



**CITY OF MOLALLA
PLANNING COMMISSION
AGENDA**

Molalla Civic Center 315 Kennel Ave Molalla, OR 97038
Wednesday, October 7, 2026 | 6:30 PM

NOTICE: Planning Commission will hold this meeting in-person and through video live-streaming on the City's [YouTube Channel](#). Written comments may be delivered to City Hall or emailed to recorder@cityofmolalla.com. Submissions must be received by 12:00 p.m. the day of the meeting.

- 1. CALL TO ORDER & FLAG SALUTE**
- 2. ROLL CALL**
- 3. PRESENTATIONS, PROCLAMATIONS & CEREMONIES**
- 4. CONSENT AGENDA**
- 5. PUBLIC COMMENT & WRITTEN COMMUNICATIONS**

Citizens are allowed up to 3 minutes to present information relevant to the city but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the support staff. The Planning Commission does not generally engage in dialog with those making comments but may refer the issue to the Community Development Director. Complaints shall first be addressed at the department level prior to addressing the Planning Commission.

- 6. PUBLIC HEARINGS**
 - a. VAR01-2026: Fence Variance for 31361 S Hwy 213
 - b. Data Center Moratorium
- 7. GENERAL BUSINESS**
 - a. House Bill 4037, ORS197A.400
 - b. Industrial Design Standards Update
- 8. STAFF COMMUNICATION**
- 9. COMMISSION COMMUNICATION**
- 10. ADJOURN**

Agenda posted on the City Website at <http://www.cityofmolalla.com/meetings>. This meeting location is wheelchair accessible. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the Community Development Office at 503-759-0243.

Planning and Land Use



City of Molalla
PO Box 248
Molalla, Oregon 97038
Phone: (503) 759-0205
communityplanner@cityofmolalla.com

CITY OF MOLALLA STAFF REPORT

Staff Report for VAR01-2026 – Fence Variance for 31361 S Hwy 213

Date: September 28, 2026, for the October 7, 2026,
Planning Commission Meeting

File Numbers: VAR01-2026

Proposal: Fence Variance

Address: 31361 S Hwy 213

Tax Lot: 52E07A 02600

Applicant/ Owner: The LMRK Group, LLC

Applicable Standards: Molalla Municipal Code, Title 17:
Development Code

Division II, Zoning Regulations
Section 17-2.2.030 Allowed Uses

Division IV Applicable Review Procedures and Approval Criteria
Section 17-4.7 Variances



TABLE OF CONTENTS:

- I. Executive Summary
- II. Recommendations
- III. Conditions of Approval

EXHIBITS:

- EXHIBIT A: Findings of Fact for VAR01-2026
- EXHIBIT B: Application Package for VAR01-2026
- EXHIBIT C: Molalla Public Works Comments
- Exhibit D: ODOT Comments

I. EXECUTIVE SUMMARY

Proposal:

The Applicant seeks a Variance to locate an eight foot tall sight obscuring fence in front of the building on the property addressed as 31361 S Hwy 213, which is zoned General Commercial. Fence code regulation prohibit fences above 4 feet in height in the front set back yard, which extends from the front property line to the building. The proposed fence would replace an existing sight obscuring fence that is in need of repair. The approval of this Variance would allow the replacement said fence.

Site Description:

The subject site consists of approximately 4.85 acres on one lot. The lot has two existing buildings on the site with a total of 8,384 square feet, gravel vehicle areas, and paved entrances. The site takes access from OR-213 to the east.

Surrounding Zoning and Land Uses:

North – The parcel to the north is zoned Light Industrial and hosts a Les Schwab Tire Center.

East – The site abuts OR-213 to the east. Across OR-213 is a shopping complex that hosts Safeway, McDonald's, a gas station, and other stores. This site is zoned General Commercial.

South – Properties due south of the subject parcel are zoned General Commercial and host an Automotive shop and a burger drive through.

West – The property to the west is zoned Public and Semi Public and is the site of the City's wastewater treatment plant.

Public Agency Notice & Responses:

Staff circulated notice of the project to the Public Works, the Oregon Department of Transportation, and the Molalla Fire District on 8/10/2026. The City has included received agency comments in the Exhibits and said comments are integrated into the proposed findings and conditions of this decision.

Public Notice & Comments:

Per MMC 17-4.1.040, notice of the public hearing was sent to all property owners within 300 feet of the subject properties and to a group of interested parties on September 3, 2026. Notice was published in the *Herald-Independent* on September 9, 2026. Signage containing public notice information was posted on the property on August 31, 2026. As of September 28, 2026, staff received no written public comment on the application. If public comment is submitted between September 28, 2026, and the hearing it will be provided to the Planning Commission at the hearing and added to the record.

II. Recommendation

Based on the application materials and findings demonstrating present or conditioned compliance with the applicable standards, staff recommends approval of VAR01-2026 subject to the Conditions of Approval that follow this recommendation. This approval is based on the Applicant's written narrative, site plans, and supplemental application materials. Any modifications to the approved plans other than those required by the conditions of this decision will require a new land use application and approval.

III. Conditions of Approval

1. Conditions Requiring Resolution

- a. Applicant shall follow all local, state, and federal laws.
- b. Applicant shall adhere to all regulations and standards of the Oregon Building Code and Oregon Fire Code.
- c. Applicant shall receive a building permit for this fence from the Clackamas County Building Department if required.

2. On-Going Conditions

- a. As an ongoing Condition of approval, no visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) greater than 2.5 feet in height shall be placed in "vision clearance areas" at street intersections.
- b. As an ongoing Condition of Approval, fences and walls shall be maintained in good condition, or otherwise replaced by the property owner.

Note: Failure to comply with Conditions of Approval may result in Code Compliance action and revoking of this land use approval.

Exhibit A:
City Staff's Findings of Fact for VAR01-2026

Division II Findings

17-2.2.030 Allowed Uses

Findings: The use of the property by Green Mountain Excavation was approved by the previous permit COU06-2025. The Applicant does not propose to change the use of the property, and this criterion is met.

Division IV Findings

17-4.1.040 Type III Procedure

Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

Findings: This application is for a Variance, which meets the standards for a Type III review. Staff have found this application to comply or able to comply with all Type III procedural requirements. This criterion is met.

Chapter 17-4.7.040 Variances

- A. Applicability. A Variance is similar to an Adjustment, but does not otherwise meet the criteria under Section 17-4.7.030.

Findings: As this request is for more than a 20% increase or decrease from MMC 17-3.4.040 Fences and Walls, this application does not meet the criteria for an adjustment. The applicant proposes a Variance to MMC 17-3.4.040.C.2.a, which states that all fences within the Front or Street-Facing Side Yard Setback must be four feet in height, unless they are 90% transparent. The applicant proposes to replace an existing site obscuring fence in this front yard setback that is proposed to be 8 feet tall. The applicant has applied for a Variance, and this is the correct application needed for this approval.

- B. Approval Criteria. The Planning Commission through a Type III procedure may approve a Variance upon finding that it meets all of the following criteria:
 - 1. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;

Findings: The applicant is looking to replace an existing 30 year old fence that is non-conforming to MMC 17-3.4.040 due to height and materials. It is also in violation of the provision that fences

and walls must be kept in good condition. As the applicant is looking to replace the fence, it is subject to Chapter 17-1.4.030.B and must be reconstructed only in full conformity of the code.

Current standards prohibit fences over 4 feet in height in the front yard setback. The applicant has applied for a Variance to this standard to construct an 8 foot tall cyclone fence with privacy slats in this front yard setback, though further back from OR-213 than the existing fence. The applicant has a pre-existing approval to conduct outdoor storage on the property, per Clackamas County decision #Z0340-11, this decision was acknowledged by the City of Molalla by decision COU06-2025. Clackamas County decision #Z0340-11 pre-dates the annexation of the subject property into the City Limits and the use is more consistent with industrial development. The applicant has been using the front yard setback for this use, and requires the security of the fence to continue to do so. This constitutes existing development patterns and this criterion is met.

2. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;

Findings: The Variance will allow the applicant to continue using the front portion of their property in accordance with its approved industrial use. Without the Variance, the applicant would not be able to replace the fence in the front yard setback. The Variance is the minimum necessary to address the circumstances relating to the site. This criterion is met.

3. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the Variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);

Findings: When the City annexed the subject property in 2014, the existing fence height went from allowed development to pre-existing, non-conforming development. Likewise, that decision caused the property's use to become pre-existing, non-conforming. This was not done at the Applicant's behest and is thus not self-imposed. This criterion is met.

4. The Variance does not conflict with other applicable City policies or other applicable regulations;

Findings: The Variance brings the property into further compliance because it will be reconstructed with allowed materials. The applicant has also proposed to shift it slightly further onto the property and away from OR-213. This will create better sightlines and safety, and move the property into further compliance with current standards.

MMC 17-3.4.0440 includes prohibited fencing materials, of which cyclone fencing materials and privacy slats are not a part of. This code section also requires fences to comply with the Vision

Clearance standards of 17-3.3.030.G and Maintenance requirements of 17-3.3.030.F. These standards can be met with the ongoing Conditions of Approval:

As an ongoing Condition of Approval, the fence shall be maintained in good condition, or otherwise replaced by the property owner.

As an ongoing Condition of Approval, the fence shall comply with the vision clearance standards of Section 17-3.3.030.G.

5. The Variance will result in no foreseeable harm to adjacent property owners or the public; and

Findings: The applicant is requesting to replace an existing fence that is in poor condition. The new fence will contribute more visually and will be located further back on the property. Both of these changes will positively impact the neighbors. This criterion is met.

6. All applicable building code requirements and engineering design standards shall be met.

Finding: The applicant has stated that all building standards for a fence will be met and followed. Aside from maintaining vision clearance, addressed previously, no additional engineering considerations are required to satisfy Molalla Public Works standards. As a Condition of Approval, the applicant shall receive a building permit for this fence from the Clackamas County Building Department if required.

Exhibit B:
Application Package for VAR01-2026

Land Use Action Application (Annexation/Zone Change/Subdivision/Partition/Site Design Review/Variance/Conditional Use)



Submitted on 10 March 2026, 7:20PM

Receipt number 14

Related form version 0

Type of land use action requested (more than one may apply) Variance

What's your preliminary plat approval number?

Applicant Information

Name: The LMRK Group, LLC

Phone:

Mailing Address:

Email:

Is the Owner different than the Applicant? No

Owner Information

Name:

Phone:

Mailing Address:

Email:

Property Information

Site Address: 31361 S HWY 213
Molalla, OR 97038

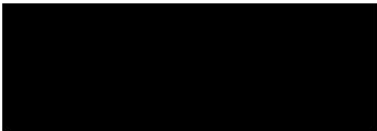
Zoned: General Commercial, C-2

Overlay:	
Taxlot Number:	52E07A 02600
Property dimensions:	North line 412', West line 605', South line 301', East line 617'
Property acreage:	4.85 acres

Project Information

Proposed Development and/or Use:	I am proposing to replace the existing fence around the north and east sides of my property. The new fence would be 8' tall cyclone fencing with slats inserted for privacy. This fence would replace the existing fence along the north line and the east line up until the north driveway. The fence would be set back onto the property 12' from the edge of the roadway. Replace the existing fence between the two driveways with a 4' cyclone fence set back 12' from the roadway
Describe all existing buildings or structures on property:	There are currently 2 shop buildings on the property (40x80 and 72x72).
Current and Historical Uses:	Truck Service, repair, vehicle storage and parking, body work, equipment storage, welding and manufacturing

Documents Required

Site Plan	Molalla Shop Plat Map - Fence.pdf Molalla Shop Tax Statement.pdf
Applicant Signature:	 Link to signature
Date:	03/10/2026
Property Owner Signature:	 Link to signature
Date	03/10/2026

Written Statement from [REDACTED] regarding VAR01-2026-31361 S HWY 213

1. The variance is necessary for our property as we are currently on a verified non-conforming use approved by Clackamas County in 2011. Due to the non-conforming use, the sight obscuring fence was allowed in the Non-Conforming Use Verification as the current fence was constructed 30 years or more ago. What we are proposing is a much nicer sight obscuring fence that would be set 5 to 8 feet or so further back from the road than the existing fence. This will improve the visibility when exiting the property. We would build the new fence, then pull the existing fence out once the new fence is completed. Then we would add a strip of grass / landscaping between the road and the new fence. Under the guidance that the city provided me previously, under the new code, we would not be able to build the fence any closer to the road than the building. That would not work for us as the use has not changed on the property. It is still being used to lock, store, and protect the assets of the existing business that is operating on the property. We would be losing the use of over an acre of real estate if the fence was no closer to the road than the building. Hence, the use would be very detrimental to the current use, and I am asking for a variance. If a variance is not granted, we will have to continue to repair the existing fence and leave it in place.
2. I feel that the variance meets the minimum necessary to address the unique physical circumstances related to the site. The current use is to store the assets of the business and having the property open to the road will not allow sufficient protection of the assets. At the end of the day, we are just wanting to make the fence and property look good and presentable when people drive into Molalla.
3. This request is not self-imposed. The staff of the City of Molalla approached me about fixing the fence and replacing it. I agreed and offered to replace it with something much better than what exists. However now they say that if I replace it, I can't put it in the same location as it currently exists. To meet the request of the city to replace the fence, I will need to keep the new fence as close to the existing fence location or I will be in violation of the current lease on the property. So, if I must choose between keeping my tenant or building a fence in a location that will not work for the tenant, then I will be forced to keep the existing fence in its current location and repair it. This request is not a result of any property line adjustments or land divisions. I just want the property to look better as people enter Molalla on HWY 213.
4. To my knowledge this variance is not going to conflict with any other city policies or regulations. There are several other Cyclone Fences in Molalla located the same distance from the roads.

5. This variance will not Negatively impact any of our neighboring properties. If anything, it will have a positive impact and will make the area look better. We will be moving the fence further from the road by about 7 to 8 feet which will give better visibility to traffic entering and exiting the property.
6. All building standards for a fence will be met and followed.

The LMRK Group, LLC
5S. 2E Sect 7A
Taxlot 2600

31361 S. Hwy 213
Molalla, OR 97038

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N

Molalla

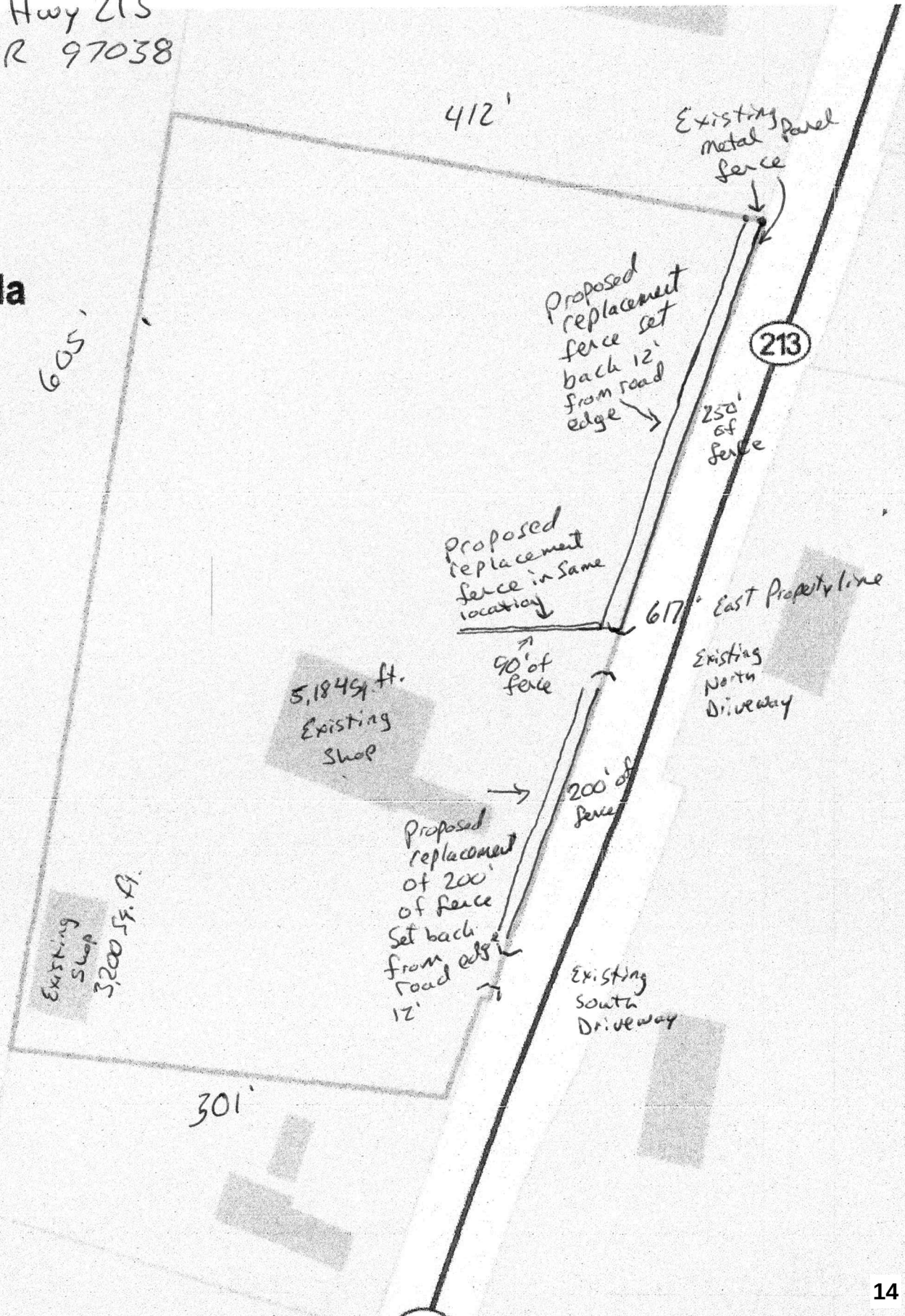


Exhibit C:
Public Works Comments

Claressa Davis

From:
Sent:
To:
Cc:
Subject:

No concerns from engineering, but the fence cannot be within (ODOTs) right-of-way which I assume they will comment on. If a landscape strip is being made, I assume that requires a plan to be submitted, but I think that may likely still be in ODOT's ROW.



Landon Sheckard | Engineering Technician

CO

PUBLIC RECORDS LAW DISCLOSURE

This e-mail is a public record of the City of Molalla and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Retention Schedule.

From: Claressa Davis <cdavis@cityofmolalla.com>

Hello,

We have received a new Variance application for 31361 S Hwy 213. The applicant proposes to build a new fence 5 to 8 feet behind the current fence that is on the frontage abutting OR-213 and then tear down the old fence.

If you would like to submit comments, please do so by August 24th. You may view the application files here: [VAR01-2026 - 31361 S Hwy 213](#).

Please reach out if you have any questions.

Thank you,

Exhibit D:
ODOT Comments

Claressa Davis

From:
Sent:
To:
Subject:
Attachments:

Hi Claressa,

It seems the new, 8' fence is planned to be placed about 12' from edge of pavement and behind the existing. Based on aerials and the approximate lots line in our GIS layer, it would appear the existing is already outside of the highway right of way. Therefore, the new would continuing being within private property and not of concern to ODOT.

Thanks for sending it to our team!

Best,

Associate Transportation Planner, ODOT Region 1

Please note: This email, related attachments and any response may be subject to public disclosure under state law.

From: Claressa Davis <cdavis@cityofmolalla.com>

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

Hello,

We have received a new Variance application for 31361 S Hwy 213. The applicant proposes to build a new fence 5 to 8 feet behind the current fence that is on the frontage abutting OR-213 and then tear down the old fence.

If you would like to submit comments, please do so by August 24th. You may view the application files here: [VAR01-2026 - 31361 S Hwy 213](#).

Please reach out if you have any questions.

Thank you,



CITY OF MOLALLA

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Staff Report

Agenda Category: General Business

Agenda Date: October 7, 2026

From: Mac Corthell, Assistant City Manager
Approved by: Dan Huff, City Manager

SUBJECT: Data Centers in Molalla

FISCAL IMPACT: N/A

RECOMMENDATION/RECOMMEND MOTION: Make a recommendation to the Council for the future handling of Data Centers in Molalla.

BACKGROUND: For the past several months the topic of Data Centers has produced strong sentiments from the Molalla Community. In response to this, the City Council directed staff to bring forth options to curtail the development of Data Centers in Molalla.

While Data Centers are not a viable development option in Molalla at present due to a lack of power capacity, they are an allowed use in certain zones and may become viable in the future.

Staff has reviewed the relevant options and is bringing them forth to the Planning Commission for a recommendation on this issue.

OPTIONS:

- **Existing Code Language:** Allows Data Centers as a conditional use in the Light Industrial and Heavy Industrial zones. They are not allowed in any other zone.
- **Moratorium:** Under Oregon Law, a city may issue a 120-day moratorium on a particular land use subject to certain findings. That moratorium may be extended for up to 180 additional days, subject to additional findings.
- **Prohibition:** The City may amend the Light Industrial and Heavy Industrial zones to remove Data Centers as an allowed use. This would effectively prohibit Data Centers in Molalla.
 - This is possible, in part, because the City's adopted and accepted Economic Opportunities Analysis does not recognize Data Centers as a Target Industry.



CITY OF MOLALLA

Staff Report

Agenda Category: General Business

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Agenda Date: October 7, 2026

From: Claressa Davis, Associate Planner
Approved by: Dan Zinder, Planning Manager

SUBJECT: Enrolled House Bill 4037, ORS197A.400

FISCAL IMPACT: NA

RECOMMENDATION/RECOMMEND MOTION: NA

BACKGROUND: House Bill 4037 was passed this past spring and came into effect on July 1, 2026. It is now integrated into ORS 197A.400. This bill changes how jurisdictions can process land use applications for housing. There are three main ways it changes the way jurisdictions are allowed to review housing applications:

- Prohibits a jurisdiction from holding a hearing on the application
- Restricts notice to property owners within 100' of the site or 500' if the project is for 20+ units
- Restricts appeal to the applicant

City Staff confirmed this interpretation with City Legal Counsel. Housing applications are now reviewed at the Staff level, following ORS 197A.400 procedures.



CITY OF MOLALLA

Staff Report

Agenda Category: General Business

117 N. Molalla Avenue
PO Box 248
Molalla, OR 97038

Agenda Date: October 7, 2026

From: Claressa Davis, Associate Planner

Approved by: Dan Zinder, Planning Manager

SUBJECT: Industrial Design Standards Update

FISCAL IMPACT: Potential Increased Economic Development with Molalla

RECOMMENDATION/RECOMMEND MOTION: Provide feedback to staff.

BACKGROUND: Staff have identified ongoing challenges with applying the City's nonresidential building design standards to industrial development. Applicants frequently apply for adjustments and variances to adjust these standards.

The City's current standards are substantially more restrictive than many industrial design codes in the region. Staff are concerned that these requirements may unnecessarily hinder industrial development and believe the standards should be brought more closely in line with regional practices. The City's Economic Opportunities Analysis, adopted in 2024, also recommended creating a separate set of design standards specifically for industrial development.

Regional Research

Staff reviewed the development codes of eight jurisdictions, including Sandy, Milwaukie, and Oregon City. Of the jurisdictions surveyed:

- Seven did not require window transparency on street-facing elevations of industrial buildings.
- Five had separate design standards specifically for industrial development.
- The remaining jurisdictions provided exemptions or alternative standards for industrial uses.

The approaches ranged from Estacada, which has no industrial design standards, to Wilsonville, which has extensive standards. Overall, the jurisdictions tended to focus on screening, building siting and materials, facade articulation, landscaping, and visible building entrances rather than window transparency.

Next Steps

Staff are seeking the Planning Commission's initial feedback on the potential development of separate industrial design standards.

Next steps will include community engagement and outreach to the local business and development community. Staff would also welcome recommendations from the Commission regarding individuals, organizations, or businesses that should be included in the outreach process.