citizen Involvement

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

Finding:

The proposed amendments are an update to Tualatin Development Code. In 2022, City Council directed staff to work on a legislative amendment of the Manufacturing Park (MP) code for the Basalt Creek area. These amendments were informed by the goals and policies included in the adopted Basalt Creek Concept Plan (2019), the Economic Opportunities Analysis (2019), and the Southwest and Basalt Creek Development Area (2021). A consultant, HHPR, was also employed to assist staff with a code audit, public outreach, an economic analysis, a transportation planning rule analysis, and preparation of the code amendment. The proposed amendments have been reviewed the Tualatin Planning Commission, which is the City's acknowledged Committee for Citizen Involvement (CCI), in compliance with Goal 1. The Tualatin Planning Commission also served as the community advisory committee during the phase of this project which included conceptual development of the code concepts which ultimately became the proposed amendments. The Planning Commission held multiple public meetings at which the public was able to comment on September 15, 2022, January 19, 2023, March 16, 2023, and June 15, 2023. In July of 2022 staff and the project consultant hosted a public webinar to share findings from the economic report and code audit, as well as get feedback for potential code concepts. Two work sessions were also held at the City Council.

Specific to the proposed amendments, The Tualatin Planning Commission held a public meeting on June 15, 2023 at which it recommended approval of the proposed amendments to City Council. The City Council hearing to consider the Planning Commission's recommendation and make a decision on the proposed amendment is tentatively scheduled for late summer and will be open to the public. Further, the City has followed its acknowledged public notice procedures for legislative Comprehensive Plan Amendments, found in TDC 32.250, which include publishing notice of the City Council hearing in the Tualatin Times, notice of the hearing to the Department of Land Conservation and Development at least 35 days prior to the first hearing, notice to affected government entities, and publicly posting notice of the hearing. Further, the City Council meeting schedule is made available on the internet, and notice of both the Planning Commission meeting and City Council hearing were provided to interested parties.

The proposed amendments conform to Goal 1.

Goal 2 – Land Use Planning

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

Finding:

The City of Tualatin's Comprehensive Plan and Development Code provide an acknowledged and established land use planning process and policy framework which service as the basis for all decisions and actions related to land use, and include approval criteria to assure than an adequate factual base is provided for those decisions and actions. The proposed map and text amendments to the Tualatin Comprehensive Plan and Development Code have been processed in accordance with these procedures.

The proposed amendments conform to Goal 2.

Goal 5 – Open Spaces, Scenic and Historic Area, and Natural Resource
To protect natural resources and conserve scenic and historic areas and open spaces.

Finding:

Drainage, storm water and surface water runoff in Tualatin are addressed in the Tualatin Drainage Plan, the Surface Water Management Ordinance (SWM Ordinance) (Ord. No. 846- 91), the Northwest Tualatin Concept Plan 2005, the Southwest Tualatin Concept Plan 2010 and TDC Chapter 74, the objective of which includes compliance with Metro’s Urban Growth Management Functional Plan (UGMFP) Title 3 and by extension, Goal 5. The surface water management policies and requirements in the SWM Ordinance were adopted by the City and other jurisdictions in the Tualatin River Basin to implement Clean Water Services requirements for control of sedimentation and water quality, which had been found by Metro to be consistent with Title 3, thus bringing Tualatin into conformance with Title 3 as well. Compliance with Title 13 is satisfied by Tualatin’s participation in the Tualatin Basin Plan and previously adopted amendments to the Comprehensive Plan and Development Code (TDC Section 4.050 and Section 72.056). The conservation areas will be administered and protected by Clean Water Services. Future development in Tualatin must comply with Clean Water Services’ Design and Construction Standards & Service Provider Letters (SPLs) for impacts in sensitive areas such as vegetated corridors surrounding streams and wetland habitat (TDC Chapters 33 and 36).

The proposed amendments conform to Goal 5.

Goal 6 – Air, Water and Land Resources Quality
To maintain and improve the quality of the air, water and land resources of the state.

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 (CWS) coordinates storm water management, water quality, and stream enhancement projects throughout the city. Future development will still need to comply with these state, regional, and national regulations and protections for air, water, and land resources. Tualatin has an acknowledged Comprehensive Plan that complies with this goal. The PTA does not include proposed changes to TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations).

The proposed amendments conform to Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards
To protect people and property from natural hazards.

Finding:

Tualatin has an acknowledged Comprehensive Plan that complies with this goal. These proposed amendments do not modify the City’s natural hazards requirements, nor do they modify the existing goals and policies. 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 8 – Recreation Needs

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

Finding:

Tualatin’s recreation needs, as well as those of the citizens of the state and visitors thereto, are addressed in the 2019 Tualatin Parks and Recreation Master Plan, the Comprehensive Plan, and also in Ordinance 1427-19. The proposed amendments do not affect policies associated with recreational needs.

The proposed amendments conform to Goal 8.

Goal 9 – Economy of the State

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

Finding:

The proposed amendments provide updates to goals, policies, and strategic actions found in Chapter 4 (Economy, Commercial, and Industrial Development) of the Comprehensive Plan associated with Goal 9. These amendments incorporate the conclusions and recommendations found within the 2019 Tualatin Economic Opportunities Analysis and Economic Strategies into the Comprehensive Plan and further support the establishment of the Basalt Creek Employment (BCE) zone. The EOA studied the amount of land needed to accommodate future employment growth within Tualatin between 2020 and 2040 while evaluating the existing employment land supply. Ultimately the EOA concluded that Tualatin has a 74 acre deficit of industrial land and a 175 acre deficit of commercial land. These amendments identify policies and strategic actions that the City may implement in support of robust economic development.

The proposed amendments conform to Goal 9.

Goal 10 – Housing

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

Finding:

The proposed amendments do not affect policies related to housing.

The proposed amendments conform to Goal 10.

Goal 11 – Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding:

The proposed amendments do not affect policies related to public facilities and services including water, sewer, and emergency services.

The proposed amendments conform to Goal 11.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

Finding:

The proposed amendments include changes related to transportation and to the Comprehensive Plan Functional Classification Plan (TSP Figure 1 and Comprehensive Plan Map 8-1), Local Street Plan (Comprehensive Plan Map 8-3), and Bicycle and Pedestrian Plan (Comprehensive Plan Map 8-4). Map 8-1 would reclassify Tonquin Loop and 112th Avenue from Local Streets to a Major Collector and Minor Collector, respectively. This change will limit driveway access of the adjacent residential areas to the nearest local streets identified on Map 8-3. The pedestrian and bicycle system will also be updated accordingly on Map 8-4. Findings for the Transportation Planning Rule under, OAR 660-012-0060 are included in Section B. of this document, but ultimately the establishment of the proposed zone change will not trigger a significant impact as determined by the TPR Analysis included as Exhibit 7.

The proposed amendments conform to Goal 12 and satisfy the applicable OAR requirements.

Goal 13 – Energy

To conserve energy.

Findings:

The proposed amendments do not include any changes that are related to or intended to impact Tualatin's land use regulations pertaining to energy consumption.

The proposed amendments conform to Goal 13.

B. Oregon Administrative Rules

660-012-0060

Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing

or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

[...]

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

[...]

Finding:

The intent of the TPR (OAR 660-12-0060) is to ensure that future land use and traffic growth is consistent with transportation system planning and does not create a significant effect on the surrounding transportation system beyond currently allowed uses. The definition of a significant effect varies by jurisdiction; however the Tualatin development code does not provide a definition for the term. Though the Oregon Highway Plan (OHP), qualifies a significant effect as a net increase of 400 daily trips.

A Transportation Planning Rule (TPR) analysis included in Exhibit 7, calculated the reasonable worst-case trip generation potential for the Basalt Creek Employment (BCE) zone using ITE rates. The area under consideration is 156.43 acres and is zoned Manufacturing Park (MP) which allows development of modern, large-scale specialized manufacturing land uses and research facilities as well as a limited amount of commercial services. Under the proposed Basalt Creek Employment (BCE) zoning, similar types of land uses are allowed as the Manufacturing Park (MP) zoning. However, this zoning expands industrial park uses as well as retail sales and services uses up to Metro's Title 4 limitations.

After evaluating the reasonable worst-case development potential of both the existing (MP) and proposed (BCE) zoning, the proposed zone change will result in a net decrease of 50 trips per day and 64 PM peak hour trips. Because the zone change results in a net decrease of vehicle trips, the proposed zone change is not expected to have a significant effect on the surrounding transportation system and the Transportation Planning Rule requirements are satisfied. 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.

Finding:

The amendments propose a change to Tualatin’s Comprehensive Plan and Land Use regulation will be noticed accordingly as shown. The proposed amendments are consistent with OAR 660-18-0020.

C. Metro Chapter 3.07, Urban Growth Management Functional Plan

The following Chapters and Titles of Metro Code are applicable to the proposed amendments:

Chapter 3.07, Urban Growth Management Functional Plan

Title 4 – Industrial and Other Employment Areas

3.07.430 Protection of Industrial Areas

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

- (1) Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and**
- (2) Training facilities whose primary purpose is to provide training to meet industrial needs.**

Finding:

The proposed amendments comply with Metro’s charge to protect industrial lands. As shown in the Plan Text Amendments, included in Exhibit 4, permitted commercial uses within the Basalt Creek Employment zone will comply with the Metro size limitations of 5,000 square feet for an individual outlet or a total of 20,000 square feet for multiple outlets within a development project. Commercial uses are also limited to a locational standard along SW Grahams Ferry Road. No public use airports are located in Tualatin. Trade schools and training centers to support industrial needs will be subject to a conditional use permit. The proposed amendments are consistent with Title 4.

(b) Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection (a) to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

Finding:

The proposed amendments comply with Metro’s charge to protect industrial lands. As shown in the Plan

Text Amendments, included in Exhibit 4, permitted commercial uses are limited to a locational standard along SW Grahams Ferry Road. The location of commercial uses will not be permitted along main roadway routes and connectors identified on the Regional Freight Network Map—that includes SW Boones Ferry Road or SW Basalt Creek Road, to minimize conflict with the movement of freight. The proposed amendments are consistent with Title 4.

(c) No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection (a) of this section that were not authorized prior to July 1, 2004.

Finding:

The proposed amendments will affect land designated Industrial Areas on the Metro Title 4 map. The subject area is presently designated Manufacturing Park (MP) which permitted restaurants, office, vocational, and retail sales and services with limitations under Ordinance 1049-00, which was adopted March 13, 2000. The proposed amendments are consistent with Title 4.

(d) Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

(1) Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

(2) Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

(3) Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection (a) of this section.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

(A) To provide public facilities and services;

(B) To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

(C) To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

(D) To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

Finding:

The subject area is composed of lots that range in size from 0.1-11.68 acres. The amendments include development standards requiring a minimum lot size of 2 acres for industrial development and 10,000 square feet for standalone commercial uses (subject to Title 4 limitations). The proposed amendments are consistent with Title 4.

E. Tualatin Development Code

Chapter 32: Procedures

TDC 32.010. - Purpose and Applicability.

(2) Applicability of Review Procedures. All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure "type" assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City's land use and development applications and corresponding review procedure(s).

(e) Type IV-B Procedure (Legislative Review). The Type IV-B procedure is used to review proposals to amend the Tualatin Comprehensive Plan, the City's land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Type IV-B reviews are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of Type IV-B decisions are heard by the Land Use Board of Appeals (LUBA).

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

Table 32-1—Applications Types and Review Procedures

Application/Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/ Developer Mtg Required	Applicable Code Chapter
Plan Amendments						
• Legislative Map or Text Amendments	IV-B	CC	LUBA	No	No	TDC 33.070

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

Finding:

The proposed application is a text and map amendment to the Tualatin Comprehensive Plan, Municipal Code, and Development Code. The proposed amendments are legislative in nature as they apply to broad areas of the City, as opposed to specific properties. The proposed application is being processed in accordance with the Type IV-B procedures. These criteria are met.

TDC 32.250. - Type IV-B (Legislative Decisions).

Type IV-B decisions are legislative land use decisions made by the City Council. Legislative land use proceedings include proposals to amend the Tualatin Comprehensive Plan and zoning maps, and involve the creation, revision, or implementation of broad public policy generally impacting more than one property owner or a large number of individual properties. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178. In most cases a public hearing is required. However, no public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, Statewide Land Use Planning Goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or Statewide Land Use Planning Goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the City's Comprehensive Plan or land use regulations to the new state requirements. The Council may, in its discretion, hold a public hearing although one is not required.

(1) *Submittal Requirements—Type IV-B.* Legislative land use proceedings may be initiated by the City Council or City staff.

(2) *Notice of Public Hearing—Type IV-B.* Hearings on Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

(a) *DLCD Pre-Adoption Notice.* The City Manager will notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) in accordance with the minimum number of days required by ORS Chapter 197.

[...]

(c) *Other Public Notice.* In addition to any other notice required, at least 14 calendar days before the scheduled City Council public hearing date, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies.

(i) Any affected governmental agency;

(ii) Any person who requests notice in writing;

(iii) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;

(iv) Designated representatives of recognized Citizen Involvement Organizations;

(v) For an amendment which affects the transportation system, ODOT and Metro; and

(vi) For a plan amendment or land use regulation amendment that significantly impacts school capacity, the Tigard-Tualatin School District.

(d) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be provided by publication in a newspaper of general circulation in the city.

(e) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be posted in two public and conspicuous places within the City.

[...]

Finding:

As discussed in response to the previous criterion, the proposed amendments are legislative in nature and have been processed consistent with the Type IV-B requirements. The City Council has initiated the proposed amendments, and City staff will follow the appropriate notification procedures including DLCD notice, agency notice, newspaper notice, and posted notice. These criterion are met.

(4) Conduct of the Hearing—Type IV-B. A Type IV-B land use hearing will follow the City's legislative hearing procedures. There can be pre-hearing contact between citizens and the decision makers on legislative matters. "Ex parte contact" is not a concern.

(5) Notice of Adoption and Effective Date of a Type IV-B Decision.

(a) Notice of Adoption must be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days after the City Council decision is filed with the City Manager. The City must also provide notice to all persons as required by other applicable laws.

(b) A Legislative Land Use decision, if approved, takes effect and becomes final as specified in the enacting ordinance or, if not approved, upon mailing of the Notice of Adoption to the applicant.

Finding:

The City Council public hearing to consider the Planning Commission's recommendation on the proposed amendments is tentatively scheduled for late summer, consistent with the above requirements. If adopted, a notice of adoption will be mailed and effective consistent with the above provisions. These criteria can be met.

Chapter 33: Applications and Approval Criteria

Section 33.070 Plan Amendments

[...]

(2) Applicability. [...] Legislative amendments may only be initiated by the City Council.

(3) Procedure Type.

(b) Map or text amendment applications which are legislative in nature are subject to Type IV-B Review in accordance with TDC Chapter 32.

Finding:

The proposed amendments are legislative in nature, in that they apply broadly across the City. The application has been processed consistent with the Type IV-B Review requirements in accordance with Chapter 32, which include publishing a newspaper notice at least 14 days prior to the City Council hearing, sending notice to the state DLCD (Exhibit 9). These criteria have been satisfied.

(5) Approval Criteria.

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

Finding:

In 2022, City Council directed staff to work on a legislative amendment of the Manufacturing Park (MP) code for the Basalt Creek area with the knowledge that uses permitted under the Manufacturing Park (MP) zoning are too restrictive, and as a result, industrial land that is eligible for annexation in the Basalt Creek area may not readily develop. These amendments were also guided by the goals and policies included in the adopted Basalt Creek Concept Plan (2019), the Economic Opportunities Analysis (2019), and the Southwest and Basalt Creek Development Area (2021). The draft code resulted from direction received from the City Council at work sessions held on March 23, 2022 and February 27, 2023, as well as feedback received from the community, industrial stakeholders, and the Planning Commission through a number of engagement opportunities which are summarized in Exhibit 5 and comments are included in Exhibit 6. Therefore, granting the proposed amendments is in the public interest as represented by Tualatin's City Council. This criterion is met.

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

Finding:

The public interest is best protected by granting the amendment at this time. As discussed at the previous criterion, the amendment is in the public interest. The amendments also serve to satisfy existing Comprehensive Plan goals and policies around allowing commercial development in a manner that minimizes traffic impacts, as well as encouraging new industrial development in ways that strengthen the local tax base and employment. Commercial uses are permitted to serve nearby residents and industrial workers within an area of the city that is currently underserved by commercial uses. Other permitted uses have been selected to encourage the development of high wage and living wage jobs on industrially zoned land. Furthermore, design standards have been incorporated to encourage attractive industrial development that is compatible with the nearby residential areas. This criterion is met.

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

Finding:

The proposed amendments are in conformity with the following applicable objectives of the Tualatin Comprehensive Plan:

- *POLICY 4.1.1 LOCATION. Locate and design areas that allow commercial development in a manner that increases access to goods and services while minimizing traffic impacts, including the location of commercial services where accessible through transit and active transportation modes, the encouragement of mixed use development, and small neighborhood commercial nodes.*
- *GOAL 4.2 Encourage new industrial development in ways that strengthen the local tax base and support Tualatin's industrial lands as a major local and regional employment center.*
- *POLICY 4.2.1 Preserve and protect, with limited exceptions, the City's existing industrial land.*
- *POLICY 4.2.2 Fully develop planned industrial areas, providing full transportation, sewer, and water services prior to or as development occurs.*

The proposed amendments include an expansion of Comprehensive Plan, Chapter 4 goals and policies, as well as the addition of a zoning chapter (Chapter 65 Basalt Creek Employment) to the Development Code in support of findings identified in the 2019 Economic Opportunities Analysis (EOA) adopted by Resolution No. 5479-19 and in the 2019 Basalt Creek Concept Plan under Ordinance 1418-19. The proposed development code amendments are specifically designed to provide an environment conducive to the development and protection of employment uses within the Basalt Creek area, with an emphasis on advanced manufacturing, office, and incubator space. Commercial retail services are permitted limited uses. Limitations include a maximum size, not to exceed 5,000 square feet for an individual use, and a locational standard along the Grahams Ferry Road corridor to encourage a small neighborhood commercial node while protecting industrial land development. Therefore, the proposed amendments are in conformity with the Tualatin Comprehensive Plan and this criterion is met.

(d) The following factors were consciously considered:

- (i) The various characteristics of the areas in the City;**
- (ii) The suitability of the areas for particular land uses and improvements in the areas;**

Finding:

The proposed amendments will affect industrial zoned land specific to the Basalt Creek geographic area of the City. This area is also bordered by residential lands to the north and east, and the City of Wilsonville to the south. As highlighted in an economic assessment submitted as Exhibit 8, the subject area of the City is an industrial area of regional importance and has been subject to many planning efforts to include in Tualatin’s Planning area. Industrial development in the Planning Area will benefit from several competitive advantages, including the area’s immediate access to I-5, an important transportation route on the west coast. Additionally the industrial land in the Basalt Creek area is relatively undeveloped and has minimal slopes over 25% and minimal wetland impacts. Annexation of this land will be predicated on investor interest, and the expectation is that investors will finance the extension of services.

The proposed amendments aim to encourage job dense uses that are compatible with nearby residential land. These amendments ensure that all uses will be conducted within a completely enclosed building, limit uses that generate truck trips, include design standards for a pleasant public interface, and provide opportunities for a neighborhood commercial node. Therefore, the various characteristics of the areas of the City were consciously considered, as well as the suitability of areas for particular land uses was considered. These criterion are met.

(iii) Trends in land improvement and development;

Finding:

As described in the Economic Analysis submitted as Exhibit 8, the U.S. Bureau of Labor Statistics projects that total U.S. employment will grow from 153.5 million to 165.4 million over the 2020–30 decade, an increase of 11.9 million jobs. Portland metro area jobs in core industrial sectors account for about 30 percent of all private jobs in the tri-county region, and there are nearly twice the number of manufacturing jobs compared to transportation, warehousing, and utility jobs Overall, market trends have demonstrated that need for research and development campuses, which is currently encouraged in the existing MP zone, is waning, while the need for flexible industrial development of the type permitted by the proposed amendments is strong.

Furthermore, the Basalt Creek Concept Plan, adopted under Ordinance 1418-19 identified roughly 92.95 buildable acres in the Manufacturing Park (MP) with an expectation to accommodate 1,897 new jobs. Additionally, the Economic Opportunities Analysis (EOA) adopted as Resolution 5479-19, identified a Citywide deficit of 74 acres of industrial land and recommended changes to zoning that encourage more efficient use of employment land, by specifically prohibiting new development that requires substantial amounts of land but results in little employment. The proposed amendments aim to accommodate recent market trends and the city’s identified goal of job dense development by encouraging flexible industrial development that favors advanced manufacturing. Therefore, the proposed amendments have consciously considered trends in land improvement and development and this criterion is met.

(iv) Property values;

Finding:

The proposed amendments will have a positive impact on property values. The current market has little

demand for large-scale specialized manufacturing and research campuses, as allowed under the current Manufacturing Park (MP) zoning designation. Therefore it seems improbable that the industrial land will develop to reach full financial value in the near term. The proposed amendments expand and modernize allowed land uses that encourage employment dense development, while remaining flexible for changing market opportunities. The amendment also implements goals identified in the Southwest and Basalt Creek Development Area adopted under Ordinance No. 1458-21, including:

- *Encourage land development that provides high density employment opportunities. Encourage land development in ways that strengthen the local tax base and support Tualatin's employment lands as a major local and regional employment center.*
- *Facilitate development and redevelopment on sites in the area, stimulating growth, providing new employment opportunities and an increased tax base in the area.*

As an active urban renewal district is in place, the expectation is that public urban renewal investments will attract private development and increase property values. Therefore, the proposed amendments support property values, and this criterion is met

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

Finding:

The proposed amendments support the economic enterprises identified in both the Basalt Creek Concept Plan and the Economic Opportunities Analysis (EOA), specifically by changing zoning to encourage more efficient use of employment land. Additionally, needed right-of-way and access for and to particular sites in the area was consciously considered, although the proposed amendments are legislative in nature and not site specific; therefore this criterion is met.

(vi) Natural resources of the City and the protection and conservation of said resources;

(vii) Prospective requirements for the development of natural resources in the City;

Finding:

The proposed amendments do not impact natural resource protection nor application of requirements to future development, which would fully apply to any new development. Therefore, this criterion is met.

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

Finding:

The proposed amendments do not impact regulations governing public need for healthful or safe, surroundings and conditions, as required for industrial uses under Chapter 63. The amendments do require that all uses be conducted within a completely enclosed building, as well as building design and landscape standards to encourage esthetic development. These factors were consciously considered and the 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 amendments do not involve residential uses outside of a conditional caretaker residence for security purposes; therefore this criterion is not applicable.

(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:

Discussion of State of Oregon Planning Goals and applicable Oregon Administrative Rules is found in Sections II-A and B of these findings and find consistency. 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 the Metro Urban Growth Management Functional Plan, specifically Title 4 as discussed in Section II-C of these findings. Therefore, these requirements were consciously considered. This criterion is met.

(h) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 10-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Finding:

The area of the city that will be affected by these amendments is identified as Industrial Area (IA) on Map 10-4. As described in Section II-B, and in Exhibit 7 the reasonable worst-case trip generation of the proposed amendments is anticipated to result in a net decrease of 64 PM peak hour trips. Therefore, the proposal is a slight improvement of level of service for transportation facilities and the criterion is addressed.

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

[...]

Finding:

The proposed changes do not impact objectives and policies regarding the above referenced utilities. These factors were consciously considered but this criterion is not applicable.