



**Planning & Community Dev.**  
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## **AGENDA**

### **Molalla Planning Commission**

**6:30 PM, December 2, 2020**

**Meeting Location: Molalla Adult Center**  
**315 Kennel Avenue.**  
**Molalla, OR 97038**

The Planning Commission Meeting will begin at 6:30pm. The Planning Commission has adopted Public Participation Rules. Copies of these rules and public comment cards are available at the entry desk. Public comment cards must be turned in prior to the start of the Commission meeting. The City will endeavor to provide a qualified bilingual interpreter, at no cost, if requested at least 48 hours prior to the meeting. To obtain services call the City Recorder at (503) 829-6855.

**I. CALL TO ORDER**

**II. FLAG SALUTE AND ROLL CALL**

**III. PUBLIC COMMENT** – Limited to 3 minutes per person

**IV. MINUTES:**

**V. DISCUSSION ITEMS:**

- MCC 17-4.7(B)(2) – Adjustments
- Change of Use Amendment
- Land Use Verification Letter Fee
- Quasi-Judicial Role Presentation

**VI. REPORTS AND ANNOUNCEMENTS**

**VII. ADJOURNMENT**



**Molalla Planning Commission  
MINUTES Molalla Adult  
Center  
315 Kennel Ave., Molalla, OR  
97038  
November 4, 2020**

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**The November 4, 2020 meeting of the Molalla Planning Commission was called to order by Vice Chair Doug Eaglebear at 6:31pm. This was followed by the flag salute and roll call.**

**COMMISSIONER ATTENDANCE:**

Chair Rae Lynn Botsford – Absent  
Commissioner Steve Deller – Present  
Commissioner Doug Eaglebear – Present  
Commissioner Jennifer Satter – Absent  
Commissioner Jacob Giberson – Present  
Commissioner Connie Farrens - Present

**STAFF IN ATTENDANCE:**

Mac Corthell, Planning Director - Present  
Dan Zinder, Associate Planner - Present  
Julie Larson, Planning Specialist - Present

**PUBLIC COMMENT:**

**Dale Newcomb** (1441 W Main Street) spoke in opposition to the proposed code amendment to change self- service storage to a conditional use in the C-2 General Commercial Zone. His property located behind Safeway is a long, narrow piece of property that has been on the market for four (4) years. He expressed that the city's drive to restrict self-storage is limiting his use of the property with no compensation.

**Todd Gary** (31220 S Grimm Road) owner of North Valley Feed on Main Street. Mr. Gary spoke about the proposed food cart code amendment. He is interested in putting a food cart pod at the feed store. One food cart being a permanent fixture while a couple rotate through on a temporary basis. However, the proposed amendment as written restricts permanent food carts from the M-1 Light Industrial Zone. He asked the Commission to reconsider this restriction prior to recommending to City Council.

**Denise Griff** (39098 S Sawtell Rd.) owner of the permanent food cart wanting to operate at North Valley Feed. She also spoke to encourage the Commission to reconsider the M-1 restriction on permanent food carts zoning.

#### **MINUTES:**

**Vice Chair Eaglebear** confirmed with the Planning Commissioners that they have received and reviewed the minutes for September 2, 2020. Vice Chair Eaglebear called for a motion to approve the minutes. A motion to approve the minutes was made by Commissioner Deller, a second was received by Commissioner Giberson. Motion passes 5-0.

#### **PUBLIC HEARING:**

DCA02-2020: Amend Table 12-2.2.030 Uses Allowed by Zoning District to change “self-service storage, commercial” from a permitted use to a conditional use in the C-2 General Commercial Zone

**Vice Chair Eaglebear** called the public hearing to order and read the hearing script into the record.

#### **CITY STAFF REPORT:**

**Associate Planner Zinder** gave the staff report which can be found in the meeting packet. The staff report includes the applicable standards and criteria, executive summary and a recommendation from staff including conditions and exhibits. Exhibit A: Findings of Fact.

**Associate Planner Zinder** stated that the amendment would change the use from an allowed use to a conditional use of self-service storage facilities in the C-2 zone. City staff has found that there is no fiscal impact to the city. The facilities would continue to be an allowed use in the M-1 Light Industrial Zone. By restricting the use in the C-2 zone, it would protect scarce commercial land within the city.

**Associate Planner Zinder** stated that City Staff is encouraging the Planning Commission to approve the Site Design Review (SDR01-2020) subject to conditions of approval found in the staff report.

#### **COORESPONDENCE:**

**Chair Botsford** asked if staff had received any other materials or correspondence, they did not.

#### **PUBLIC TESTIMONY:**

No public testimony was presented.

#### **QUESTIONS FROM PLANNING COMMISSION:**

**Commissioner Deller** inquired about what point would a developer find out if the use would be approved for a property.

**Associate Planner Zinder** stated that staff is always happy to talk with developers and suggested a pre-app would provide some answers in this circumstance.

**Planning Director Corthell** added that the answer is simple. Developers would know when it came in front of the Planning Commission for approval.

**Commissioner Giberson** addressed Mr. Newcomb’s concern stating he was initially of interest of not doing anything with this change and hearing Mr. Newcomb’s concerns his opinion is still the same.

**Planning Director Corthell** suggested that the Planning Commission could go a different direction such as a special use standard as opposed to the conditional use being proposed.

#### PLANNING COMMISSION DISCUSSION:

With no additional discussion or deliberation **Vice Chair Eaglebear** suggested someone propose an approval.

**Commissioner Giberson** made a motion to send the proposal back to city staff to review the effects of special use standards for self-service storage within the C-2 General Commercial Zone. Commissioner Ferrens seconded it. Motion passes 5-0.

#### PUBLIC HEARING:

DCA04-2020: Amend Table 17-2.2.030 Uses Allowed by Zoning District to add “mobile food units”. Temporary Mobile Food Units permitted as a special use in the C-2 General Commercial, M-1 Light Industrial and M-2 Heavy Industrial zones. Permanent Mobile Food Units permitted as a special use in the C-1 Central Commercial, C-2 General Commercial Zones.

**Vice Chair Eaglebear** called the public hearing to order and read the hearing script into the record.

#### CITY STAFF REPORT:

**Planning Director Corthell** gave the staff report which can be found in the meeting packet. The staff report includes the applicable standards and criteria, executive summary and a recommendation from staff including conditions and exhibits. Exhibit A: Ordinance, Exhibit B: Finding of Facts.

**Planning Director Corthell** began by reading and explaining the proposed ordinance to the Planning Commission. Director Corthell stated that ultimately the amendment would add permanent and temporary mobile food unit standards to Molalla Municipal Code. Addressing Mr. Gary’s public comment, both Planning Director Corthell and Associate Planner Zinder concur that including permanent mobile food units in the M-1 Light Industrial Zone is something that the Planning Commission should strongly consider.

**Planning Director Corthell** stated that City Staff is encouraging the Planning Commission to approve the Site Design Review (SDR01-2020) subject to conditions of approval found in the staff report.

#### COORRESPONDENCE:

**Vice Chair Eaglebear** asked if staff had received any other materials or correspondence, they did not.

#### PUBLIC TESTIMONY:

No public testimony was presented.

#### QUESTIONS FROM PLANNING COMMISSION:

**Commissioner Deller** agreed that the feed store was not considered when the M-1 exclusion was discussed. He inquired if there was a way to allow it such as a special use.

**Commission Giberson** agreed that M-1 should be included and reminded the commission that Molalla use to be a logging town that has been created over time and now the zoning is not working for some businesses. He also questioned the fence requirement in the ordinance of being a concern to him.

**Planning Director Corthell** suggested the ordinance can be adjusted should the Planning Commission propose changes.

**Commissioner Giberson** suggested adding the fencing requirement to larger pod areas such as 3-4 more food carts.

**Planning Director Corthell** stated that the Planning Commission can recommend approval to City Council with amendments as stated.

#### **PLANNING COMMISSION DISCUSSION:**

With no additional discussion or deliberation **Vice Chair Eaglebear** suggested someone propose an approval.

**Commissioner Giberson** made a motion to suggest to staff to include considerations for permanent food units to operate in the M-1 Light Industrial Zone as a special use and the fencing requirement for permanent mobile food units to be required only at 4 or more units. Commissioner Ferrens seconded it. Motion passes 5-0.

#### **DISCUSSION ITEMS:**

**Associate Planner Zinder** presented a discussion regarding MCC17-4.7(B)(2) – Adjustments

**Planning Director Corthell** presented a discussion on Ex-Parte Communication

#### **REPORTS AND ANNOUNCEMENTS:**

**Commissioner Deller** announced his advancement to a City Council seat as of January 2021.

#### **ADJOURNMENT:**

Motion was made by Commissioner Giberson to adjourn the meeting, 2<sup>nd</sup> received from Commissioner Deller. Meeting was adjourned at 8:19pm.

\_\_\_\_\_  
Chair, Rae Lynn Botsford

\_\_\_\_\_  
Date

ATTEST: \_\_\_\_\_  
Mac Corthell, Planning Director



Planning Department  
117 N Molalla Avenue  
PO Box 248  
Molalla, Oregon 97038  
Phone: (503) 759-0205  
[communityplanner@cityofmolalla.com](mailto:communityplanner@cityofmolalla.com)

## Staff Report – Code Correction

**Subject:** Correction of the Municipal Code to renumber and clarify the “Change of Occupancy” section.

**Staff Recommendation:** Recommend adoption to the City Council.

**Date of Meeting to Be Presented:** Wednesday, December 2, 2020 (Planning Commission Review), January 13, 2020 (Public Hearing and Council Action).

**Fiscal Impact:** None

**Background:**

Proposed Change 1:

MMC 21.12 Change of Occupancy contains 3 sub-sections, 21.12.010 Change of Use Requirements, 21.12.020 Permitting Process, 21.12.300 Fee.

- a. First, modifying the provisions as proposed in Exhibit A to clarify the ordinance.
- b. Second, renumbering as proposed in Exhibit A to situate the regulation with other land use related regulations in the Development Code (Title 17).

## Exhibit A

### **TEXT OF PROPOSED CHANGE:**

*Current code language is in black font, proposed additions are in red font, proposed deletions have been lined out*

#### **Chapter ~~21-12~~ **17-4.9 CHANGE OF USE OR OCCUPANCY****

##### **17-4.9.010 ~~21-12-010~~ Change of use Requirements.**

- A. Any change of use **or occupancy** that differs from the existing or previous use **or occupancy** is required to **submit a zoning checklist pursuant to MMC section 17-4.1.020.** ~~go through a change of use.~~
- B. ~~The Planning Director shall, at a minimum, review the parking requirements for all changes of use.~~
- C. If the Planning Director deems the change of use **or occupancy** to be a change from the previous **or existing** use **or occupancy**, the use shall go through a **site** design review, as applicable, ~~procedure~~ pursuant to Chapter **17-4.2.020.** ~~19-08.~~
- D. ~~The Building Official shall also review the change of use through the building permit process.~~  
(Ord. 2010-15 §1; Ord. 2010-04 §1)

##### **17-4.9.020 ~~21-12-020~~ Permitting process.**

- A. A person proposing a change of use **or occupancy** shall submit **a zoning checklist** ~~an application~~ to the Planning Director.
- B. The Planning Director shall **confer with the appropriate City Departments, County Departments, Special Districts, and State Agencies.** ~~circulate the application to the Public Works Director and other City agencies as appropriate.~~
- C. **Upon conference with the appropriate entities, the Planning Director shall approve the change, deny the change, or prescribe the required processes to gain approval.** (Ord. 2010-15 §1; Ord. 2010-04 §1)

##### **~~21-12-300 Fee.~~**

~~A change of occupancy shall be subject to a fee as set by City Council resolution. (Ord. 2010-15 §1; Ord. 2010-04 §1)~~

### **RATIONALE FOR PROPOSED CHANGE:**

The proposed change clarifies the statute by (1) using both “change of use” and “change of occupancy” in the ordinance where they were previously interchanged causing ambiguity; (2) defining the application used to access the process; (3) removing language that specified certain operations already required under the change of use/occupancy process as a whole; (4) Reorganizing and defining the process to increase understanding and access to the process.

### **CRITERIA FOR REVIEW:**

Amendments to the Development Code shall be in conformance with the following criteria found in Molalla Municipal Code (MMC) Section 17-4.6.030:

***CRITERION A: If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;***

**Staff Analysis:**

The proposal does not include an amendment to the Comprehensive Plan. This criterion is inapplicable.

***CRITERION B: The proposal must be consistent with the Comprehensive Plan***

**Staff Analysis:**

The proposal does not change the effect of the ordinance, it only renumbers and clarifies it. This ultimately enhances access to the process and decreases confusion for applicants. This criterion is met.

***CRITERION C: The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code; and***

**Staff Analysis:**

The proposed amendment corrects an inconsistency in the Development Code. The ordinance at issue is a land use ordinance in that it literally deals with the use of land and structures. It was not appropriately cabined in the development code which made it harder to find. The language in the ordinance was also inconsistent and the processes prescribed were consistent with the development code, but very unclear.

***CRITERION D: The amendment must conform to Section 17-4.6.050 "Transportation Planning Rule Compliance" to find whether the proposed amendment would have a significant effect on a transportation authority***

**Staff Analysis:**

The proposed amendment will have no impact on Molalla's statewide transportation facilities. This criterion is not applicable.





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## Staff Report – Zoning Letter Fees

**Subject:** Zoning Letter introduction and fee discussion.

**Staff Recommendation:** Recommend an appropriate fee to the City Council.

**Date of Meeting to Be Presented:** Wednesday, December 2, 2020 (Planning Commission Review), January 13, 2020 (Council Review & Action).

**Fiscal Impact:** Mitigation of staff resources to field and respond to property inquiries.

**Background:**

My first task as the new Planning Director for the City of Molalla was a broad department audit to determine what we did/do well, and what areas needed improvement. One of the first things I noticed was the lack of a Land Use Verification Letter (aka Zoning Letter) causing a plethora of issues:

1. The public records request process is not amenable to the inquiries associated with Zoning Letters because they most often are not purely record driven but require application of the local rules to a particular piece of property.
2. Planning Department Staff was responding to, on average, 10 hours per week worth of unpaid inquiries. At least half of these fit neatly under the Zoning Letter umbrella, and the lack of a Zoning Letter process and fee meant that the taxpayers at large were subsidizing inquiries that ultimately serve to enrich a developer, or buyer.
3. The lack of a gateway meant that even the most speculative of inquirers was unabashed at posing their questions to the Planning Department. While customer service and cooperation are high on the list of desired department traits, there must be some line drawn between an individual who is 'just wondering' about a property and those who are seriously considering buying or developing it. Otherwise, precious time that can, and should be spent assisting serious inquirers and those actually engaged in a land use/development process is misplaced on those with no serious intent to act.

With those issues in mind, Planning Department Staff developed a Zoning Letter and administrative procedure to standardize the inquiry process, enhance access to the information, mitigate costs (staff time) to field and respond to said inquiries, and screen serious inquiries.

In short, Planning Department Staff will provide up to 30 minutes of unpaid, non-process related time to field basic inquiries. All others will be required to go through the Zoning Letter or Zoning Checklist process and be charged the associated fee.

Staff recommends a \$100 per parcel fee for these letters based on average processing time and reimbursement costs for staff time.



## CITY OF MOLALLA PLANNING DEPARTMENT

# ZONING VERIFICATION LETTER

### GENERAL INFORMATION

The purpose of a Land Use and Zoning Letter is to confirm in writing the allowed uses, development standards, and regulations applicable to a specific site. Zoning verification letters can be requested by anyone at any time.

Land Use and Zoning Letters are not purposed to provide information on real estate or property speculation. Information on proposed uses is limited to standards and regulations contained in the City Code, relevant to a particular type of use, not a specific development.

For information regarding a specific development you may consult the City Code available on the City of Molalla Planning Page ([www.cityofmolalla.com](http://www.cityofmolalla.com)), submit for a pre-application conference, or seek the advice of a planning consultant or land use attorney.

### TIMELINE

Please allow **TWO weeks** for processing. However, this time may vary based on workload of our planning department.

### Application Materials

- Written request
- Site details
- \$150 fee per parcel

### Making Requests

Mail requests to:

City of Molalla  
Planning Department  
PO BOX 248  
Molalla, OR 97038

Email requests to:

[Communityplanner@cityofmolalla.com](mailto:Communityplanner@cityofmolalla.com)

\*Payment can be made in-person at City Hall in the form of cash, check, Visa or Mastercard.

\*Payment can be made via phone in the form of Visa or Mastercard.

## Requestors Information

Name \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Site Address and/or Map and Tax Lot Number  
\_\_\_\_\_

**\*Please indicate preferred delivery of completed letter: Email -or- In Person Pick Up**

Check All Information Being Requested	
<p>Section 1 – Existing Status of Property</p> <p>Zoning district &amp; zoning overlay districts applied to the property. If property/structures are conforming or non-conforming. If the existing use is permitted. Any known, outstanding, code violations on the property. Recent Land Use Decisions and Conditions of Approval</p> <ul style="list-style-type: none"><li>○ From 2015 – Present</li><li>○ These will be typed into the letter, for copies of documents a separate public records request will be required.</li></ul>	<p>Section 2 – Proposed Use of Property</p> <p>Proposed use is permitted Development Density Height Lot area and dimensions Lot coverage Landscaping Requirements Setbacks Parking Requirements</p>

\*Note: The Land Use & Zoning Letter is based upon available records. Not all records are available for all properties. The city will make efforts to find documents such as land use approvals but cannot guarantee such records exist.

## Office Use Only

Date Received: \_\_\_\_\_

Application Number: ZL \_\_\_\_\_

Fee Paid (Staff Initials): \_\_\_\_\_

Assigned Planner Name: \_\_\_\_\_