

**NOTICE OF TYPE II DECISION (AMENDED)
SITE DEVELOPMENT REVIEW (SDR) 2010-00001
PITTMAN & BROOKS ADDITION**



THIS DECISION IS BEING AMENDED AND REISSUED TO CORRECT CONDITION OF APPROVAL #10 AND THE FINDINGS IN SECTION E. IMPACT STUDY, TO REFLECT A REVISED UNMITIGATED IMPACT FIGURE. THE APPEAL PERIOD AND EFFECTIVE DATE HAVE ALSO BEEN EXTENDED ACCORDINGLY.

120 DAYS = 8/12/2010

SECTION I. APPLICATION SUMMARY

FILE NAME: PITTMAN & BROOKS CPA'S
CASE NOS.: Site Development Review (SDR) SDR2010-00001
Adjustment (VAR) VAR2010-00005

PROPOSAL: The applicant is requesting Site Development Review to construct a 1,209 square foot second floor addition and elevator to an existing office building. In addition, the applicant is requesting an adjustment to the access and egress standards to account for two accesses on SW 72nd Avenue to the subject property spaced approximately 185 feet apart which is less than the required 600-foot separation for arterials.

APPLICANT/ OWNER:	Randall C. Brooks 15255 SW 72nd Avenue Tigard, OR 97224	APPLICANT'S REP:	James Andrews Nicoli Engineering PO Box 23784 Tigard, Oregon 97281
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LOCATION: The property is located at 15255 SW 72nd Avenue in Tigard; Washington County Tax Map 2S112DB, Tax Lot 200.

ZONE: I-P: The I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odor, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well-integrated, attractively landscaped, and pedestrian-friendly.

**APPLICABLE
REVIEW
CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.390, 18.530, 18.705, 18.725, 18.745, 18.755, 18.765, 18.780, 18.790, 18.795 and 18.810.

SECTION II. DECISION

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the above request for Site Development Review and an Adjustment subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section VI.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO ISSUANCE OF THE SITE PERMIT:

Submit to the Planning Department (Gary Pagenstecher, 503-718-2434) for review and approval:

1. The applicant shall position fencing as directed by the project arborist and detailed on the tree preservation sheet 2.1. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
2. If work is required within an established tree protection zone, the project arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The project arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
3. The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

Submit to the Engineering Department (Gus Duenas, 503-718-2470) for review and approval:

4. Prior to issuance of a Site Permit, submit an erosion control plan to the Building Division (Mark VanDomelen, 503-718-2448). This plan shall conform to Clean Water Services Design and Construction Standards (Resolution and Order No. 07-20) Chapter 2. No work on-site shall commence until the erosion control permit is issued.
5. Prior to issuance of a Site Permit, the applicant shall provide a construction vehicle access and parking plan to the Development Engineer (Gus Duenas, 503-718-2470) for review and approval. The purpose of this plan is for parking and traffic control during the building construction work.
6. Prior to issuance of the site permit, the applicant shall obtain concurrence from Tualatin Valley Fire & Rescue (TVF&R) that no fire protection system is required and that the existing hydrant location is satisfactory for fire protection of the structure.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO A FINAL BUILDING INSPECTION:**

Submit to the Planning Department (Gary Pagenstecher, 503-718-2434) for review and approval:

7. Prior to final building inspection, the applicant/owner shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if all trees preserved in accordance with this decision should either die or be removed as hazardous trees.
8. Prior to final building inspection, the applicant shall call for a planning site inspection to ensure the proposed project is consistent with the approved plans.

Submit to the Engineering Department (Gus Duenas, 503-718-2470) for review and approval:

9. Prior to Final Building Inspection, the applicant shall execute a "No Construction" easement over the lot frontage needed for future expansion of 72nd Avenue. The easement shall cover the area needed for expansion of right-of-way to 52 feet from centerline of existing right-of-way.
10. Prior to Final Building Inspection, the applicant shall execute a Restrictive Covenant on City-furnished forms to be recorded by the applicant whereby they agree to complete or participate in the future improvements of SW 72nd Avenue adjacent to the subject property when any of the following events occur:
 - A. when the improvements are part of a larger project to be financed or paid for by the formation of a Local Improvement District;
 - B. when the improvements are part of a larger project to be financed or paid for in whole or in part by the City or other public agency;
 - C. when the improvements are part of a larger project to be constructed by a third party and involves the sharing of design and/or construction expenses by the third party owner(s) of property in addition to the subject property; or
 - D. when construction of the improvements is deemed to be appropriate by the City Engineer in conjunction with construction of improvements by others adjacent to the subject site.

The level of participation shall be no more than the project's estimated unmitigated impact of ~~\$30,000~~ \$26,303 based on 2010 dollars and can be credited towards acquisition of right-of-way, or be applied to design and construction costs for the improvements. Any future participation shall use this amount as the present value with adjustments for inflation using the Engineering News Record construction cost index (currently 8676.68) to the time of participation.

As an alternate to future participation, the applicant may elect to pay the ~~\$30,000~~ \$26,303 to the City as their contribution to that future improvement. Any funds deposited with the City will be used to fund the improvements along the project frontage.

**THIS APPROVAL SHALL BE VALID FOR EIGHTEEN (18)
MONTHS FROM THE EFFECTIVE DATE OF THIS DECISION.**

SECTION III. BACKGROUND INFORMATION

Site History

The subject property is a long (442 feet) narrow (134 - 0 feet) triangular shaped parcel. The site was originally developed with the McHenry Office Building in 1978. A zone change from Light Industrial to Industrial Park was approved in 1991(ZON91-0009). Under SDR98-00026, the applicant received major modification approval for a 3,327 square foot addition to an existing office building. The addition included office space and a day care facility and approved a variance to the front yard setback standard (35 feet) to allow the addition to replicate the existing building's facade and to legalize the existing non-conforming setback (30 feet).

Vicinity Information

The subject property is bounded by a railroad right-of-way to the west, SW 72nd Avenue at the intersection with Redwood Lane to the east, and an industrial property to the north. The property is bounded to the north and west by land zoned I-L and to the east by I-P.

Site Information and Proposal Description:

The applicant is requesting Site Development Review approval to construct a 1,209 square foot second floor addition and elevator to an existing office building. In addition, the applicant is requesting approval for an adjustment to the access and egress standards to account for two accesses to the subject property spaced approximately 185 feet apart which is less than the required 600-foot separation for arterials.

SECTION IV. COMMENTS FROM PROPERTY OWNERS WITHIN 500 FEET

On April 19, 2010, the City provided notice of the proposal and an opportunity to comment to property owners within 500 feet of the subject site, but did not receive any comments. The applicant held a properly noticed neighborhood meeting on January 4, 2010 to discuss the proposal with interested neighbors. No neighbors attended the meeting.

SECTION V. SUMMARY OF APPLICABLE REVIEW CRITERIA

- A. Zoning Districts
 - 18.530 (Industrial Zoning Districts)
- B. Applicable Development Code Standards
 - 18.370 (Variances and Adjustments)
 - 18.705 (Access Egress and Circulation)
 - 18.725 (Environmental Performance Standards)
 - 18.745 (Landscaping and Screening)
 - 18.755 (Mixed Solid Waste and Recyclable Storage)
 - 18.765 (Off-Street parking and loading requirements)
 - 18.780 (Signs)
 - 18.790 (Tree Removal)
 - 18.795 (Visual Clearance)
- C. Specific SDR Approval Criteria
 - 18.360
- D. Street and Utility Improvement Standards
 - 18.810
- E. Impact Study
 - 18.390

SECTION VI. APPLICABLE REVIEW CRITERIA

A. ZONING DISTRICT

Industrial Zoning District (18.530)

Lists the description of the Industrial Zoning Districts.

The I-P zoning district provides appropriate locations for combining light manufacturing, office and small-scale commercial uses, e.g., restaurants, personal services and fitness centers, in a campus-like setting. Only those light industrial uses with no off-site impacts, e.g., noise, glare, odor, vibration, are permitted in the I-P zone. In addition to mandatory site development review, design and development standards in the I-P zone have been adopted to insure that developments will be well-integrated, attractively landscaped, and pedestrian-friendly.

The site is located in the Industrial Park District (I-P). The existing uses include office and commercial day care. The office use is proposed to be expanded by 1,200 square feet.

Development Standards: Section 18.530.040.B

States that Development standards in Industrial zoning districts are contained in Table 18.530.2 below:

**TABLE 18.530.2
DEVELOPMENT STANDARDS IN INDUSTRIAL ZONES**

STANDARD	I-P	Existing/Proposed
Minimum Lot Size	None	23,958 sq. ft.
Minimum Lot Width	50 ft	67 ft
Minimum Setbacks		
- Front yard	35 ft	28 ft
- Side facing street on corner & through lots	-	NA
- Side yard	0/50 ft.	48/213 ft
- Rear yard	0/50 ft	4 – 32 ft
-Distance between front of garage & property line abutting a public or private street.	-	NA
Maximum Height	45 ft	22 ft
Maximum Site Coverage [2]	75 % [5]	59.6 %
Minimum Landscape Requirement	25 %[6]	40.4%

[2] Includes all buildings and impervious surfaces.

[5] Maximum site coverage may be increased to 80% if the provisions of Section 18.530.050.B are satisfied.

[6] Except that a reduction to 20% of the site may be approved through the site development review process.

As shown in the table above, the development standards for the I-P zone are met for the existing/proposed development with the exception of the front yard setback. However, the proposed development is not less conforming than the existing development approved through SDR98-00026, which included approval for the front yard setback variance for the day care portion of the building. The proposed development adds a second story over the previously approved footprint, consistent with the setback approved under SDR98-00026.

Pursuant to Tigard Development Code (TDC) 18.530.050.C, the following standards shall apply for all commercial day care uses in industrial zones:

- 1. The Environmental Impact Assessment must document noise, visible emissions, vibration, odor, glare and heat from uses within one quarter mile. A plan and program for day care facilities to provide mitigation on-site for any of the above off-site impacts must be provided. Sound attenuation walls, screening, window covering, shades, and other such means are appropriate means of mitigation and may be attached as conditions of approval.**
- 2. The State of Oregon Child Care Division Certification Section shall be notified of the proposed site plans prior to submitting an application to insure that the plans submitted generally address the permitting requirements.**
- 3. Prior to occupancy of the proposed day care, evidence of certification through the State of Oregon Child Care Division shall be provided.**

The existing commercial day care center is allowed as a restricted use in the I-P zone, subject to an environmental impact statement in accordance with TDC 18.530.050.C.1, above and compliance with State of Oregon outdoor open space setbacks. The applicant has submitted the City's Certificate of Occupancy dated 11/04/1999 and the State of Oregon Employment Department Child Care Division Certificate of Approval to operate Darling Deductions Preschool effective May 7, 2009 through May 7, 2010.

FINDING: Based on the analysis above, the Development Standards for the I-P zone have been met.

B. APPLICABLE DEVELOPMENT CODE STANDARDS

Variances and Adjustments (18.370)

The applicant is requesting an adjustment to the Access, Egress, and Circulation standards to account for two existing parking lot accesses to the subject property spaced approximately 185 feet apart which is less than the required 600-foot separation for arterials (Section 18.705.030.H.3). SW 72nd Avenue abuts the subject site on the east and is designated an arterial in the City's Transportation System Plan. The classification of SW 72nd Avenue has changed from a collector to an arterial since the existing development was approved.

18.370.020 Adjustments

A. Purpose. The purpose of this section is to establish two classes of special variances:

1. "Development adjustments" which allow modest variation from required development standards within proscribed limits. Because such adjustments are granted using "clear and objective standards," these can be granted by means of a Type I procedure, as opposed to the more stringent standards of approval and procedure for variances.
2. "Special adjustments" which are variances from development standards which have their own approval criteria as opposed to the standard approval criteria for variances contained in Section 18.370.020.C.

"Special adjustments" include adjustments to the Access, Egress, and Circulation standards as shown below.

5. Adjustment to access and egress standards (Chapter 18.705).

a. In all zoning districts where access and egress drives cannot be readily designed to conform to Code standards within a particular parcel, access with an adjoining property shall be considered. If access in conjunction with another parcel cannot reasonably be achieved, the Director may grant an adjustment to the access requirements of Chapter 18.705 through a Type II procedure, as governed in Section 18.390.030, using approval criteria contained in Subsection 2b below.

b. The Director may approve, approve with conditions, or deny a request for an adjustment from the access requirements contained in Chapter 18.705, based on the following criteria:

- (1) It is not possible to share access;
- (2) There are no other alternative access points on the street in question or from another street;
- (3) The access separation requirements cannot be met;
- (4) The request is the minimum adjustment required to provide adequate access;
- (5) The approved access or access approved with conditions will result in a safe access; and
- (6) The visual clearance requirements of Chapter 18.795 will be met.

Given the triangular configuration of the subject parcel, shared access would only be possible with the property to the north. The adjacent property is developed with a building located approximately 50 feet to the north and is landscaped with grass and trees between the property line and the adjacent building. The adjacent building's parking is located to the north without access options to the subject property. No other streets abut the subject property. There are no alternative access points on SW 72nd Avenue. The access separation requirements cannot be met. The existing access was previously approved as a safe access. Visual clearance requirements are proposed to be maintained. The applicant states that "it is understood that when 72nd Avenue is constructed to the *arterial* standard, that the existing accesses will need to be re-evaluated."

FINDING: Based on the analysis above, the variance to the minimum spacing standard of 600 feet along SW 72nd Avenue, an arterial, can be approved.

Access, Egress and Circulation (18.705):

Access plan:

No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.

As shown in the applicant's Site Plan (Sheet 2), the proposed development and the existing parking lot on the subject parcel is accessed by two 30-foot driveways connecting to SW 72nd Avenue. Therefore, this standard has been met.

Joint access:

Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and copies of the deeds, easements, leases or contracts are placed on permanent file with the City.

No joint access is proposed, therefore, this standard does not apply.

Public street access:

All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.

The subject site is accessible from SW 72nd Avenue, which is a public street that will be maintained as a public street.

Curb cuts:

Curb cuts shall be in accordance with Section 18.810.030N: Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in this chapter and Section 15.04.080: Concrete curbs and driveway approaches are required; except where no sidewalk is planned, an asphalt approach may be constructed with City Engineer approval and Asphalt and concrete driveway approaches to the property line shall be built to City configuration standards.

No driveway approach shall be less than five feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five foot restricted area. No portion of any driveway approach, including the end slopes, shall be located closer than thirty feet to an intersection street right-of-way line. Commercial or service drives shall not be more than thirty feet in width and if located on the same lot frontage shall be separated by a minimum length of curb of thirty feet. Each residential driveway shall be not more than twenty-six feet in width including end slopes, and if more than one driveway is to be constructed to serve the same lot, the frontage spacing between such driveways shall be not less than thirty feet measured along the curb line. Joint access driveways shall conform to the appropriate width standard for commercial or residential type usage.

These standards are met with the existing curb cuts. No new curb cuts are proposed.

Walkways:

On-site pedestrian walkways shall comply with the following standards: Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

The existing pedestrian walkways as shown in the applicant's Site Plan (Sheet 2) meet the applicable walkway standards.

Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.

The existing property has two access points to 72nd Avenue providing ingress and egress to two separate parking lots. There does not appear to be a realistic way to connect the two parking areas such that one access would be feasible. The applicant proposes to retain the two access points and not make any changes to the existing driveways. We concur with this proposal. As a result, an access spacing standard adjustment for access closer than 600 feet on an arterial is required as reviewed above and in the Variance and Adjustment section of this decision.

Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

The existing driveways approved through prior approval (SDR98-00026) are proposed to remain. Therefore, this standard has been met.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

Existing driveways are approximately 185 apart. SW 172nd Avenue is an arterial street. The applicant proposes to use the existing accesses. Therefore, the applicant requests an adjustment to allow for the existing driveways to be retained. The adjustment request is reviewed above in the Variance and Adjustment section of this decision and is approved.

Minimum Access Requirements for Commercial and Industrial Use:

Section 18.705.030.I provides the minimum access requirements for commercial and industrial uses: Table 18.705.3 indicates that the required access width for developments with 0-99 parking spaces is one 30-foot accesses with 24 feet of pavement. Vehicular access shall be provided to commercial or industrial uses, and shall be located to within 50 feet of the primary ground floor entrances; additional requirements for truck traffic may be placed as conditions of site development review.

The existing parking lots combined include 24 spaces. Therefore, each access must be 30-feet with 24 feet of pavement. As shown in the applicant's Site Plan (Sheet 2) the existing accesses are consistent with this standard.

FINDING: Based on the analysis above, and approval of the requested Access and Egress "Special adjustment" for driveway spacing on an arterial reviewed in the Variance and Adjustment section of this decisions, the applicable Access, Egress and Circulation standards have been met.

Environmental Performance Standards (18.725):

Noise:

For the purposes of noise regulation, the provisions of Sections 7.40.130 through 7.40.210 of the Tigard Municipal Code shall apply.

Visible emissions:

Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack of other point- source emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.

Vibration:

No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

Odors:

The emission of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

Glare and heat:

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted and; there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and these regulations shall not apply to signs or floodlights in parking areas or constructing equipment at the time of construction or excavation work otherwise permitted by this title.

Insects and rodents:

All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

FINDING: The proposed 1,200 square foot second story addition and elevator for office use would not expect to produce any adverse impacts from noise, visible emission, vibrations, odors, glare and heat or insects and rodents. Therefore, each of the environmental performance standards above have been met.

Landscaping and Screening (18.745):

Street Trees:

Section 18.745.040 states that all development projects fronting on a public street or a private drive more than 100 feet in length shall be required to plant street trees in accordance with Section 18.745.040.C Section 18.745.040.C requires that street trees be spaced between 20 and 40 feet apart depending on the size classification of the tree at maturity (small, medium or large).

As shown in the applicant's Site Plan, the existing street trees meet the street tree standards.

Buffering and Screening:

Section 18.745.080 states that no buffer is required between abutting uses that are of a different type when the uses are separated by a street. No buffer is required between a proposed office use and existing office use.

Pursuant to Table 18.745.1, Buffer Matrix, no buffering and screening is required between the uses on the subject site and uses on adjacent parcels.

Screening:

Special Provisions:

Section 18.745.050.E requires the screening of parking and loading areas. Landscaped parking areas shall include special design features which effectively screen the parking lot areas from view. Planting materials to be installed should achieve a relative balance between low lying and vertical shrubbery and trees. Trees shall be planted in landscaped islands in all parking areas, and shall be equally distributed on the basis of one (1) tree for each seven (7) parking spaces in order to provide a canopy effect. The minimum dimension on the landscape islands shall be three (3) feet wide and the landscaping shall be protected from vehicular damage by some form of wheel guard or curb.

As show on the applicant's Site Plan (Sheet 2), the special screening provision for parking lots is met except for screening the parking lot from view from SW 72nd Avenue. To address this standard, the applicant has proposed additional landscaping (22 Rheingold plants divided between the two accesses, consistent with the special screening standards.

Screening Of Service Facilities:

Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height. All refuse materials shall be contained within the screened area;

As show on the applicant's Site Plan (Sheet 2), the mixed waste facility is enclosed with a masonry structure, consistent with the screening of service facilities standards.

FINDING: Based on the analysis above, the landscaping and screening standards have been met.

Mixed Solid Waste and Recyclables Storage (18.755):

Chapter 18.755 requires that new construction incorporates functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated Recyclables prior to pick-up and removal by haulers.

The applicant must choose one (1) of the following four (4) methods to demonstrate compliance: Minimum Standard, Waste Assessment, Comprehensive Recycling Plan, or Franchised Hauler Review and Sign-Off. The applicant will have to submit evidence or a plan which indicates compliance with this section. Regardless of which method chosen, the applicant will have to submit a written sign-off from the franchise hauler regarding the facility location and compatibility.

FINDING: Based on prior review and approval under SDR98-00026, and the limited scope of the proposed 1,200 square foot addition, the applicable Mixed Solid Waste/Recycling Storage Standards are satisfactorily met by the existing facilities as shown on the applicant's Site Plan (Sheet 2).

Off-Street Parking and Loading (18.765):

Location of vehicle parking:

Off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwellings. Off-street parking lots for uses not listed above shall be located not further than 200 feet from the building or use that they are required to serve, measured in a straight line from the building with the following exceptions: a) commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 300 feet from the primary site; The 40 parking spaces which remain on the primary site must be available for users in the following order of priority: 1) Disabled-accessible spaces; 2) Short-term spaces; 3) Long-term preferential carpool and vanpool spaces; 4) Long-term spaces.

The existing parking lots contain 7 spaces on the south and 16 spaces on the north for a total of 23 spaces. These parking areas are located adjacent to the existing building, consistent with the location standards.

Joint Parking:

Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the peak hours of operation do not overlay, subject to the following: 1) The size of the joint parking facility shall be at least as large as the number of vehicle parking spaces required by the larger(est) use per Section 18.765.070; 2) Satisfactory legal evidence shall be presented to the Director in the form of deeds, leases or contracts to establish the joint use; 3) If a joint use arrangement is subsequently terminated, or if the uses change, the requirements of this title thereafter apply to each separately.

The applicant has not proposed joint parking.

Parking in Mixed-Use Projects:

In mixed-use projects, the required minimum vehicle parking shall be determined using the following formula. 1) Primary use, i.e., that with the largest proportion of total floor area within the development, at 100% of the minimum vehicle parking required for that use in Section 18.765.060; 2) Secondary use, i.e., that with the second largest percentage of total floor area within the development, at 90% of the vehicle parking required for that use in Section 18.765.060; 3)

Subsequent use or uses, at 80% of the vehicle parking required for that use(s) in Section 18.765.060; 4) The maximum parking allowance shall be 150% of the total minimum parking as calculated in D.1.-3. above.

The existing and proposed development is a mixed-use project including office and day care. Total required spaces are twenty-three. According to the applicant's site Plan (Sheet 2), 23 spaces are provided, consistent with the mixed-use parking standards.

Visitor Parking in Multi-Family Residential Developments:

Multi-dwelling units with more than 10 required parking spaces shall provide an additional 15% of vehicle parking spaces above the minimum required for the use of guests of residents of the complex. These spaces shall be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.

This project does not involve a multi-family use. Therefore, this standard does not apply.

Preferential Long-Term Carpool/Vanpool Parking:

Parking lots providing in excess of 20 long-term parking spaces shall provide preferential long-term carpool and vanpool parking for employees, students and other regular visitors to the site. At least 5% of total long-term parking spaces shall be reserved for carpool/vanpool use. Preferential parking for carpools/vanpools shall be closer to the main entrances of the building than any other employee or student parking except parking spaces designated for use by the disabled. Preferential carpool/vanpool spaces shall be full-sized per requirements in Section 18.765.040N and shall be clearly designated for use only by carpools and vanpools between 7:00 AM and 5:30 PM Monday through Friday.

Pursuant to the applicant's Site Plan (Sheet 2), the preferential long-term carpool/vanpool standards have been met.

Disabled-Accessible Parking:

All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.

Pursuant to the applicant's Site Plan (Sheet 2), the disabled-accessible parking standards have been met.

Access Drives:

With regard to access to public streets from off-street parking: access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site; the number and size of access drives shall be in accordance with the requirements of Chapter, 18.705, Access, Egress and Circulation; access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives; access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance; access drives shall be improved with an asphalt or concrete surface; and excluding single-family and duplex residences, except as provided by Subsection 18.810.030.P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.

Pursuant to the applicant's Site Plan (Sheet 2), the access drives standards have been met.

Pedestrian Access:

Pedestrian access through parking lots shall be provided in accordance with Section 18.705.030.F. Where a parking area or other vehicle area has a drop-off grade separation, the property owner shall install a wall, railing, or other barrier which will prevent a slow-moving vehicle or driverless vehicle from escaping such area and which will prevent pedestrians from walking over drop-off edges.

Pursuant to the applicant's Site Plan (Sheet 2), the pedestrian access standards have been met.

Parking Lot Striping:

Except for single-family and duplex residences, any area intended to be used to meet the off-street parking requirements as contained in this Chapter shall have all parking spaces clearly marked; and all interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

Pursuant to the applicant's Site Plan (Sheet 2), the parking lot striping standards have been met.

Wheel Stops:

Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.

Pursuant to the applicant's Site Plan (Sheet 2), the wheel stop standards have been met.

Space and Aisle Dimensions:

Section 18.765.040.N states that: "except as modified for angled parking in Figures 18.765.1 and 18.765.2 the minimum dimensions for parking spaces are: 8.5 feet x 18.5 feet for a standard space and 7.5 feet x 16.5 feet for a compact space; aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width.

Pursuant to the applicant's Site Plan (Sheet 2), the Space and Aisle Dimension standards have been met.

Bicycle Parking Location and Access:

Section 18.765.050 states bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures; bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways; outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to locate the parking area; and bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

Pursuant to the applicant's Site Plan (Sheet 2), the parking design standards have been met.

Bicycle Parking Design Requirements:

Section 18.765.050.C. The following design requirements apply to the installation of bicycle racks: The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required; bicycle racks must be securely anchored to the ground, wall or other structure; bicycle parking spaces shall be at least 2½ feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking; each required bicycle parking space must be accessible without moving another bicycle; required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement; and areas set aside for required bicycle parking must be clearly reserved for bicycle parking only. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete or similar material. This surface must be designed to remain well drained.

Pursuant to the applicant's Site Plan (Sheet 2), the parking design standards have been met.

Minimum Bicycle Parking Requirements:

The total number of required bicycle parking spaces for each use is specified in Table 18.765.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces.

The applicant's Site Plan shows four bicycle racks are provided to serve 8 bike spaces. Table 18.765.2 requires 2 spaces for day care classroom and 4 spaces for office ($0.5/1,000 \times 7.64 = 3.82$). The existing bicycle parking meets the minimum bicycle parking standard.

Minimum Off-Street Parking:

Section 18.765.070.H states that the minimum and maximum parking shall be as required in Table 18.765.2.

The applicant's Site Plan shows 24 spaces are provided but the notes call out 23 spaces, 7 in the south lot and 16 in the north lot. The narrative states 23 spaces are provided. Table 18.765.2, requires 21 spaces for office ($2.7 \times 7.64 = 20.62$) and 2.0 spaces for day care (2.0 space/class room x 1 classroom = 2 spaces) for a total of 23 spaces. The existing parking meets the minimum off-street parking standard.

Off-Street Loading Spaces:

Commercial, industrial and institutional buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows: A minimum of one loading space is required for buildings with 10,000 gross square feet or more; A minimum of two loading spaces for buildings with 40,000 gross square feet or more.

The proposed building area is 8,973 square feet, less than would require an off-street loading space. Therefore, this standard does not apply.

FINDING: Based on the analysis above, the off-street parking and loading standards have been met.

Signs (18.780):

Chapter 18.780.130.F lists the type of allowable signs and sign area permitted in industrial zoning district.

Signs are reviewed through a separate permit process administered by the Development Services Technicians. No application for a sign was made for the subject parcel.

FINDING: Because signs are reviewed and approved as part of a separate permit process, and the applicant did not apply for a sign for the subject parcel, this standard does not apply to the subject proposal.

Tree Removal (18.790):

Section 18.790.030 requires that a tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided with a site development review application. The tree plan shall include identification of all existing trees, identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, which trees are to be removed, protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

The applicant submitted a tree plan for the protection of trees prepared by Phillip Hickey, Certified Arborist, including a Tree Preservation Site Plan (Sheet 2.1) and Arborist Report dated January 27, 2010. According to the applicant's tree inventory, 21 trees exist on the subject site, 5 of which are greater than 12 inches in diameter at breast height. All trees are proposed to be retained. Those trees in the vicinity of the work areas include tree protection measures. The Tree Preservation Site Plan includes applicable tree protection measures and has been signed-off by the project arborist.

FINDING: Based on the analysis above, the tree removal standards have been met. To ensure the proposed development remains consistent with the applicable Tree Removal standards, the following conditions of approval will be applied.

CONDITIONS:

- The applicant shall position fencing as directed by the project arborist and detailed on the Tree Preservation Site Plan (Sheet 2.1). The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

- If work is required within an established tree protection zone, the project arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The project arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
- The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.
- Prior to issuance final building inspection, the applicant/owner shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if all trees preserved in accordance with this decision should either die or be removed as hazardous trees.

Visual Clearance Areas (18.795):

Chapter 18.795 requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height (8) (trees may be placed within this area provided that all branches below eight (8) feet are removed). A visual clearance area is the triangular area formed by measuring a 30-foot distance along the street right-of-way and the driveway, and then connecting these two (2), 30-foot distance points with a straight line.

FINDING: The existing two accesses to the subject property, as shown on the applicant's Site Plan (Sheet 2) include the visual clearance triangles, consistent with this standard.

C. SPECIFIC SITE DEVELOPMENT REVIEW APPROVAL STANDARDS (SECTION 18.360)

Section 18.360.090(A)(2) through 18.360.090(A)(15) provides additional Site Development Review approval standards not necessarily covered by the provisions of the previously listed sections. These additional standards are addressed immediately below with the following exceptions:

The proposal contains no elements related to the provisions of the following and are, therefore, found to be inapplicable as approval standards: 18.360.090.3 (Exterior Elevations); 18.360.090.5 (Privacy and Noise: Multi-family or Group Living Uses); 18.360.090.6 (Private Outdoor Areas: Multi-family Use); 18.360.090.7 (Shared Outdoor Recreation Areas: Multi-family Use); 18.360.090.8 (100-year floodplain); and 18.360.090.9 (Demarcation of Spaces).

The following sections were discussed previously in this decision and, therefore, will not be addressed in this section: 18.360.090.2 (Relationship to the Natural and Physical Environment); 18.360.090.4 (Buffering, Screening and Compatibility Between Adjoining Uses); 18.360.090.12 Landscaping; 18.360.090.13 (Parking); 18.360.090.14 (Provision for the Disabled); and 18.360.090.14 (Provisions of the Underlying Zone).

Crime Prevention and Safety:

- ◆ **Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;**
- ◆ **Interior laundry and service areas shall be located in a way that they can be observed by others;**
- ◆ **Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic;**
- ◆ **The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and**
- ◆ **Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet, which is sufficient to illuminate a person.**

The applicant's Site Plan (Sheet 2) shows that the existing parking lot is adequately illuminated. Therefore, this standard has been met.

Public Transit:

Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to existing or proposed transit route; the requirements for transit facilities shall be based on: the location of other transit facilities in the area; and the size and type of the proposal. The following facilities may be required after City and Tri-Met review: bus stop shelters; turnouts for buses; and connecting paths to the shelters.

A bus line runs on SW 72nd Avenue, with bus stops within 500 feet of the subject site. The proposed 1,200 square foot expansion would not significantly contribute to additional need for transit. TriMet has not commented on the proposal. Therefore, this standard has been met.

FINDING: Based on the analysis above, the specific standards of the Site Development Review Section have been met.

D. STREET AND UTILITY IMPROVEMENTS STANDARDS (SECTION 18.810):

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Streets:

Improvements:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths: Section 18.810.030E and Figure 18.810.1 require a 5-lane arterial to have right-of-way varying from 100 feet to 104 feet. Other improvements required include sidewalks, bike lanes, underground utilities, street lighting, storm drainage, planter strips and street trees.

The Right-Of-Way (ROW) requirement for 72nd Avenue along the project frontage is 52 feet from centerline of ROW. Dedication of ROW along the frontage to meet that requirement is not justified by the proportionality analysis. The applicant proposes to provide a "No Construction" easement to ensure that no permanent structures are constructed within the area identified for future expansion of the roadway. This is acceptable as a minimum requirement. However, in addition to that, an estimated ~~\$30,000~~ \$26,303 in unmitigated impact remains to be considered. The applicant proposes a Non-Remonstrance agreement. That does not go far enough in that it is typically only utilized in the formation of Local Improvement Districts (LID's) and does not promise participation, only that the applicant would not remonstrate against formation of an LID. A restrictive covenant would allow that impact to be considered in any future street improvement along that frontage.

Sidewalks: Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets. Private streets and industrial streets shall have sidewalks on at least one side.

The development code requires a 10-foot sidewalk and 5-foot planter strip exclusive of curb along the 72nd Avenue frontage. The existing sidewalk is not in the correct location for the ultimate section of this arterial. The standard is not met; however, this requirement to move the sidewalk back and create a new sidewalk and planting strip exceeds the impact of the proposed development. Construction of the improvements will not be required.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing: Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

Sanitary sewer service is available on site. The building is served by the existing sewer line.

Storm Drainage:

General Provisions: Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

Accommodation of Upstream Drainage: Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

The existing storm drainage system is to remain and will be utilized.

Effect on Downstream Drainage: Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

Existing storm drainage system is to remain.

Bikeways and Pedestrian Pathways:

Bikeway Extension: Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

Cost of Construction: Section 18.810.110.B states that development permits issued for planned unit developments, conditional use permits, subdivisions, and other developments which will principally benefit from such bikeways shall be conditioned to include the cost or construction of bikeway improvements.

Minimum Width: Section 18.810.110.C states that the minimum width for bikeways within the roadway is five feet per bicycle travel lane. Minimum width for two-way bikeways separated from the road is eight feet.

No bikeways, bike lanes, or pedestrian pathways are required as part of this project. There is a pedestrian connection from the building to the sidewalk along the frontage. There is no other requirement for the project.

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ◆ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ◆ The City reserves the right to approve location of all surface mounted facilities;
- ◆ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ◆ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along the frontage of 72nd Avenue. However, the applicant already paid a fee-in-lieu of under-grounding (paid March 5, 2003) when the street improvements were performed as part of the development conditions in 1998 (SDR98-00026). No under-grounding is required as part of this project.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:

Traffic Study Findings:

The proposed addition is not expected to generate much new traffic to the site. The applicant indicates that they do not anticipate any additional employees. However, even with the additional square footage taken into account under a worst case scenario, the incremental traffic generation should be minimal.

Fire and Life Safety:

Tualatin Valley Fire and Rescue (TVF&R) is the service provider for fire and emergency services. Comments from TVF&R, if any, shall be incorporated into the project.

Public Water System:

The City of Tigard is the service provider for water in this area. The proposed facility is already served by an existing line and water meter at the frontage of the property. No additional water service is proposed.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

(For Private Facilities)

To ensure compliance with Clean Water Services design and construction standards, the applicant shall employ the design engineer responsible for the design and specifications of the private water quality facility to perform construction and visual observation of the water quality facility for compliance with the design and specifications. These inspections shall be made at significant stages throughout the project and at completion of the construction. Prior to final building inspection, the design engineer shall provide the City of Tigard (Inspection Supervisor) with written confirmation that the water quality facility is in compliance with the design and specifications.

(For privately maintained Stormwater Management Units)

There is no net increase in impervious surface. The roof drain from the proposed addition will be connected to the existing storm drain line on the site.

Grading and Erosion Control:

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

An erosion control plan is required as part of the project submittals prior to issuance of any City permits on the project. This plan will be submitted to the Building Division as part of the Site Permit application.

Site Permit Required:

The applicant is required to obtain a Site Permit from the Building Division to cover all on-site private utility installations (water, sewer, storm, etc.).

E. IMPACT STUDY (18.390)

Section 18.390.040.B.2.e states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

The applicant has provided an impact study addressing the project's impacts on public systems. Staff concurs with the applicant's narrative findings that each of the system components will not adversely affect the existing public facilities and services. The applicant's narrative separately addresses the issue of dedication of real property which staff has responded to in the findings below.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The Development Review Engineer's Pre-Application Conference Notes, dated November 4, 2009, state that approval of a development application for this site will require dedication of right-of-way to 52 feet from ROW centerline for SW 72nd Avenue. In addition, the Notes state that in the event a rough proportionality analysis determines that improvements to 72nd may not be proportional to the development proposed, the ROW dedication still needs to be made, but improvements to 72nd may be deferred via execution of a restrictive covenant whereby the developer commits to participate in future improvements under appropriate circumstances.

The applicant's narrative addresses the issue of real property dedication on page 2 of 20, page 3 of 20, and in Exhibits A- Site Plan Existing Conditions, B-Site Plan with 52' R.O.W, and C-City of Tigard Rate Calculation Worksheet (2/10/10). The applicant does not concur with the Pre-App Notes' requirement for ROW dedication or half street improvements and provides a calculation showing that that the real property dedication is not roughly proportional to the projected impacts of the development (\$9,099 unmitigated impact vs. \$78,825 loss in real property value plus unspecified improvement costs). The applicant requests that the dedication and improvements instead be met with a "No Construction Easement" for 22 feet of their property (Site Plan, Sheet 2).

Staff finds that the applicant's calculation is incorrect. The following addresses the applicant's calculation of Unmitigated Impact under the Transportation Development Tax (TDT) program provided in his February 11, 2010 Application for Site Development Review:

In calculating the Full Impact and the Unmitigated Impact of his project, the applicant used the figure of 32% as the TDT Recovery Rate.

32% is not the correct figure to use in calculating the Full Impact. 32% was the target recovery figure for the Traffic Impact Fee (TIF) program which was replaced July 1, 2009 with the TDT program.

The target recovery figure for the TDT program is 28%. However, that target figure is not reached until 2012-13 when the recovery figure reaches 25.2% for the "General Office" category.

As shown in the TDT Rate Step Analysis table, when the four-year phase-in and the current Discount Program are factored in the correct percentage for the "General Office" category for 2009-2010 is 12.3% and for 2010-2011 is 17.2%. As shown in the Pittman-Brooks, Unmitigated Impact Analysis, the overall average recovery rate is 14%.

Thus, for building permits issued by 6/30/10 the TDT charge is \$4,282, the Full Impact is ~~\$34,813~~ \$30,585 ($\$4,282 / .14$) and the Unmitigated Impact is ~~\$30,531~~ \$26,303 ($\$34,813 - \$30,585 - \$4,282$). For building permits issued on or after 7/1/10 the TDT charge is \$6,342, the Full Impact is ~~\$36,872~~ \$33,555 ($\$6,342 / .189$) and the Unmitigated Impact is ~~\$30,530~~ \$27,213 ($\$36,872 - \$33,555 - \$6,342$).

[Copies of the above-mentioned Pittman-Brooks, Unmitigated Impact Analysis, Rate Step Analysis and of the City's April 19, 2010 Updated Pre-App TDT Estimate are included in the land use file.]

The City Development Review Engineer has provided findings with respect to both the dedication and improvements under the Streets and Utilities section of this decision, above. In summary, the City can accept, as a minimum requirement, a "No Construction Easement" to ensure that no permanent structures are constructed within the area identified for future expansion of SW 72nd Avenue. Construction of half street improvements will also not be required as they would not be roughly proportional.

However, as shown above, an estimated ~~\$30,000~~ \$26,303 in unmitigated impact remains to be considered. The applicant proposes a Non-Remonstrance agreement. That does not go far enough in that it is typically only utilized in the formation of Local Improvement Districts (LID's) and does not promise participation, only that the applicant would not remonstrate against formation of an LID. A restrictive covenant of proportional value (~~\$30,000~~ \$26,303) would allow that impact to be considered in any future street improvement along that frontage and has been required as a condition of approval.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Development Review Engineer has reviewed the proposal and provided comments that have been included in Sections 18.705 and 18.810 of this decision.

The City of Tigard Arborist has reviewed the proposal and provided comments that have been incorporated in Sections 18.745 and 18.790 of this decision.

The City of Tigard Police Department has reviewed the proposal and has no objection to it.

City of Tigard Public Works Department has reviewed the proposal and has no comment.

SECTION VIII. AGENCY COMMENTS

Qwest Corporation has reviewed the proposal and has no objections to it.

Tualatin Valley Water District has reviewed the proposal and has no objections to it.

Clean Water Services has reviewed the proposal and states there are no concerns or objections.

Tualatin Valley Fire and Rescue endorses this proposal predicated on the following criteria and conditions of approval:

- 1) **COMMERCIAL BUILDINGS - REQUIRED FIRE FLOW:** The required fire flow for the building shall not exceed 3,000 gallons per minute (GPM) or the available GPM in the water delivery system at 20 psi, whichever is less as calculated using IFC, Appendix B. A worksheet for calculating the required fire flow is available from the Fire Marshal's Office. (IFC B105.2)

The fire hydrant shown on the submitted drawings must be capable of supplying the required fire flow demand. Fire flow demand calculations must be submitted to and approved by this office prior to our endorsement of the issuance of any site development permits. A flow test of the hydrant may be necessary.

- 2) **ACCESS AND FIRE FIGHTING WATER SUPPLY DURING CONSTRUCTION:** Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. (IFC 1410.1 & 1412.1)
- 3) **KNOX BOX:** A Knox Box for access is required for this building. Please contact the Fire Marshal's Office for an order form and instructions regarding installation and placement. (IFC 506)

SECTION IX. PROCEDURE AND APPEAL INFORMATION

Notice:

Notice was posted at City Hall and mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

Final Decision:

THIS DECISION IS FINAL ON JUNE 4, 2010 AND BECOMES EFFECTIVE ON JUNE 19, 2010 UNLESS AN APPEAL IS FILED.

Appeal:

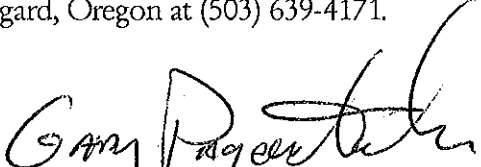
The decision of the Director (Type II Procedure) or Review Authority (Type II Administrative Appeal or Type III Procedure) is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2, of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

THE DEADLINE FOR FILING AN APPEAL IS AT 5:00 PM ON JUNE 18, 2010.

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.



PREPARED BY: Gary Pagenstecher
Associate Planner

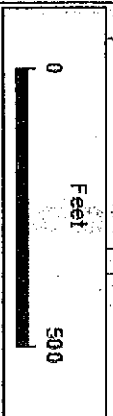
June 3, 2010
DATE



APPROVED BY: Ron Bunch
Community Development Director

June 3, 2010
DATE

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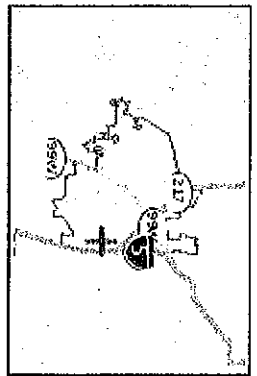


VICINITY MAP

**SDR2010-00001
VAR2010-00005**

**PITTMAN & BROOKS CPA'S
OFFICE ADDITION**

Subject Site



Information on this map is for general location only and should be verified with the Development Services Division.

Scale 1:4,000 - 1 in = 333 ft
Map printed at 11:51 AM on 19-Apr-10

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